

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

DRAFT  
12.10.21

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LLS NO. 22-0204.01 Conrad Imel x2313

**HOUSE BILL**

**HOUSE SPONSORSHIP**

**Gray,**

**SENATE SPONSORSHIP**

**(None),**

**BILL TOPIC:** "Colorado False Claims Act"

**DEADLINES:** Finalize by: JAN 13, 2022 File by: JAN 18, 2022

**A BILL FOR AN ACT**

101     **CONCERNING CIVIL LIABILITY FOR PRESENTING FALSE CLAIMS FOR**  
102     **PAYMENT TO THE STATE.**

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill establishes the "Colorado False Claims Act" (the act). Pursuant to the act, a person is liable to the state or a political subdivision of the state for a civil penalty if the person commits, conspires to commit, or aids and abets the commission of any of the following (collectively, "false claims"):

- Knowingly presenting, or causing to be presented, a false

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

- or fraudulent claim for payment or approval;
- Knowingly making, using, or causing to be made or used a false record or statement material to a false or fraudulent claim;
- Having possession, custody, or control of property or money used, or to be used, by the state or political subdivision and knowingly delivering, or causing to be delivered, less than all of the money or property;
- Authorizing the making or delivery of a document certifying receipt of property used, or to be used, by the state or political subdivision and, with the intent to defraud the state or political subdivision, making or delivering the receipt without completely knowing that the information on the receipt is true;
- Knowingly buying, or receiving as a pledge of an obligation or debt, public property from an officer or employee of the state or political subdivision who lawfully may not sell or pledge the property; or
- Knowingly making, using, or causing to be made or used a false record or statement material to an obligation to pay or transmit money or property to the state or political subdivision, or knowingly concealing or knowingly and improperly avoiding or decreasing an obligation to pay or transmit money or property to the state or political subdivision.

A person who makes a false claim is liable to the state or a political subdivision for the same amount provided in the federal "False Claims Act", as adjusted for inflation, plus 3 times the amount of the damages sustained by the state or political subdivision, and the costs incurred for the investigation and prosecution of the false claim.

The bill requires the attorney general or a local prosecutor to investigate false claims. The attorney general, prosecuting authority of a political subdivision, or a private individual (relator) may bring a civil action against a person who made a false claim. The bill permits the attorney general or prosecuting authority of a political subdivision to intervene in an action brought by a relator. A relator may be awarded up to 30% of the proceeds from a false claims action based on the extent the relator contributed to the investigation and prosecution of the false claim. If the relator is an employee of the state or political subdivision and learns information about the false claim in the course of the relator's work, the court will award that amount to the relator's employer.

The bill authorizes the state auditor to share information about potential false claims with the attorney general.

A court cannot hear a false claim action:

- Brought against a serving member of the general assembly,

a member of the state judiciary, or an elected official in the executive branch of the state of Colorado acting in the member's or official's official capacity; or

- Based on the same allegations or transactions that are the subject of a different civil or administrative proceeding.

The bill prohibits retaliatory action against a relator because of the relator's efforts in furtherance of investigating, prosecuting, or stopping false claims. A court hearing a false claims action may hear a claim for retaliation against the relator.

1      *Be it enacted by the General Assembly of the State of Colorado:*

2                   **SECTION 1.** In Colorado Revised Statutes, 24-31-101, **amend**  
3                   (1)(p) and (1)(q); and **add** (1)(r) as follows:

**24-31-101. Powers and duties of attorney general.** (1) The attorney general:

6 (p) May bring a civil action to enforce the provisions of section  
7 24-31-113; and

11 (r) MAY BRING OR INTERVENE IN A CIVIL ACTION, CONDUCT  
12 INVESTIGATIONS, AND ISSUE CIVIL INVESTIGATION DEMANDS PURSUANT TO  
13 THE "COLORADO FALSE CLAIMS ACT", PART 12 OF THIS ARTICLE 31.

14                   **SECTION 2.** In Colorado Revised Statutes, **add** part 12 to article  
15                   31 of title 24 as follows:

## PART 12

## COLORADO FALSE CLAIMS ACT

18       **24-31-1201. Short title.** THE SHORT TITLE OF THIS PART 12 IS THE  
19       "COLORADO FALSE CLAIMS ACT".

**24-31-1202. Definitions.** AS USED IN THIS PART 12, UNLESS THE

1 CONTEXT OTHERWISE REQUIRES:

2 (1) (a) "CLAIM" MEANS A REQUEST OR DEMAND, WHETHER UNDER  
3 A CONTRACT OR OTHERWISE, FOR MONEY OR PROPERTY AND WHETHER OR  
4 NOT THE STATE OR A POLITICAL SUBDIVISION HAS TITLE TO THE MONEY OR  
5 PROPERTY, THAT IS:

6 (I) PRESENTED TO AN OFFICER, EMPLOYEE, OR AGENT OF THE  
7 STATE OR POLITICAL SUBDIVISION; OR

8 (II) MADE TO A CONTRACTOR, GRANTEE, OR OTHER RECIPIENT, IF  
9 THE MONEY OR PROPERTY IS TO BE SPENT OR USED ON THE STATE'S OR  
10 POLITICAL SUBDIVISION'S BEHALF OR TO ADVANCE A GOVERNMENT  
11 PROGRAM OR INTEREST, AND IF THE STATE OR POLITICAL SUBDIVISION:

12 (A) PROVIDES OR HAS PROVIDED ANY PORTION OF THE MONEY OR  
13 PROPERTY REQUESTED OR DEMANDED; OR

14 (B) WILL REIMBURSE SUCH CONTRACTOR, GRANTEE, OR OTHER  
15 RECIPIENT FOR ANY PORTION OF THE MONEY OR PROPERTY THAT IS  
16 REQUESTED OR DEMANDED.

17 (b) "CLAIM" DOES NOT INCLUDE A REQUEST OR DEMAND FOR  
18 MONEY OR PROPERTY THAT THE STATE OR A POLITICAL SUBDIVISION HAS  
19 PAID:

20 (I) TO AN INDIVIDUAL AS COMPENSATION FOR EMPLOYMENT BY  
21 THE STATE OR A POLITICAL SUBDIVISION;

22 (II) AS AN INCOME SUBSIDY WITH NO RESTRICTIONS ON THAT  
23 INDIVIDUAL'S USE OF THE MONEY OR PROPERTY;

24 (III) TO AN INDIVIDUAL AS PART OF A GOVERNMENT ASSISTANCE  
25 PROGRAM IN AN AMOUNT LESS THAN FIVE THOUSAND DOLLARS IN A  
26 CALENDAR YEAR; OR

27 (IV) TO AN INDIVIDUAL UNDER THE "COLORADO MEDICAL

1 ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5.

2 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF LAW.

3 (3) "FUND" MEANS THE FALSE CLAIMS RECOVERY CASH FUND  
4 CREATED IN SECTION 24-31-1209.

5 (4)(a) "KNOWING" OR "KNOWINGLY" MEAN THAT A PERSON, WITH  
6 RESPECT TO INFORMATION ABOUT A CLAIM:

7 (I) HAS ACTUAL KNOWLEDGE OF THE INFORMATION;

8 (II) ACTS IN DELIBERATE IGNORANCE OF THE TRUTH OR FALSITY OF  
9 THE INFORMATION; OR

10 (III) ACTS IN RECKLESS DISREGARD OF THE TRUTH OR FALSITY OF  
11 THE INFORMATION.

12 (b) "KNOWING" OR "KNOWINGLY" DOES NOT REQUIRE PROOF OF  
13 SPECIFIC INTENT TO DEFRAUD.

14 (5) "MATERIAL" MEANS HAVING A NATURAL TENDENCY TO  
15 INFLUENCE, OR BE CAPABLE OF INFLUENCING, THE PAYMENT OR RECEIPT  
16 OF MONEY OR PROPERTY.

17 (6) "OBLIGATION" MEANS AN ESTABLISHED DUTY, WHETHER OR  
18 NOT FIXED, ARISING FROM AN EXPRESS OR IMPLIED CONTRACTUAL,  
19 GRANTOR-GRANTEE, OR LICENSOR-LICENSEE RELATIONSHIP; FROM A  
20 FEE-BASED OR SIMILAR RELATIONSHIP; FROM STATUTE OR REGULATION; OR  
21 FROM THE RETENTION OF ANY OVERPAYMENT.

22 (7) "PERSON" MEANS ANY INDIVIDUAL, CORPORATION, BUSINESS  
23 TRUST, ESTATE, TRUST, LIMITED LIABILITY COMPANY, PARTNERSHIP,  
24 ASSOCIATION, OR OTHER NONGOVERNMENTAL LEGAL ENTITY.

25 (8) "POLITICAL SUBDIVISION" MEANS A TOWN, CITY, COUNTY, OR  
26 CITY AND COUNTY.

27 (9) "PROCEEDS" MEANS ALL MONEY, PROPERTY, DAMAGES,

1 DOUBLE DAMAGES, TREBLE DAMAGES, CIVIL PENALTIES, AND PAYMENTS  
2 FOR COSTS OF COMPLIANCE, INCLUDING REASONABLE COSTS AND  
3 ATTORNEY FEES, REALIZED BY THE STATE OR A POLITICAL SUBDIVISION,  
4 WHETHER AS A RESULT OF ANY SETTLEMENT OF OR JUDGMENT ENTERED  
5 IN ANY ACTION BROUGHT PURSUANT TO THIS PART 12.

6 (10) "PROSECUTING AUTHORITY" MEANS THE COUNTY ATTORNEY,  
7 CITY ATTORNEY, OR OTHER LOCAL GOVERNMENT OFFICIAL, INCLUDING A  
8 DULY ELECTED DISTRICT ATTORNEY, CHARGED WITH INVESTIGATING,  
9 FILING, AND CONDUCTING CIVIL LEGAL PROCEEDINGS ON BEHALF OF, OR IN  
10 THE NAME OF, A PARTICULAR POLITICAL SUBDIVISION.

11 (11) "RELATOR" MEANS A NATURAL PERSON WHO BRINGS A CIVIL  
12 ACTION FOR A VIOLATION OF THIS PART 12 ON BEHALF OF HIMSELF OR  
13 HERSELF AND THE STATE OR A POLITICAL SUBDIVISION. "RELATOR"  
14 INCLUDES A GOVERNMENT EMPLOYEE OTHER THAN A PROSECUTING  
15 AUTHORITY WHO, IN THE COURSE OF THE EMPLOYEE'S WORK FOR THE  
16 STATE OR A POLITICAL SUBDIVISION, GAINS KNOWLEDGE OF ANY  
17 INFORMATION THAT FORMS, IN WHOLE OR IN PART, THE BASIS OF THE CIVIL  
18 ACTION.

19 **24-31-1203. False claims - civil liability for certain acts -**  
20 **penalty - exception.** (1) SUBJECT TO SUBSECTION (2) OF THIS SECTION  
21 AND EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5) OF THIS SECTION,  
22 A PERSON IS LIABLE TO THE STATE OR A POLITICAL SUBDIVISION FOR A  
23 CIVIL PENALTY IN AMOUNTS ESTABLISHED IN THE FEDERAL "FALSE CLAIMS  
24 ACT", 31 U.S.C. SEC. 3729, ET SEQ., AS AMENDED, AS ADJUSTED FOR  
25 INFLATION PURSUANT TO 31 U.S.C. SEC. 3729, PLUS THREE TIMES THE  
26 AMOUNT OF DAMAGES THAT THE STATE OR POLITICAL SUBDIVISION  
27 SUSTAINS BECAUSE OF THE ACT OF THAT PERSON, IF THAT PERSON:

3 (b) KNOWINGLY MAKES, USES, OR CAUSES TO BE MADE OR USED A  
4 FALSE RECORD OR STATEMENT MATERIAL TO A FALSE OR FRAUDULENT  
5 CLAIM;

6 (c) HAS POSSESSION, CUSTODY, OR CONTROL OF PROPERTY OR  
7 MONEY USED, OR TO BE USED, BY THE STATE OR POLITICAL SUBDIVISION  
8 AND KNOWINGLY DELIVERS, OR CAUSES TO BE DELIVERED, LESS THAN ALL  
9 OF THE MONEY OR PROPERTY;

10 (d) AUTHORIZES THE MAKING OR DELIVERY OF A DOCUMENT  
11 CERTIFYING RECEIPT OF PROPERTY USED, OR TO BE USED, BY THE STATE OR  
12 POLITICAL SUBDIVISION AND, WITH THE INTENT TO DEFRAUD THE STATE OR  
13 POLITICAL SUBDIVISION, MAKES OR DELIVERS THE RECEIPT WITHOUT  
14 COMPLETELY KNOWING THAT THE INFORMATION ON THE RECEIPT IS TRUE;

15 (e) KNOWINGLY BUYS, OR RECEIVES AS A PLEDGE OF AN  
16 OBLIGATION OR DEBT, PUBLIC PROPERTY FROM AN OFFICER OR EMPLOYEE  
17 OF THE STATE OR POLITICAL SUBDIVISION WHO LAWFULLY MAY NOT SELL  
18 OR PLEDGE THE PROPERTY;

19 (f) KNOWINGLY MAKES, USES, OR CAUSES TO BE MADE OR USED A  
20 FALSE RECORD OR STATEMENT MATERIAL TO AN OBLIGATION TO PAY OR  
21 TRANSMIT MONEY OR PROPERTY TO THE STATE OR POLITICAL SUBDIVISION,  
22 OR KNOWINGLY CONCEALS OR KNOWINGLY AND IMPROPERLY AVOIDS OR  
23 DECREASES AN OBLIGATION TO PAY OR TRANSMIT MONEY OR PROPERTY TO  
24 THE STATE OR POLITICAL SUBDIVISION; OR

25 (g) CONSPIRES TO COMMIT A VIOLATION OF SUBSECTIONS (1)(a) TO  
26 (1)(f) OF THIS SECTION OR AIDS AND ABETS THE COMMISSION OF A  
27 VIOLATION OF SUBSECTIONS (1)(a) TO (1)(f) OF THIS SECTION.

7 (a) THE PERSON WHO COMMITTED THE VIOLATION FURNISHED TO  
8 THE OFFICIALS OF THE STATE OR POLITICAL SUBDIVISION RESPONSIBLE FOR  
9 INVESTIGATING FALSE CLAIMS VIOLATIONS ALL INFORMATION ABOUT THE  
10 VIOLATION KNOWN TO THE PERSON AND FURNISHED SAID INFORMATION  
11 WITHIN THIRTY DAYS AFTER THE DATE ON WHICH THE PERSON FIRST  
12 OBTAINED THE INFORMATION:

13 (b) AT THE TIME THE PERSON FURNISHED THE INFORMATION ABOUT  
14 THE VIOLATION TO THE OFFICIALS OF THE STATE OR POLITICAL  
15 SUBDIVISION, A CRIMINAL PROSECUTION, CIVIL ACTION, OR  
16 ADMINISTRATIVE ACTION HAD NOT COMMENCED WITH RESPECT TO THE  
17 VIOLATION AND THE PERSON DID NOT HAVE ACTUAL KNOWLEDGE OF THE  
18 EXISTENCE OF AN INVESTIGATION INTO THE VIOLATION: AND

19 (c) THE PERSON FULLY COOPERATED WITH ANY INVESTIGATION OF  
20 THE VIOLATION BY THE STATE OR POLITICAL SUBDIVISION.

21 (3) ANY INFORMATION FURNISHED PURSUANT TO SUBSECTION (2)  
22 OF THIS SECTION IS EXEMPT FROM DISCLOSURE PURSUANT TO THE  
23 "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

24 (4) A PERSON WHO VIOLATES THIS SECTION IS ALSO LIABLE TO THE  
25 STATE OR A POLITICAL SUBDIVISION FOR REASONABLE ATTORNEY FEES  
26 AND THE COSTS INCURRED DURING THE ENFORCEMENT OF THIS PART 12

27 (5) THIS SECTION DOES NOT APPLY TO CLAIMS, RECORDS, OR

1 STATEMENTS MADE PURSUANT TO TITLE 39.

2 **24-31-1204. Civil actions for false claims - claims for  
3 retaliation - definitions.** (1) **Responsibility of attorney general.**

4 (a) THE ATTORNEY GENERAL SHALL DILIGENTLY INVESTIGATE A  
5 VIOLATION OF SECTION 24-31-1203. IF THE ATTORNEY GENERAL FINDS  
6 THAT A PERSON HAS VIOLATED OR IS VIOLATING SECTION 24-31-1203, THE  
7 ATTORNEY GENERAL MAY BRING A CIVIL ACTION AGAINST THE PERSON  
8 PURSUANT TO THIS SECTION.

9 (b) IF THE ATTORNEY GENERAL BRINGS A CIVIL ACTION PURSUANT  
10 TO THIS SECTION ON A CLAIM INVOLVING POLITICAL SUBDIVISION MONEY  
11 AS WELL AS STATE MONEY, THE ATTORNEY GENERAL SHALL SERVE BY  
12 MAIL, WITH RETURN RECEIPT REQUESTED, A COPY OF THE COMPLAINT ON  
13 THE SUBDIVISION'S APPROPRIATE PROSECUTING AUTHORITY ON THE SAME  
14 DATE THAT THE COMPLAINT IS FILED IN THE ACTION.

15 (c) WITHIN SIXTY-THREE DAYS AFTER RECEIPT OF THE COMPLAINT  
16 PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, AND SUBJECT TO  
17 SUBSECTION (2)(d) OF THIS SECTION. THE PROSECUTING AUTHORITY SHALL  
18 HAVE THE RIGHT TO INTERVENE IN AN ACTION BROUGHT BY THE  
19 ATTORNEY GENERAL PURSUANT TO THIS SECTION. THE COURT MAY PERMIT  
20 THE POLITICAL SUBDIVISION TO INTERVENE THEREAFTER UPON A SHOWING  
21 THAT ALL OF THE REQUIREMENTS OF THE COLORADO RULES OF CIVIL  
22 PROCEDURE HAVE BEEN MET.

23 (2) **Responsibility of prosecuting authority.** (a) A PROSECUTING  
24 AUTHORITY FOR A POLITICAL SUBDIVISION SHALL DILIGENTLY  
25 INVESTIGATE A VIOLATION OF SECTION 24-31-1203 INVOLVING A CLAIM  
26 FILED WITH THAT POLITICAL SUBDIVISION. IF THE PROSECUTING  
27 AUTHORITY FINDS THAT A PERSON HAS VIOLATED OR IS VIOLATING

1 SECTION 24-31-1203, THE PROSECUTING AUTHORITY MAY BRING A CIVIL  
2 ACTION AGAINST THE PERSON PURSUANT TO THIS SECTION.

3 (b) IF A PROSECUTING AUTHORITY BRINGS A CIVIL ACTION  
4 PURSUANT TO THIS SECTION ON A CLAIM INVOLVING STATE AND POLITICAL  
5 SUBDIVISION MONEY, THE PROSECUTING AUTHORITY SHALL SERVE BY  
6 MAIL, WITH RETURN RECEIPT REQUESTED, A COPY OF THE COMPLAINT ON  
7 THE ATTORNEY GENERAL WITHIN FOURTEEN DAYS AFTER THE DATE THAT  
8 THE COMPLAINT IS FILED IN THE ACTION.

9 (c) WITHIN SIXTY-THREE DAYS AFTER RECEIVING THE COMPLAINT  
10 PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION, THE ATTORNEY  
11 GENERAL SHALL EITHER:

12 (I) NOTIFY THE COURT THAT THE ATTORNEY GENERAL INTENDS TO  
13 PROCEED WITH THE ACTION, IN WHICH CASE THE ATTORNEY GENERAL  
14 SHALL ASSUME PRIMARY RESPONSIBILITY FOR CONDUCTING THE ACTION  
15 AND THE PROSECUTING AUTHORITY HAS THE RIGHT TO CONTINUE AS A  
16 PARTY; OR

17 (II) NOTIFY THE COURT THAT THE ATTORNEY GENERAL DECLINES  
18 TO TAKE OVER THE ACTION, IN WHICH CASE THE PROSECUTING AUTHORITY  
19 HAS THE RIGHT TO CONDUCT THE ACTION.

20 (d) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,  
21 A POLITICAL SUBDIVISION IS NOT PERMITTED TO BRING AN ACTION  
22 PURSUANT TO THIS SUBSECTION (2) OR INTERVENE IN AN ACTION  
23 PURSUANT TO SUBSECTION (1)(c) OR (4)(b) OF THIS SECTION WITHOUT THE  
24 CONSENT OF THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S  
25 DESIGNEE.

26 (3) **Role of the office of the state auditor.**  
27 (a) NOTWITHSTANDING ANY OTHER STATE LAW REQUIRING THE STATE

1       AUDITOR TO KEEP INFORMATION CONFIDENTIAL, IF IN THE COURSE OF ITS  
2       AUDIT AUTHORITY, THE OFFICE OF THE STATE AUDITOR IDENTIFIES  
3       INFORMATION OF POTENTIAL FALSE CLAIMS SUBMITTED TO THE STATE OR  
4       A POLITICAL SUBDIVISION, THE STATE AUDITOR MAY SHARE ANY  
5       INFORMATION WITH THE ATTORNEY GENERAL. THE STATE AUDITOR MAY  
6       PARTICIPATE, WITH THE CONSENT OF THE ATTORNEY GENERAL, IN ANY  
7       SUBSEQUENT INVESTIGATION OR PROSECUTION OF THAT FALSE CLAIM.

8               (b) IF THE STATE AUDITOR ELECTS TO PARTICIPATE IN ANY  
9       INVESTIGATION AND PROSECUTION OF A FALSE CLAIM, THE STATE  
10      AUDITOR'S INTERESTS WILL BE REPRESENTED BY THE ATTORNEY GENERAL.

11               **(4) Actions by private persons.** (a) A RELATOR MAY BRING A  
12      CIVIL ACTION FOR A VIOLATION OF SECTION 24-31-1203 FOR THE RELATOR  
13      AND FOR THE STATE OR A POLITICAL SUBDIVISION THAT IS AFFECTED BY  
14      THE VIOLATION. THE ACTION MUST BE BROUGHT IN THE NAME OF THE  
15      STATE OR POLITICAL SUBDIVISION. A RELATOR MAY NOT DISMISS AN  
16      ACTION UNLESS THE COURT AND THE ATTORNEY GENERAL OR THE  
17      PROSECUTING AUTHORITY GIVE WRITTEN CONSENT TO THE DISMISSAL AND  
18      THEIR REASONS FOR CONSENTING.

19               (b) THE RELATOR SHALL SERVE ON THE STATE OR POLITICAL  
20      SUBDIVISION, PURSUANT TO RULE 4 OF THE COLORADO RULES OF CIVIL  
21      PROCEDURE, A COPY OF THE COMPLAINT AND WRITTEN DISCLOSURE OF  
22      SUBSTANTIALLY ALL MATERIAL EVIDENCE AND INFORMATION THE  
23      RELATOR POSSESSES. THE COMPLAINT MUST BE FILED IN CAMERA, MUST  
24      REMAIN UNDER SEAL FOR AT LEAST SIXTY-THREE DAYS, AND MUST NOT BE  
25      SERVED ON THE DEFENDANT UNTIL THE COURT SO ORDERS. THE STATE, OR  
26      A POLITICAL SUBDIVISION WITH THE CONSENT OF THE ATTORNEY GENERAL,  
27      MAY ELECT TO INTERVENE AND PROCEED WITH THE ACTION WITHIN

1 SIXTY-THREE DAYS AFTER IT RECEIVES BOTH THE COMPLAINT AND THE  
2 MATERIAL EVIDENCE AND INFORMATION. IF BOTH THE STATE AND  
3 POLITICAL SUBDIVISION INTERVENE, THE ATTORNEY GENERAL SHALL  
4 ASSUME PRIMARY RESPONSIBILITY FOR CONDUCTING THE ACTION.

5 (c) THE STATE OR POLITICAL SUBDIVISION MAY, FOR GOOD CAUSE  
6 SHOWN, MOVE THE COURT FOR EXTENSIONS OF THE TIME DURING WHICH  
7 THE COMPLAINT REMAINS UNDER SEAL PURSUANT TO SUBSECTION (4)(b)  
8 OF THIS SECTION. THE MOTION MAY BE SUPPORTED BY AFFIDAVITS OR  
9 OTHER SUBMISSIONS IN CAMERA. THE DEFENDANT IS NOT REQUIRED TO  
10 RESPOND TO ANY COMPLAINT FILED PURSUANT TO THIS SECTION UNTIL  
11 TWENTY-ONE DAYS AFTER THE COMPLAINT IS UNSEALED AND SERVED  
12 UPON THE DEFENDANT PURSUANT TO RULE 4 OF THE COLORADO RULES OF  
13 CIVIL PROCEDURE.

14 (d) BEFORE THE EXPIRATION OF THE SIXTY-THREE-DAY PERIOD  
15 PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION AND ANY EXTENSIONS  
16 OBTAINED PURSUANT TO SUBSECTION (4)(c) OF THIS SECTION, THE STATE  
17 OR POLITICAL SUBDIVISION SHALL:

18 (I) PROCEED WITH THE ACTION, IN WHICH CASE THE STATE OR  
19 POLITICAL SUBDIVISION SHALL CONDUCT THE ACTION; OR

20 (II) NOTIFY THE COURT THAT IT DECLINES TO TAKE OVER THE  
21 ACTION, IN WHICH CASE THE RELATOR HAS THE RIGHT TO CONTINUE THE  
22 ACTION.

23 (e) WHEN A RELATOR BRINGS AN ACTION PURSUANT TO THIS  
24 SUBSECTION (4), NO PERSON OTHER THAN THE STATE, OR A POLITICAL  
25 SUBDIVISION WITH THE CONSENT OF THE ATTORNEY GENERAL, MAY  
26 INTERVENE OR BRING A RELATED ACTION BASED ON THE FACTS  
27 UNDERLYING THE PENDING ACTION.

8 (b) (I) THE STATE OR POLITICAL SUBDIVISION MAY DISMISS THE  
9 ACTION NOTWITHSTANDING THE OBJECTIONS OF THE RELATOR IF THE  
10 RELATOR HAS BEEN NOTIFIED BY THE STATE OR POLITICAL SUBDIVISION OF  
11 THE FILING OF THE MOTION AND THE COURT HAS PROVIDED THE RELATOR  
12 WITH AN OPPORTUNITY FOR A HEARING ON THE MOTION.

26 (A) LIMITING THE NUMBER OF WITNESSES THE RELATOR MAY  
27 CALL;

**(C) LIMITING THE RELATOR'S CROSS-EXAMINATION OF WITNESSES;**

4 AND

5 (D) OTHERWISE LIMITING THE PARTICIPATION BY THE RELATOR IN  
6 THE LITIGATION.

13 (c) IF THE STATE OR POLITICAL SUBDIVISION DOES NOT PROCEED  
14 WITH AN ACTION AND THE RELATOR CONTINUES THE ACTION, THE COURT  
15 SHALL NOT DRAW AN ADVERSE INFERENCE FROM THE FACT THAT THE  
16 STATE OR POLITICAL SUBDIVISION HAS ELECTED NOT TO PROCEED WITH  
17 THE ACTION . THE FACT THAT THE STATE OR POLITICAL SUBDIVISION HAS  
18 ELECTED NOT TO PROCEED WITH THE ACTION IS NOT A BASIS FOR A MOTION  
19 TO DISMISS, MOTION FOR DETERMINATION OF A QUESTION OF LAW, OR  
20 MOTION FOR SUMMARY JUDGMENT, NOR IS IT A BASIS TO DENY THE COURT  
21 JURISDICTION OVER THE ACTION. IF THE STATE OR POLITICAL SUBDIVISION  
22 SO REQUESTS, IT MUST BE SERVED WITH COPIES OF ALL PLEADINGS FILED  
23 IN THE ACTION AND, AT THE STATE'S OR POLITICAL SUBDIVISION'S  
24 EXPENSE, BE SUPPLIED WITH COPIES OF ALL DEPOSITION TRANSCRIPTS.  
25 WHEN A RELATOR PROCEEDS WITH THE ACTION, THE COURT, WITHOUT  
26 LIMITING THE STATUS AND RIGHTS OF THE RELATOR, MAY NEVERTHELESS  
27 PERMIT THE STATE OR POLITICAL SUBDIVISION TO INTERVENE AT A LATER

1 DATE UPON A SHOWING OF GOOD CAUSE.

2 (d) REGARDLESS OF WHETHER THE STATE OR POLITICAL  
3 SUBDIVISION PROCEEDS WITH THE ACTION, UPON A SHOWING BY THE STATE  
4 OR POLITICAL SUBDIVISION THAT CERTAIN ACTIONS OF DISCOVERY BY THE  
5 RELATOR WOULD INTERFERE WITH THE STATE'S OR POLITICAL  
6 SUBDIVISION'S INVESTIGATION OR PROSECUTION OF A CRIMINAL OR CIVIL  
7 MATTER ARISING OUT OF THE SAME FACTS, THE COURT MAY STAY THE  
8 DISCOVERY FOR A PERIOD OF NOT MORE THAN SIXTY-THREE DAYS. THE  
9 SHOWING BY THE STATE OR POLITICAL SUBDIVISION MUST BE CONDUCTED  
10 IN CAMERA. THE COURT MAY EXTEND THE SIXTY-THREE-DAY PERIOD UPON  
11 A FURTHER SHOWING THAT THE STATE OR POLITICAL SUBDIVISION HAS  
12 PURSUED THE CRIMINAL OR CIVIL INVESTIGATION OR PROCEEDINGS WITH  
13 REASONABLE DILIGENCE AND THAT ANY PROPOSED DISCOVERY IN THE  
14 CIVIL ACTION WILL INTERFERE WITH THE ONGOING CRIMINAL OR CIVIL  
15 INVESTIGATION OR PROCEEDINGS.

16 (e) NOTWITHSTANDING SUBSECTION (4) OF THIS SECTION, THE  
17 STATE OR POLITICAL SUBDIVISION MAY ELECT TO PURSUE ITS CLAIM  
18 THROUGH ANY ALTERNATE REMEDY AVAILABLE TO THE STATE OR  
19 POLITICAL SUBDIVISION, INCLUDING ANY ADMINISTRATIVE PROCEEDING TO  
20 DETERMINE A CIVIL MONEY PENALTY. IF AN ALTERNATE REMEDY IS  
21 PURSUED IN ANOTHER PROCEEDING, THE RELATOR HAS THE SAME RIGHTS  
22 IN THAT PROCEEDING AS THE RELATOR WOULD HAVE HAD IF THE ACTION  
23 HAD CONTINUED PURSUANT TO THIS SECTION. ANY FINDING OF FACT OR  
24 CONCLUSION OF LAW MADE IN THE OTHER PROCEEDING THAT HAS BECOME  
25 FINAL IS BINDING ON ALL PARTIES TO AN ACTION BROUGHT PURSUANT TO  
26 THIS SECTION. FOR PURPOSES OF THIS SUBSECTION (5)(e), A FINDING OR  
27 CONCLUSION IS FINAL IF IT HAS BEEN FINALLY DETERMINED ON APPEAL TO

1 THE APPROPRIATE COURT OF THE STATE, IF ALL TIME FOR FILING SUCH AN  
2 APPEAL WITH RESPECT TO THE FINDING OR CONCLUSION HAS EXPIRED, OR  
3 IF THE FINDING OR CONCLUSION IS NOT SUBJECT TO JUDICIAL REVIEW.

4 **(6) Award to relators.** (a) (I) SUBJECT TO SUBSECTION (6)(a)(II)  
5 OF THIS SECTION, IF THE STATE OR A POLITICAL SUBDIVISION PROCEEDS  
6 WITH AN ACTION BROUGHT BY A RELATOR PURSUANT TO SUBSECTION (4)  
7 OF THIS SECTION, THE COURT SHALL AWARD THE RELATOR AT LEAST  
8 FIFTEEN PERCENT BUT NOT MORE THAN TWENTY-FIVE PERCENT OF THE  
9 PROCEEDS RECEIVED FROM THE ACTION OR SETTLEMENT OF THE CLAIM,  
10 DEPENDING UPON THE EXTENT TO WHICH THE RELATOR SUBSTANTIALLY  
11 CONTRIBUTED TO THE INVESTIGATION AND PROSECUTION OF THE ACTION.

12 (II) IF THE COURT FINDS THE ACTION TO BE BASED PRIMARILY ON  
13 DISCLOSURES OF SPECIFIC INFORMATION, OTHER THAN INFORMATION  
14 PROVIDED BY THE RELATOR, RELATING TO ALLEGATIONS OR  
15 TRANSACTIONS IN A CRIMINAL, CIVIL, OR ADMINISTRATIVE HEARING; IN A  
16 LEGISLATIVE, ADMINISTRATIVE, OR FORMAL AUDIT REPORT, HEARING, OR  
17 INVESTIGATION; OR FROM THE NEWS MEDIA, THE COURT MAY AWARD TO  
18 THE RELATOR SUCH SUMS AS IT CONSIDERS APPROPRIATE BUT IN NO CASE  
19 MORE THAN TEN PERCENT OF THE PROCEEDS. IN MAKING ITS  
20 DETERMINATION, THE COURT SHALL CONSIDER THE SIGNIFICANCE OF THE  
21 INFORMATION PROVIDED BY THE RELATOR AND THE ROLE OF THE RELATOR  
22 IN ADVANCING THE CASE TO LITIGATION.

23 (III) ANY PAYMENT TO A RELATOR MADE PURSUANT TO THIS  
24 SUBSECTION (6)(a) MUST BE MADE FROM THE PROCEEDS. THE COURT  
25 SHALL AWARD THE RELATOR AN AMOUNT FOR REASONABLE EXPENSES  
26 THAT THE COURT FINDS TO HAVE BEEN NECESSARILY INCURRED, PLUS  
27 REASONABLE ATTORNEY FEES AND COSTS. THE COURT SHALL AWARD ALL

1 OF THE EXPENSES, FEES, AND COSTS AGAINST THE DEFENDANT.

2 (IV) IF THE RELATOR IS A GOVERNMENT EMPLOYEE WHO, IN THE  
3 COURSE OF THE RELATOR'S WORK FOR THE STATE OR A POLITICAL  
4 SUBDIVISION, GAINS KNOWLEDGE OF ANY INFORMATION THAT FORMS, IN  
5 WHOLE OR IN PART, THE BASIS OF THE RELATOR'S CLAIM, THE COURT  
6 SHALL AWARD TO THE STATE OR POLITICAL SUBDIVISION THAT EMPLOYS  
7 THE RELATOR THE AMOUNT THAT WOULD OTHERWISE BE AWARDED TO THE  
8 RELATOR PURSUANT TO THIS SUBSECTION (6).

9 (b) IF THE STATE OR POLITICAL SUBDIVISION DOES NOT INTERVENE  
10 IN AND PROCEED WITH AN ACTION PURSUANT TO SUBSECTION (4)(b) OF  
11 THIS SECTION, THE RELATOR PREVAILING IN THE ACTION OR SETTLING THE  
12 CLAIM MUST RECEIVE AN AMOUNT THAT THE COURT DECIDES IS  
13 REASONABLE FOR COLLECTING THE CIVIL PENALTY AND DAMAGES. THE  
14 AMOUNT MUST BE AT LEAST TWENTY-FIVE PERCENT BUT NOT MORE THAN  
15 THIRTY PERCENT OF THE PROCEEDS RECEIVED FROM THE ACTION OR  
16 SETTLEMENT AND MUST BE PAID OUT OF THE PROCEEDS. THE COURT SHALL  
17 AWARD THE RELATOR AN AMOUNT FOR REASONABLE EXPENSES THAT THE  
18 COURT FINDS TO HAVE BEEN NECESSARILY INCURRED, PLUS REASONABLE  
19 ATTORNEY FEES AND COSTS. THE COURT SHALL AWARD ALL OF THE  
20 EXPENSES, FEES, AND COSTS AGAINST THE DEFENDANT.

21 (c) REGARDLESS OF WHETHER THE STATE OR A POLITICAL  
22 SUBDIVISION INTERVENES IN AND PROCEEDS WITH AN ACTION PURSUANT  
23 TO SUBSECTION (4)(b) OF THIS SECTION, IF THE COURT FINDS THAT THE  
24 ACTION WAS BROUGHT BY A RELATOR WHO PLANNED AND INITIATED THE  
25 VIOLATION OF SECTION 24-31-1203 UPON WHICH THE ACTION WAS  
26 BROUGHT, THE COURT MAY, TO THE EXTENT THE COURT CONSIDERS  
27 APPROPRIATE, REDUCE THE SHARE OF THE PROCEEDS OF THE ACTION THAT

1 THE RELATOR WOULD OTHERWISE RECEIVE PURSUANT TO THIS SUBSECTION  
2 (6), TAKING INTO ACCOUNT THE ROLE OF THE RELATOR IN ADVANCING THE  
3 CASE TO LITIGATION AND ANY RELEVANT CIRCUMSTANCES PERTAINING TO  
4 THE VIOLATION. IF THE RELATOR IS CONVICTED OF CRIMINAL CONDUCT  
5 ARISING FROM HIS OR HER ROLE IN THE VIOLATION OF SECTION  
6 24-31-1203, THE COURT SHALL DISMISS THE RELATOR FROM THE CIVIL  
7 ACTION AND THE RELATOR MUST NOT RECEIVE ANY SHARE OF THE  
8 PROCEEDS OF THE ACTION. SUCH DISMISSAL DOES NOT PREJUDICE THE  
9 RIGHT OF THE STATE OR POLITICAL SUBDIVISION TO CONTINUE THE ACTION.

10 (d) IF THE STATE OR A POLITICAL SUBDIVISION DOES NOT  
11 INTERVENE IN AND PROCEED WITH AN ACTION PURSUANT TO SUBSECTION  
12 (4)(b) OF THIS SECTION AND THE RELATOR PURSUES THE ACTION, THE  
13 COURT MAY AWARD TO THE DEFENDANT REASONABLE ATTORNEY FEES  
14 AND EXPENSES IF THE DEFENDANT PREVAILS IN THE ACTION AND THE  
15 COURT FINDS THAT THE CLAIM OF THE RELATOR WAS CLEARLY FRIVOLOUS,  
16 CLEARLY VEXATIOUS, OR BROUGHT PRIMARILY FOR PURPOSES OF  
17 HARASSMENT.

18 (7) **Certain actions barred.** (a) A COURT DOES NOT HAVE  
19 JURISDICTION OVER AN ACTION BROUGHT PURSUANT TO THIS SECTION:

20 (I) AGAINST A SERVING MEMBER OF THE GENERAL ASSEMBLY, A  
21 MEMBER OF THE STATE JUDICIARY, OR AN ELECTED OFFICIAL IN THE  
22 EXECUTIVE BRANCH OF THE STATE OF COLORADO ACTING IN THE  
23 MEMBER'S OR OFFICIAL'S OFFICIAL CAPACITY; OR

24 (II) IF THE ACTION IS BROUGHT BY A RELATOR PURSUANT TO  
25 SUBSECTION (4) OF THIS SECTION AND IS BASED ON EVIDENCE OR  
26 INFORMATION KNOWN TO THE STATE OR POLITICAL SUBDIVISION WHEN THE  
27 ACTION WAS BROUGHT.

6 (c) (I) A COURT SHALL DISMISS AN ACTION OR CLAIM BROUGHT  
7 PURSUANT TO SUBSECTION (4) OF THIS SECTION IF THE ACTION PURSUED BY  
8 THE RELATOR IS BASED UPON SUBSTANTIALLY THE SAME ALLEGATIONS OR  
9 TRANSACTIONS PUBLICLY DISCLOSED IN A CRIMINAL, CIVIL, OR  
10 ADMINISTRATIVE HEARING; IN A LEGISLATIVE, ADMINISTRATIVE, OR  
11 FORMAL AUDIT REPORT, HEARING, OR INVESTIGATION; OR FROM THE NEWS  
12 MEDIA, UNLESS:

13 (A) THE STATE OR A POLITICAL SUBDIVISION INTERVENES AND  
14 PROSECUTES THE ACTION PURSUANT TO SUBSECTION (4)(b) OF THIS  
15 SECTION:

16 (B) THE STATE OR POLITICAL SUBDIVISION OPPOSES DISMISSAL; OR  
17 (C) THE RELATOR IS AN ORIGINAL SOURCE OF THE INFORMATION  
18 THAT IS THE BASIS FOR THE ACTION

19 (II) AS USED IN THIS SUBSECTION (7)(c), "ORIGINAL SOURCE"  
20 MEANS AN INDIVIDUAL WHO:

21 (A) PRIOR TO PUBLIC DISCLOSURE PURSUANT TO SUBSECTION  
22 (7)(c)(I) OF THIS SECTION, HAS VOLUNTARILY DISCLOSED TO THE STATE OR  
23 POLITICAL SUBDIVISION THE INFORMATION ON WHICH THE ALLEGATIONS  
24 OR TRANSACTIONS IN A CLAIM ARE BASED; OR

25 (B) HAS KNOWLEDGE THAT IS INDEPENDENT OF AND MATERIALLY  
26 ADDS TO THE PUBLICLY DISCLOSED ALLEGATIONS OR TRANSACTIONS AND  
27 HAS VOLUNTARILY PROVIDED THE INFORMATION TO THE STATE OR

1 POLITICAL SUBDIVISION BEFORE FILING AN ACTION PURSUANT TO  
2 SUBSECTION (4) OF THIS SECTION.

3 **(8) State or political subdivision not liable for certain**  
4 **expenses.** THE STATE OR A POLITICAL SUBDIVISION IS NOT LIABLE FOR  
5 EXPENSES THAT A RELATOR INCURS IN BRINGING AN ACTION PURSUANT TO  
6 THIS SECTION.

7 **(9) Private action for retaliation.** (a) AS USED IN THIS  
8 SUBSECTION (9), UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 (I) "CONFIDENTIAL INFORMATION" INCLUDES DOCUMENTS;  
10 E-MAILS AND OTHER ELECTRONIC DATA; MEDICAL RECORDS; FINANCIAL  
11 RECORDS; TRADE SECRET INFORMATION; INTELLECTUAL PROPERTY; OR  
12 INFORMATION THAT IS SUBJECT TO AN EMPLOYMENT AGREEMENT,  
13 CONFIDENTIALITY AGREEMENT, OR NONDISCLOSURE AGREEMENT OR FOR  
14 WHICH THE RELATOR HAS A FIDUCIARY OBLIGATION TO MAINTAIN AS  
15 CONFIDENTIAL.

16 (II) "LAWFUL ACTS" INCLUDES, BUT IS NOT LIMITED TO, THE  
17 FOLLOWING:

18 (A) CONDUCTING OR ASSISTING WITH AN INVESTIGATION FOR,  
19 INITIATION OF, TESTIMONY FOR, OR ASSISTANCE IN AN ACTION FILED OR TO  
20 BE FILED PURSUANT TO THIS SECTION;

21 (B) MEETING WITH POTENTIAL OR RETAINED COUNSEL OR AGENTS  
22 OR REPRESENTATIVES OF THE STATE OR POLITICAL SUBDIVISION ABOUT  
23 THE MATTER THAT IS THE SUBJECT OF AN ACTION FILED PURSUANT TO THIS  
24 SECTION;

25 (C) PROVIDING THE RELATOR'S COUNSEL OR AGENTS OR  
26 REPRESENTATIVES OF THE STATE OR THE POLITICAL SUBDIVISION WITH  
27 CONFIDENTIAL INFORMATION; OR

1 (D) FILING AN ACTION PURSUANT TO THIS SECTION.

12 (c) (I) IF THE DISCLOSURE OF CONFIDENTIAL INFORMATION IS IN  
13 FURTHERANCE OF AN ACTION BROUGHT PURSUANT TO THIS SECTION OR IN  
14 FURTHERANCE OF AN EFFORT TO STOP ANY VIOLATION OF SECTION  
15 24-31-1203, A RELATOR HAS A PRIVILEGE TO DISCLOSE THE CONFIDENTIAL  
16 INFORMATION TO:

17 (A) THE RELATOR'S COUNSEL;

18 (B) A PERSON WITH WHOM THE RELATOR HAS A STATUTORY OR  
19 COMMON LAW PRIVILEGE; OR

20 (C) AN AGENT OR AUTHORIZED REPRESENTATIVE OF THE STATE OR  
21 POLITICAL SUBDIVISION

22 (II) THE RELATOR'S DISCLOSURE OF CONFIDENTIAL INFORMATION  
23 TO THE RELATOR'S COUNSEL OR TO AN AGENT OR AUTHORIZED  
24 REPRESENTATIVE OF THE STATE OR POLITICAL SUBDIVISION DOES NOT  
25 CONSTITUTE A WAIVER BY A DEFENDANT OF ANY RIGHT OR PRIVILEGE  
26 THAT THE DEFENDANT MAY BE ENTITLED TO INVOKE

27 (d) (1) A RELATOR SEEKING RELIEF PURSUANT TO THIS SUBSECTION

1 (9) MAY SEEK RELIEF BY:

2 (A) FILING A MOTION IN THE ACTION BROUGHT PURSUANT TO  
3 SUBSECTION (4) OF THIS SECTION; OR

4 (B) BRINGING A SEPARATE ACTION IN AN APPROPRIATE COURT OF  
5 THE STATE FOR THE RELIEF PROVIDED PURSUANT TO THIS SUBSECTION (9).

6 (II) A RELATOR WHO SEEKS RELIEF PURSUANT TO THIS SUBSECTION  
7 (9) IS ENTITLED TO ALL RELIEF NECESSARY TO MAKE THE RELATOR WHOLE.

8 THE RELIEF MUST INCLUDE, BUT IS NOT LIMITED TO:

9 (A) IF THE RELATOR IS AN EMPLOYEE, REINSTATEMENT WITH THE  
10 SAME SENIORITY STATUS THE RELATOR WOULD HAVE HAD BUT FOR THE  
11 DISCRIMINATION, TWICE THE AMOUNT OF BACK PAY, AND INTEREST ON THE  
12 BACK PAY;

13 (B) IF THE RELATOR IS A CONTRACTOR, SUBCONTRACTOR, OR  
14 INDEPENDENT CONTRACTOR, REINSTATEMENT OF A CONTRACT OR  
15 SUBCONTRACT THAT WAS CANCELED, NONRENEWED, OR MODIFIED  
16 BECAUSE OF RETALIATION, WITH ALL COMPENSATION OR CONTRACTUAL  
17 CONSIDERATION THAT THE RELATOR WOULD HAVE RECEIVED HAD THE  
18 CONTRACT OR SUBCONTRACT NOT BEEN CANCELED, NONRENEWED, OR  
19 MODIFIED; AND

20 (C) COMPENSATION FOR ANY SPECIAL DAMAGES SUSTAINED AS A  
21 RESULT OF THE DISCRIMINATION OR RETALIATION, INCLUDING LITIGATION  
22 COSTS AND REASONABLE ATTORNEY FEES.

23 (e) (I) THE COURT SHALL AWARD THE RELATOR NOT LESS THAN  
24 THE DAMAGES DESCRIBED IN SUBSECTION (9)(d)(II) OF THIS SECTION IF A  
25 DEFENDANT, EMPLOYER, OR OTHER PERSON RETALIATES AGAINST A  
26 RELATOR BY BRINGING ANOTHER ACTION AGAINST THE RELATOR FOR:

27 (A) ACTS LATER DETERMINED TO BE LAWFUL ACTS;

1                   (B) DISCLOSURE OF CONFIDENTIAL INFORMATION TO COUNSEL OR  
2                   AN AGENT OR REPRESENTATIVE OF THE STATE OR POLITICAL SUBDIVISION  
3                   PURSUANT TO THIS SUBSECTION (9);

4                   (C) VIOLATING AN EMPLOYMENT CONTRACT, CONFIDENTIALITY  
5                   AGREEMENT, NONDISCLOSURE AGREEMENT, OR OTHER AGREEMENT; OR

6                   (D) COMMITTING ANY OTHER TORT OR BREACH OF DUTY AND THE  
7                   COURT HEARING THE ACTION DETERMINES BY A PREPONDERANCE OF THE  
8                   EVIDENCE THAT THE DEFENDANT, EMPLOYER, OR OTHER PERSON BROUGHT  
9                   THE LAWSUIT AGAINST THE RELATOR PRIMARILY FOR THE PURPOSE OF  
10                  RETALIATING AGAINST THE RELATOR.

11                  (II) IN ADDITION TO ANY OTHER REMEDY OR SHARE OF THE  
12                  PROCEEDS OF THE ACTION TO WHICH THE RELATOR IS ENTITLED PURSUANT  
13                  TO THIS SUBSECTION (9) AND REGARDLESS OF WHETHER THE RELATOR IS  
14                  DETERMINED TO BE ENTITLED TO SHARE IN THE PROCEEDS OF THE ACTION  
15                  OR CLAIM FILED PURSUANT TO SUBSECTION (4) OF THIS SECTION, IN  
16                  ADDITION TO ANY OTHER CONSEQUENTIAL DAMAGES PERMITTED BY LAW,  
17                  THE DAMAGES FOR A VIOLATION OF SUBSECTION (9)(e) OF THIS SECTION  
18                  MUST BE NOT LESS THAN:

19                  (A) TWICE THE RELATOR'S ACTUAL ATTORNEY FEES AND COSTS IF  
20                  THE DEFENDANT, EMPLOYER, OR OTHER PERSON BROUGHT THE LAWSUIT  
21                  AGAINST THE RELATOR IN A COURT IN THE STATE OF COLORADO; OR

22                  (B) THREE TIMES THE RELATOR'S ACTUAL ATTORNEY FEES AND  
23                  COSTS IF THE DEFENDANT, EMPLOYER, OR OTHER PERSON BROUGHT THE  
24                  LAWSUIT IN A JURISDICTION OUTSIDE OF COLORADO.

25                  (f) (I) THE COURT HEARING THE ACTION BROUGHT PURSUANT TO  
26                  SUBSECTION (4) OF THIS SECTION HAS JURISDICTION TO HEAR A PRIVATE  
27                  ACTION OR MOTION FOR RETALIATION BROUGHT PURSUANT TO THIS

1 SUBSECTION (9).

2 (II) UPON MOTION BY THE RELATOR, THE VENUE OF AN ACTION  
3 FILED IN ANOTHER COURT OF THE STATE OF COLORADO AGAINST THE  
4 RELATOR BY THE DEFENDANT, THE RELATOR'S EMPLOYER, OR OTHER  
5 PERSON ARISING OUT OF THE SUBJECT MATTER OF THE ACTION BROUGHT  
6 PURSUANT TO SUBSECTION (4) OF THIS SECTION MUST BE CHANGED TO THE  
7 COURT HEARING THE ACTION BROUGHT PURSUANT TO SUBSECTION (4) OF  
8 THIS SECTION.

9 (10) **Discovery in other actions.** (a) IF A RELATOR IS A PARTY TO  
10 OR WITNESS IN AN ACTION OTHER THAN AN ACTION BROUGHT PURSUANT  
11 TO SUBSECTION (4) OF THIS SECTION, AND A PARTY IN THE OTHER ACTION  
12 SEEKS DISCOVERY FROM THE RELATOR OF INFORMATION ABOUT OTHER  
13 LAWSUITS, WHICH DISCOVERY WOULD REQUIRE THE RELATOR TO DISCLOSE  
14 INFORMATION ABOUT AN ACTION FILED PURSUANT TO SUBSECTION (4) OF  
15 THIS SECTION WHILE THAT ACTION IS STILL UNDER SEAL, THE RELATOR  
16 SHALL:

17 (I) WITHIN A REASONABLE TIME, NOTIFY THE STATE OR POLITICAL  
18 SUBDIVISION INVESTIGATING THE ACTION BROUGHT PURSUANT TO  
19 SUBSECTION (4) OF THIS SECTION OF THE PENDING DISCOVERY REQUEST;  
20 AND

21 (II) RESPOND TO THE DISCOVERY REQUEST BY STATING ONLY THAT  
22 THE MATTER IS CONFIDENTIAL, WITHOUT FURTHER ELABORATION, AND  
23 SHALL MAINTAIN THAT RESPONSE UNTIL THE STATE OR POLITICAL  
24 SUBDIVISION ELECTS TO PROCEED OR NOT PROCEED WITH THE ACTION  
25 BROUGHT PURSUANT TO SUBSECTION (4) OF THIS SECTION OR UNTIL THE  
26 COURT LIFTS THE SEAL.

27 (b) IF NECESSARY, IN AN ACTION OTHER THAN AN ACTION

1 BROUGHT PURSUANT TO SUBSECTION (4) OF THIS SECTION, THE RELATOR,  
2 THE ATTORNEY GENERAL, OR THE PROSECUTING AUTHORITY MAY FILE AN  
3 EX PARTE MOTION, IN CAMERA AND UNDER SEAL, SEEKING A PROTECTIVE  
4 ORDER OR AN EXTENSION OF TIME FOR THE RELATOR TO RESPOND TO A  
5 DISCOVERY REQUEST. IF A PARTY IN THE OTHER ACTION MOVES TO COMPEL  
6 AN ANSWER TO THE DISCOVERY, THE RELATOR SHALL FILE, EX PARTE AND  
7 IN CAMERA, A RESPONSE TO THE MOTION TO COMPEL, IN WHICH THE  
8 ATTORNEY GENERAL OR PROSECUTING AUTHORITY MAY JOIN. THE  
9 RESPONSE TO THE MOTION TO COMPEL MUST REMAIN UNDER SEAL UNTIL  
10 SUCH TIME AS THE STATE OR POLITICAL SUBDIVISION ELECTS TO PROCEED  
11 OR NOT PROCEED WITH THE ACTION OR UNTIL SUCH TIME AS THE COURT  
12 LIFTS THE SEAL.

13 **24-31-1205. False claims action procedures - limitation on**  
14 **action - standard of proof.** (1) A CIVIL ACTION PURSUANT TO SECTION  
15 24-31-1204 MAY NOT BE BROUGHT AFTER THE LATER OF:

16 (a) MORE THAN SIX YEARS AFTER THE DATE ON WHICH THE  
17 VIOLATION OF SECTION 24-31-1203 IS COMMITTED OR THE DATE ON WHICH  
18 THE LAST IN A SERIES OF SUCH ACTS OR PRACTICES OCCURRED,  
19 WHICHEVER IS LATER; OR

20 (b) MORE THAN THREE YEARS AFTER THE DATE ON WHICH FACTS  
21 MATERIAL TO THE RIGHT OF ACTION ARE KNOWN OR REASONABLY SHOULD  
22 HAVE BEEN KNOWN BY THE OFFICIAL OF THE STATE OR A POLITICAL  
23 SUBDIVISION CHARGED WITH RESPONSIBILITY TO ACT IN THE  
24 CIRCUMSTANCES, BUT IN NO EVENT MORE THAN TEN YEARS AFTER THE  
25 DATE ON WHICH THE VIOLATION OF SECTION 24-31-1203 WAS COMMITTED.

26 (2) (a) IF THE STATE OR A POLITICAL SUBDIVISION ELECTS TO  
27 INTERVENE AND PROCEED WITH AN ACTION BROUGHT PURSUANT TO

1 SECTION 24-31-1204, THE STATE OR POLITICAL SUBDIVISION MAY FILE ITS  
2 OWN COMPLAINT OR AMEND THE RELATOR'S COMPLAINT TO:

3 (I) CLARIFY AND ADD DETAIL, AND ADD ADDITIONAL DEFENDANTS,  
4 TO THE CLAIMS IN WHICH THE STATE OR POLITICAL SUBDIVISION IS  
5 INTERVENING; AND

6 (II) ADD ANY ADDITIONAL CLAIMS AND DEFENDANTS WITH  
7 RESPECT TO WHICH THE STATE OR POLITICAL SUBDIVISION CONTENDS IT IS  
8 ENTITLED TO RELIEF.

9 (b) FOR STATUTE OF LIMITATIONS PURPOSES, ANY PLEADINGS BY  
10 THE STATE OR POLITICAL SUBDIVISION RELATE BACK TO THE FILING DATE  
11 OF THE RELATOR'S COMPLAINT, TO THE EXTENT THAT THE STATE'S OR  
12 POLITICAL SUBDIVISION'S CLAIM ARISES OUT OF THE CONDUCT,  
13 TRANSACTIONS, OR OCCURRENCES SET FORTH, OR ATTEMPTED TO BE SET  
14 FORTH, IN THE ORIGINAL COMPLAINT OF THE RELATOR.

15 (3) IN AN ACTION BROUGHT PURSUANT TO SECTION 24-31-1204,  
16 THE STATE, POLITICAL SUBDIVISION, OR RELATOR MUST PROVE ALL  
17 ESSENTIAL ELEMENTS OF THE CAUSE OF ACTION, INCLUDING DAMAGES, BY  
18 A PREPONDERANCE OF THE EVIDENCE.

19 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE  
20 COLORADO RULES OF CRIMINAL PROCEDURE, OR THE COLORADO RULES OF  
21 EVIDENCE, A FINAL JUDGMENT RENDERED IN FAVOR OF THE STATE OR A  
22 POLITICAL SUBDIVISION IN A CRIMINAL PROCEEDING CHARGING FRAUD OR  
23 FALSE STATEMENTS, WHETHER UPON A VERDICT AFTER TRIAL OR UPON A  
24 PLEA OF GUILTY OR NOLO CONTENDERE, SHALL ESTOP THE DEFENDANT  
25 FROM DENYING THE ESSENTIAL ELEMENTS OF THE OFFENSE IN ANY ACTION  
26 THAT INVOLVES THE SAME TRANSACTION AS IN THE CRIMINAL PROCEEDING  
27 AND THAT IS BROUGHT PURSUANT TO SECTION 24-31-1204.

1                   **24-31-1206. Jurisdiction.** AN ACTION DESCRIBED IN THIS PART 12  
2       MAY BE BROUGHT IN ANY JUDICIAL DISTRICT IN WHICH THE DEFENDANT  
3       OR, IN THE CASE OF MULTIPLE DEFENDANTS, ANY ONE DEFENDANT CAN BE  
4       FOUND, RESIDES, OR TRANSACTS BUSINESS, OR IN WHICH AN ACT  
5       PROSCRIBED BY SECTION 24-31-1203 OCCURRED. THE APPROPRIATE  
6       DISTRICT COURT SHALL ISSUE A SUMMONS AS REQUIRED BY THE  
7       COLORADO RULES OF CIVIL PROCEDURE AND SERVE THE SUMMONS AT ANY  
8       PLACE.

9                   **24-31-1207. False claims civil investigation demands.**

10       (1) WHEN THE ATTORNEY GENERAL HAS REASONABLE CAUSE TO BELIEVE  
11       THAT ANY PERSON, WHETHER IN THIS STATE OR ELSEWHERE, HAS ENGAGED  
12       IN OR IS ENGAGING IN ANY VIOLATION OF SECTION 24-31-1203, THE  
13       ATTORNEY GENERAL MAY:

14               (a) REQUEST THE PERSON FILE A STATEMENT OR REPORT IN  
15               WRITING UNDER OATH OR OTHERWISE, ON FORMS PRESCRIBED BY THE  
16               ATTORNEY GENERAL, AS TO ALL FACTS AND CIRCUMSTANCES CONCERNING  
17               THE ALLEGED VIOLATIONS BY THE PERSON AND ANY OTHER DATA AND  
18               INFORMATION THE ATTORNEY GENERAL DEEMS NECESSARY;

19               (b) EXAMINE UNDER OATH ANY PERSON IN CONNECTION WITH THE  
20               ALLEGED VIOLATIONS;

21               (c) EXAMINE ANY PROPERTY OR SAMPLE THEREOF, RECORD, BOOK,  
22               DOCUMENT, ACCOUNT, OR PAPER THE ATTORNEY GENERAL DEEMS  
23               NECESSARY;

24               (d) MAKE TRUE COPIES, AT THE EXPENSE OF THE ATTORNEY  
25               GENERAL, OF ANY RECORD, BOOK, DOCUMENT, ACCOUNT, OR PAPER  
26               EXAMINED PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION, WHICH  
27               COPIES MAY BE OFFERED INTO EVIDENCE IN LIEU OF THE ORIGINALS

1 THEREOF IN AN ACTION BROUGHT PURSUANT TO THIS PART 12; AND

2 (e) PURSUANT TO ANY ORDER OF ANY DISTRICT COURT, IMPOUND  
3 ANY SAMPLE OF PROPERTY THAT IS MATERIAL TO ANY ALLEGED VIOLATION  
4 OF THIS PART 12 AND RETAIN THE SAME IN THE ATTORNEY GENERAL'S  
5 POSSESSION UNTIL COMPLETION OF ALL PROCEEDINGS UNDERTAKEN  
6 PURSUANT TO THIS PART 12. A DISTRICT COURT SHALL NOT ISSUE AN  
7 ORDER DESCRIBED IN THIS SUBSECTION (1)(e) WITHOUT GIVING FULL  
8 OPPORTUNITY TO THE ACCUSED TO BE HEARD AND UNLESS THE ATTORNEY  
9 GENERAL HAS PROVEN BY CLEAR AND CONVINCING EVIDENCE THAT THE  
10 ORDER WILL NOT IMPAIR THE BUSINESS ACTIVITIES OF THE PERSON TO  
11 WHOM THE ORDER IS DIRECTED.

12 (2) WHEN THE ATTORNEY GENERAL HAS REASONABLE CAUSE TO  
13 BELIEVE THAT A PERSON, WHETHER IN THIS STATE OR ELSEWHERE, HAS  
14 ENGAGED IN OR IS ENGAGING IN A VIOLATION OF SECTION 24-31-1203, THE  
15 ATTORNEY GENERAL MAY ISSUE SUBPOENAS TO REQUIRE THE  
16 ATTENDANCE OF WITNESSES OR THE PRODUCTION OF DOCUMENTS,  
17 ADMINISTER OATHS, CONDUCT HEARINGS IN AID OF ANY INVESTIGATION OR  
18 INQUIRY, AND PRESCRIBE SUCH FORMS AS MAY BE NECESSARY TO  
19 ADMINISTER THIS PART 12.

20 (3) THE ATTORNEY GENERAL MAY ISSUE SUBPOENAS TO ANY  
21 PUBLIC OR PRIVATE CORPORATION OR PARTNERSHIP OR ASSOCIATION OR  
22 GOVERNMENTAL ENTITY TO PRODUCE WITNESSES TO APPEAR AND GIVE  
23 ORAL TESTIMONY AT INVESTIGATIVE HEARINGS. THE SUBPOENAS MAY  
24 DESIGNATE WITH REASONABLE PARTICULARITY THE MATTERS ON WHICH  
25 EXAMINATION IS REQUESTED. IN RESPONSE TO THE SUBPOENA, THE ENTITY  
26 SHALL DESIGNATE ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING  
27 AGENTS, OR DESIGNATE OTHER PERSONS, TO TESTIFY ON ITS BEHALF.

1                   (4) A NOTICE OR SUBPOENA MAY BE SERVED IN THE MANNER  
2 PRESCRIBED BY LAW OR AS PROVIDED IN RULE 4 OF THE COLORADO RULES  
3 OF CIVIL PROCEDURE.

4                   (5) (a) IF THE RECORDS OF A PERSON WHO HAS BEEN ISSUED A  
5 SUBPOENA ARE LOCATED OUTSIDE THIS STATE, THE PERSON SHALL EITHER:

6                   (I) MAKE THEM AVAILABLE TO THE ATTORNEY GENERAL EITHER  
7 ELECTRONICALLY OR AT A CONVENIENT LOCATION WITHIN THIS STATE; OR  
8                   (II) PAY THE REASONABLE AND NECESSARY EXPENSES FOR THE  
9 ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE, TO  
10 EXAMINE THE RECORDS AT THE PLACE WHERE THEY ARE MAINTAINED.

11                   (b) THE ATTORNEY GENERAL MAY DESIGNATE REPRESENTATIVES,  
12 INCLUDING COMPARABLE OFFICIALS OF THE STATE IN WHICH THE RECORDS  
13 ARE LOCATED, TO INSPECT THE RECORDS ON BEHALF OF THE ATTORNEY  
14 GENERAL.

15                   (6) IF ANY PERSON FAILS TO COOPERATE WITH ANY INVESTIGATION  
16 PURSUANT TO THIS SECTION OR FAILS TO OBEY ANY SUBPOENA ISSUED  
17 PURSUANT TO THIS SECTION, THE ATTORNEY GENERAL MAY APPLY TO THE  
18 APPROPRIATE DISTRICT COURT FOR AN APPROPRIATE ORDER TO  
19 EFFECTUATE THE PURPOSES OF THIS PART 12. AT THE REQUEST OF THE  
20 ATTORNEY GENERAL, THE APPLICATION MAY BE FILED IN CAMERA AND  
21 KEPT CONFIDENTIAL TO MAINTAIN THE CONFIDENTIALITY OF THE  
22 ATTORNEY GENERAL'S INVESTIGATION. THE APPLICATION MUST STATE  
23 THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE ORDER  
24 APPLIED FOR IS NECESSARY TO INVESTIGATE A VIOLATION OF THIS PART 12.  
25 IF THE COURT IS SATISFIED THAT REASONABLE GROUNDS EXIST, THE COURT  
26 IN ITS ORDER MAY:

27                   (a) GRANT APPROPRIATE INJUNCTIVE RELIEF;

1 (b) REQUIRE ATTENDANCE OF OR THE PRODUCTION OF DOCUMENTS  
2 BY THE PERSON, OR BOTH;

3 (c) GRANT OTHER OR FURTHER RELIEF AS MAY BE NECESSARY TO  
4 OBTAIN COMPLIANCE BY THE PERSON.

5                   **24-31-1208. Rule-making.** THE ATTORNEY GENERAL MAY  
6 PROMULGATE RULES NECESSARY TO IMPLEMENT THIS PART 12.

7 24-31-1209. Use of recoveries - false claims recovery cash fund

8     **- creation.** (1) THE STATE TREASURER SHALL TRANSFER ALL PROCEEDS  
9     RETAINED BY THE STATE FROM A FALSE CLAIMS ACTION BROUGHT  
10    PURSUANT TO THIS PART 12 TO THE FALSE CLAIMS RECOVERY CASH FUND,  
11    WHICH IS HEREBY CREATED.

16 (3) (a) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL  
17 ASSEMBLY, THE DEPARTMENT MAY EXPEND MONEY FROM THE FUND FOR  
18 NECESSARY ACTUAL COSTS OF CARRYING OUT ITS DUTIES PURSUANT TO  
19 THIS PART 12

20 (b) (I) WHEN PROCEEDS RETAINED BY THE STATE FROM A FALSE  
21 CLAIMS ACTION ARE DEPOSITED INTO THE FUND, THE ATTORNEY GENERAL  
22 SHALL DETERMINE THE AMOUNT OF THE PROCEEDS THAT SHOULD REMAIN  
23 IN THE FUND FOR USE BY THE DEPARTMENT FOR THE COSTS OF CARRYING  
24 OUT ITS DUTIES PURSUANT TO THIS PART 12.

25 (II) IF THE AMOUNT OF THE PROCEEDS IS EQUAL TO OR EXCEEDS  
26 THE AMOUNT OF THE FALSE CLAIM PLUS THE DEPARTMENT'S COSTS, THE  
27 ATTORNEY GENERAL SHALL DIRECT THE STATE TREASURER TO CREDIT TO

1 THE ORIGINAL FUND FROM WHICH THE FALSE CLAIM WAS PAID AN AMOUNT  
2 EQUAL TO THE FALSE CLAIM.

3 (III) IF THE AMOUNT OF THE PROCEEDS IS LESS THAN THE AMOUNT  
4 OF THE FALSE CLAIM PLUS THE DEPARTMENT'S COSTS, THE ATTORNEY  
5 GENERAL SHALL DIRECT THE STATE TREASURER TO CREDIT TO THE  
6 ORIGINAL FUND FROM WHICH THE FALSE CLAIM WAS PAID A PRO-RATED  
7 AMOUNT BASED ON THE ACTUAL RECOVERY.

8 (4) ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING  
9 IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND  
10 AND SHALL NOT BE CREDITED OR TRANSFERRED TO ANOTHER FUND.

11 **24-31-1210. No limitations on common law authority -**  
12 **medicaid fraud control.** NOTHING IN THIS PART 12 AFFECTS, LIMITS, OR  
13 SUPPLANTS THE COMMON LAW AUTHORITY OF THE ATTORNEY GENERAL OR  
14 THE DEPARTMENT TO INVESTIGATE AND PROSECUTE MEDICAID FRAUD  
15 PURSUANT TO PART 8 OF THIS ARTICLE 31.

16 **SECTION 3.** In Colorado Revised Statutes, 2-3-109, **add** (3) as  
17 follows:

18 **2-3-109. Emergency reports.** (3) IF THE STATE AUDITOR IN THE  
19 COURSE OF AN AUDIT FINDS EVIDENCE OF APPARENTLY FALSE CLAIMS  
20 RELATED TO PUBLIC FUNDS OR PROPERTY, THE STATE AUDITOR SHALL  
21 IMMEDIATELY REPORT SUCH TRANSACTIONS TO THE COMMITTEE AND  
22 SHALL FILE A WRITTEN COPY OF THE REPORT WITH THE ATTORNEY  
23 GENERAL.

24 **SECTION 4.** In Colorado Revised Statutes, 2-3-110.5, **amend**  
25 (3)(a)(II) as follows:

26 **2-3-110.5. Fraud hotline - investigations - confidentiality -**  
27 **access to records - definitions.** (3) (a) (II) The state auditor shall

1 forward all hotline calls alleging fraud by a medicaid recipient to the  
2 department of health care policy and financing, ~~and~~ all calls alleging  
3 fraud by a medicaid provider or contractor to the medicaid fraud control  
4 unit of the office of the attorney general, ~~AND ALL CALLS ALLEGING FRAUD~~  
5 IN VIOLATION OF THE "COLORADO FALSE CLAIMS ACT", PART 12 OF  
6 ARTICLE 31 OF TITLE 24, TO THE ATTORNEY GENERAL UNLESS THE  
7 ALLEGATION RELATES TO A STATE EMPLOYEE IN THE PERFORMANCE OF  
8 THE EMPLOYEE'S DUTIES.

9         **SECTION 5. Act subject to petition - effective date.** This act  
10 takes effect at 12:01 a.m. on the day following the expiration of the  
11 ninety-day period after final adjournment of the general assembly; except  
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
13 of the state constitution against this act or an item, section, or part of this  
14 act within such period, then the act, item, section, or part will not take  
15 effect unless approved by the people at the general election to be held in  
16 November 2022 and, in such case, will take effect on the date of the  
17 official declaration of the vote thereon by the governor.