

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 10-0032.01 Jerry Barry

HOUSE BILL 10-1357

HOUSE SPONSORSHIP

McFadyen and Judd, Carroll T.

SENATE SPONSORSHIP

Romer and Boyd, Mitchell

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CREATION OF A FALSE CLAIMS ACT, AND MAKING AN**
102 **APPROPRIATION IN CONNECTION THEREWITH.**

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://www.leg.state.co.us/billsummaries>.)

The bill makes legislative findings and states legislative intent that the enactment of the bill qualifies the state for federal incentives and that a portion of the state's share of any recovery should be used to increase funding for the university of Colorado health sciences center (health sciences center).

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
April 27, 2010

HOUSE
Amended 2nd Reading
April 26, 2010

The bill authorizes a civil action by the state, a political subdivision, or a private person (relator) against a person who submits a false claim to the state or a political subdivision. It specifies penalties for submitting false claims. The bill establishes procedures if an action is commenced by a relator. It specifies percentages of recoveries that may be awarded as attorney fees.

The bill establishes a private right of action against a person who retaliates against a relator because the relator takes lawful action in furtherance of a false claim action. It specifies requirements for a claim of and damages for retaliation against a relator.

The bill establishes a statute of limitations for false claims.

The bill establishes procedures for the attorney general to serve upon a person a civil investigative demand requiring the person to answer written or oral questions and to produce documents in the person's possession or control.

The bill directs the state treasurer to transfer to the health sciences center false claims recovery cash fund 2% of any moneys received by the state due to a false claims action and specifies that moneys in the fund are to be appropriated to the health sciences center. The bill excludes from the transfer money received through an action in which the health sciences center was a defendant.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) The federal "Deficit Reduction Act of 2005", Pub.L. 109-171,
5 referred to in this section as the "DRA", contains provisions that create
6 incentives for states to enact a false claims act containing similar
7 provisions to the federal "False Claims Act", 31 U.S.C. secs. 3729 to
8 3733;

9 (b) The incentives in the DRA entitle a state that has a law relating
10 to false or fraudulent claims, which law meets federal standards outlined
11 in the DRA, to retain an enhanced federal medical assistance percentage
12 for false claims recoveries obtained through the state's false claims act;

13 (c) Due to the economic downturn, funding for the university of

1 Colorado health sciences center has decreased; and

2 (d) In order to restore some of the decreased funding to the
3 university of Colorado health sciences center, a portion of the moneys
4 recovered through false claims actions should be dedicated to the
5 university of Colorado health sciences center.

6 (2) It is the intent of the general assembly that:

7 (a) This act qualify for the incentives created by the DRA; and

8 (b) A portion of the money received from false claims actions be
9 appropriated to the university of Colorado health sciences center.

10 **SECTION 2.** Title 24, Colorado Revised Statutes, is amended BY
11 THE ADDITION OF A NEW ARTICLE to read:

12 **ARTICLE 116**

13 **Colorado False Claims Act**

14 **24-116-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND
15 MAY BE CITED AS THE "COLORADO FALSE CLAIMS ACT".

16 **24-116-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
17 CONTEXT OTHERWISE REQUIRES:

18 (1) (a) "CLAIM" MEANS A REQUEST OR DEMAND FOR MONEY OR
19 PROPERTY, WHETHER UNDER A CONTRACT OR OTHERWISE AND
20 REGARDLESS OF WHETHER THE STATE OR POLITICAL SUBDIVISION HAS
21 TITLE TO THE MONEY OR PROPERTY, THAT IS:

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

24 (II) MADE TO A CONTRACTOR, GRANTEE, OR OTHER RECIPIENT IF
25 THE MONEY OR PROPERTY IS TO BE SPENT OR USED ON THE STATE'S OR
26 POLITICAL SUBDIVISION'S BEHALF OR TO ADVANCE A PROGRAM OR
27 INTEREST OF THE STATE OR POLITICAL SUBDIVISION AND IF THE STATE OR

1 POLITICAL SUBDIVISION:

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

4 (B) WILL REIMBURSE THE CONTRACTOR, GRANTEE, OR OTHER
5 RECIPIENT FOR ANY PORTION OF THE MONEY OR PROPERTY THAT IS
6 REQUESTED OR DEMANDED.

7 (b) "CLAIM" DOES NOT INCLUDE REQUESTS OR DEMANDS FOR
8 MONEY OR PAYMENT THAT THE STATE OR POLITICAL SUBDIVISION HAS
9 PAID TO AN INDIVIDUAL AS COMPENSATION FOR EMPLOYMENT BY THE
10 STATE OR POLITICAL SUBDIVISION OR AS AN INCOME SUBSIDY WITH NO
11 RESTRICTION ON THAT INDIVIDUAL'S USE OF THE MONEY OR PROPERTY.

12 (2) (a) "KNOWING" OR "KNOWINGLY" MEANS THAT A PERSON,
13 WITH RESPECT TO INFORMATION:

14 (I) HAS ACTUAL KNOWLEDGE OF THE INFORMATION;

15 (II) ACTS IN DELIBERATE IGNORANCE OF THE TRUTH OR FALSITY OF
16 THE INFORMATION; OR

17 (III) ACTS IN RECKLESS DISREGARD OF THE TRUTH OR FALSITY OF
18 THE INFORMATION.

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

21 (3) "MATERIAL" MEANS HAVING A NATURAL TENDENCY TO
22 INFLUENCE, OR BE CAPABLE OF INFLUENCING, THE PAYMENT OR RECEIPT
23 OF MONEY OR PROPERTY.

24 (4) "OBLIGATION" MEANS A FIXED OR CONTINGENT DUTY ARISING
25 FROM AN EXPRESS OR IMPLIED CONTRACTUAL, QUASI-CONTRACTUAL,
26 GRANTOR-GRANTEE, LICENSOR-LICENSEE, STATUTORY, FEE-BASED, OR
27 SIMILAR RELATIONSHIP, AND THE RETENTION OF OVERPAYMENT.

1 (5) "PERSON" INCLUDES ANY NATURAL PERSON, CORPORATION,
2 FIRM, ASSOCIATION, ORGANIZATION, PARTNERSHIP, BUSINESS, TRUST, OR
3 STATE-AFFILIATED ENTITY INVOLVED IN A NONGOVERNMENTAL FUNCTION,
4 INCLUDING STATE UNIVERSITIES AND STATE HOSPITALS.

5 (6) "POLITICAL SUBDIVISION" MEANS A CITY, CITY AND COUNTY,
6 COUNTY, TAX OR ASSESSMENT DISTRICT, OR OTHER LEGALLY AUTHORIZED
7 LOCAL GOVERNMENTAL ENTITY WITH JURISDICTIONAL BOUNDARIES
8 WITHIN THIS STATE.

9 (7) "PROCEEDS" MEANS ALL MONEYS, PROPERTY, DAMAGES,
10 DOUBLE DAMAGES, TREBLE DAMAGES, CIVIL PENALTIES, PAYMENTS FOR
11 COSTS OF COMPLIANCE, AND ANY OTHER ECONOMIC BENEFIT REALIZED BY
12 THE STATE OR A POLITICAL SUBDIVISION, WHETHER AS A RESULT OF ANY
13 SETTLEMENT OF OR JUDGMENT ENTERED IN ANY ACTION BROUGHT
14 PURSUANT TO THIS ARTICLE.

15 (8) "PROSECUTING AUTHORITY" MEANS THE COUNTY ATTORNEY,
16 CITY ATTORNEY, OR OTHER LOCAL GOVERNMENT OFFICIAL CHARGED WITH
17 INVESTIGATING, FILING, AND CONDUCTING CIVIL LEGAL PROCEEDINGS ON
18 BEHALF OF, OR IN THE NAME OF, A PARTICULAR POLITICAL SUBDIVISION.

19 (9) "RELATOR" MEANS A NATURAL PERSON WHO BRINGS A CIVIL
20 ACTION FOR A VIOLATION OF SECTION 24-116-103 ON BEHALF OF HIMSELF
21 OR HERSELF AND THE STATE OR A POLITICAL SUBDIVISION.

22 **24-116-103. False claims - liability for certain acts.**

23 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (2) AND (5) OF THIS
24 SECTION, A PERSON IS LIABLE TO THE STATE OR A POLITICAL SUBDIVISION
25 FOR A CIVIL PENALTY OF NOT LESS THAN FIVE THOUSAND DOLLARS AND
26 NOT MORE THAN TEN THOUSAND DOLLARS, PLUS THREE TIMES THE
27 AMOUNT OF DAMAGES THAT THE STATE OR POLITICAL SUBDIVISION

1 SUSTAINS BECAUSE OF THE ACT OF THAT PERSON IF THE PERSON:

2 (a) KNOWINGLY PRESENTS, OR CAUSES TO BE PRESENTED A FALSE
3 OR FRAUDULENT CLAIM FOR PAYMENT OR APPROVAL;

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

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

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

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

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

26 (g) CONSPIRES TO COMMIT A VIOLATION OF PARAGRAPHS (a) TO (f)
27 OF THIS SUBSECTION (1).

1 (2) NOTWITHSTANDING THE AMOUNT OF DAMAGES AUTHORIZED
2 IN SUBSECTION (1) OF THIS SECTION, FOR A PERSON WHO VIOLATES
3 SUBSECTION (1) OF THIS SECTION, THE COURT MAY ASSESS NOT LESS THAN
4 TWICE THE AMOUNT OF DAMAGES THAT THE STATE OR A POLITICAL
5 SUBDIVISION SUSTAINS BECAUSE OF THE ACT OF THE PERSON IF THE COURT
6 FINDS, BY CLEAR AND CONVINCING EVIDENCE, THAT:

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

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

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

21 (3) A PERSON VIOLATING THIS SECTION SHALL ALSO BE LIABLE TO
22 THE STATE OR A POLITICAL SUBDIVISION FOR THE COSTS OF A CIVIL ACTION
23 BROUGHT TO RECOVER ANY PENALTY OR DAMAGES.

24 (4) ANY INFORMATION FURNISHED PURSUANT TO SUBSECTION (2)
25 OF THIS SECTION SHALL BE EXEMPT FROM DISCLOSURE UNDER PART 2 OF
26 ARTICLE 72 OF THIS TITLE. THE PROVISIONS OF THIS SUBSECTION (4)
27 SHALL NOT APPLY TO DOCUMENTS OR INFORMATION IN THE CUSTODY OF

1 THE COURT.

2 (5) THIS SECTION DOES NOT APPLY TO CLAIMS, RECORDS, OR
3 STATEMENTS MADE UNDER TITLE 39, C.R.S.

4 (6) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
5 CONTRARY, THE UNIVERSITY OF COLORADO HEALTH SCIENCES CENTER
6 AND ANY ORGANIZATION OF ITS FACULTY SHALL NOT BE IMMUNE FROM
7 LIABILITY IN AN ACTION THAT MAY BE BROUGHT AGAINST IT PURSUANT TO
8 THIS ARTICLE.

9 **24-116-104. Civil actions for false claims. (1) Responsibility**
10 **of attorney general.** (a) THE ATTORNEY GENERAL SHALL DILIGENTLY
11 INVESTIGATE A VIOLATION UNDER SECTION 24-116-103. IF THE ATTORNEY
12 GENERAL FINDS THAT A PERSON HAS VIOLATED OR IS VIOLATING SECTION
13 24-116-103, THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION UNDER
14 THIS SECTION AGAINST THE PERSON.

15 (b) IF THE ATTORNEY GENERAL BRINGS A CIVIL ACTION UNDER THIS
16 SECTION ON A CLAIM INVOLVING POLITICAL SUBDIVISION MONEYS AS WELL
17 AS STATE MONEYS, THE ATTORNEY GENERAL SHALL SERVE BY MAIL, WITH
18 RETURN RECEIPT REQUESTED, A COPY OF THE COMPLAINT ON THE
19 POLITICAL SUBDIVISION'S APPROPRIATE PROSECUTING AUTHORITY ON THE
20 SAME DATE THAT THE COMPLAINT IS FILED IN THE ACTION.

21 (c) WITHIN SIXTY DAYS AFTER RECEIPT OF THE COMPLAINT
22 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1), THE PROSECUTING
23 AUTHORITY SHALL HAVE THE RIGHT TO INTERVENE IN AN ACTION
24 BROUGHT BY THE ATTORNEY GENERAL UNDER THIS SECTION. THE COURT
25 MAY PERMIT INTERVENTION THEREAFTER UPON A SHOWING THAT ALL OF
26 THE REQUIREMENTS OF THE COLORADO RULES OF CIVIL PROCEDURE HAVE
27 BEEN MET.

1 (2) **Responsibility of prosecuting authority.** (a) A
2 PROSECUTING AUTHORITY SHALL DILIGENTLY INVESTIGATE A VIOLATION
3 UNDER SECTION 24-116-103 INVOLVING STATE AND POLITICAL
4 SUBDIVISION MONEYS. IF THE PROSECUTING AUTHORITY FINDS THAT A
5 PERSON HAS VIOLATED OR IS VIOLATING SECTION 24-116-103, THE
6 PROSECUTING AUTHORITY MAY BRING A CIVIL ACTION UNDER THIS
7 SECTION AGAINST THE PERSON.

8 (b) IF THE PROSECUTING AUTHORITY BRINGS A CIVIL ACTION
9 UNDER THIS SECTION ON A CLAIM INVOLVING STATE AND POLITICAL
10 SUBDIVISION MONEYS, THE PROSECUTING AUTHORITY SHALL SERVE A
11 COPY OF THE COMPLAINT ON THE ATTORNEY GENERAL ON THE SAME DATE
12 THAT THE COMPLAINT IS FILED IN THE ACTION.

13 (c) WITHIN SIXTY DAYS AFTER RECEIVING THE COMPLAINT
14 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2), THE ATTORNEY
15 GENERAL SHALL EITHER:

16 (I) NOTIFY THE COURT THAT HE OR SHE INTENDS TO PROCEED WITH
17 THE ACTION, IN WHICH CASE THE ATTORNEY GENERAL SHALL ASSUME
18 PRIMARY RESPONSIBILITY FOR CONDUCTING THE ACTION AND THE
19 PROSECUTING AUTHORITY SHALL HAVE THE RIGHT TO CONTINUE AS A
20 PARTY; OR

21 (II) NOTIFY THE COURT THAT HE OR SHE DECLINES TO TAKE OVER
22 THE ACTION, IN WHICH CASE THE PROSECUTING AUTHORITY SHALL HAVE
23 THE RIGHT TO CONDUCT THE ACTION.

24 (3) **Actions by private persons.** (a) A RELATOR MAY BRING A
25 CIVIL ACTION FOR A VIOLATION OF SECTION 24-116-103 ON BEHALF OF THE
26 RELATOR AND THE STATE OR A POLITICAL SUBDIVISION THAT IS AFFECTED
27 BY THE VIOLATION. THE ACTION SHALL BE BROUGHT IN THE NAME OF THE

1 STATE OR POLITICAL SUBDIVISION. THE ACTION MAY BE DISMISSED ONLY
2 IF THE COURT AND THE ATTORNEY GENERAL OR THE PROSECUTING
3 AUTHORITY GIVE WRITTEN CONSENT TO THE DISMISSAL AND THEIR
4 REASONS FOR CONSENTING.

5 (b) THE RELATOR SHALL SERVE ON THE STATE OR POLITICAL
6 SUBDIVISION, PURSUANT TO RULE 4 OF THE COLORADO RULES OF CIVIL
7 PROCEDURE, A COPY OF THE COMPLAINT AND WRITTEN DISCLOSURE OF
8 SUBSTANTIALLY ALL MATERIAL EVIDENCE AND INFORMATION THE
9 RELATOR POSSESSES. THE COMPLAINT SHALL BE FILED IN CAMERA, SHALL
10 REMAIN UNDER SEAL FOR AT LEAST SIXTY DAYS, AND SHALL NOT BE
11 SERVED ON THE DEFENDANT UNTIL THE COURT SO ORDERS. THE STATE OR
12 POLITICAL SUBDIVISION MAY ELECT TO INTERVENE AND PROCEED WITH
13 THE ACTION WITHIN SIXTY DAYS AFTER IT RECEIVES BOTH THE COMPLAINT
14 AND THE MATERIAL EVIDENCE AND INFORMATION. IF BOTH THE STATE
15 AND POLITICAL SUBDIVISION INTERVENE, THE ATTORNEY GENERAL SHALL
16 ASSUME PRIMARY RESPONSIBILITY FOR CONDUCTING THE ACTION.

17 (c) THE STATE OR POLITICAL SUBDIVISION MAY, FOR GOOD CAUSE
18 SHOWN, MOVE THE COURT FOR EXTENSIONS OF THE TIME DURING WHICH
19 THE COMPLAINT REMAINS UNDER SEAL UNDER PARAGRAPH (b) OF THIS
20 SUBSECTION (3); EXCEPT THAT A COMPLAINT SHALL NOT REMAIN UNDER
21 SEAL FOR MORE THAN ONE YEAR. ANY SUCH MOTION MAY BE SUPPORTED
22 BY AFFIDAVITS OR OTHER SUBMISSIONS IN CAMERA. THE DEFENDANT
23 SHALL NOT BE REQUIRED TO RESPOND TO ANY COMPLAINT FILED UNDER
24 THIS SECTION UNTIL TWENTY DAYS AFTER THE COMPLAINT IS UNSEALED
25 AND SERVED UPON THE DEFENDANT PURSUANT TO RULE 4 OF THE
26 COLORADO RULES OF CIVIL PROCEDURE.

27 (d) BEFORE THE EXPIRATION OF THE SIXTY-DAY PERIOD PURSUANT

1 TO PARAGRAPH (b) OF THIS SUBSECTION (3) OR ANY EXTENSIONS
2 OBTAINED UNDER PARAGRAPH (c) OF THIS SUBSECTION (3), THE STATE OR
3 POLITICAL SUBDIVISION SHALL:

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

6 (II) NOTIFY THE COURT THAT IT DECLINES TO TAKE OVER THE
7 ACTION, IN WHICH CASE THE RELATOR SHALL HAVE THE RIGHT TO
8 CONDUCT THE ACTION.

9 (e) WHEN A RELATOR BRINGS AN ACTION UNDER THIS SUBSECTION
10 (3), NO PERSON OTHER THAN THE STATE OR POLITICAL SUBDIVISION MAY
11 INTERVENE OR BRING A RELATED ACTION BASED ON THE FACTS
12 UNDERLYING THE PENDING ACTION.

13 (4) **Rights of parties to private actions.** (a) IF THE STATE OR A
14 POLITICAL SUBDIVISION PROCEEDS WITH AN ACTION BROUGHT UNDER
15 SUBSECTION (3) OF THIS SECTION, IT SHALL HAVE THE PRIMARY
16 RESPONSIBILITY FOR PROSECUTING THE ACTION AND SHALL NOT BE BOUND
17 BY AN ACT OF THE RELATOR. THE RELATOR SHALL HAVE THE RIGHT TO
18 CONTINUE AS A PARTY TO THE ACTION, SUBJECT TO THE LIMITATIONS SET
19 FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (4).

20 (b) (I) THE STATE OR POLITICAL SUBDIVISION MAY DISMISS THE
21 ACTION NOTWITHSTANDING THE OBJECTIONS OF THE RELATOR IF THE
22 RELATOR HAS BEEN NOTIFIED BY THE STATE OR POLITICAL SUBDIVISION OF
23 THE FILING OF THE MOTION AND THE COURT HAS PROVIDED THE RELATOR
24 WITH AN OPPORTUNITY FOR A HEARING ON THE MOTION.

25 (II) THE STATE OR POLITICAL SUBDIVISION MAY SETTLE THE
26 ACTION WITH THE DEFENDANT NOTWITHSTANDING THE OBJECTIONS OF THE
27 RELATOR IF THE COURT DETERMINES, AFTER A HEARING, THAT THE

1 PROPOSED SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE UNDER ALL
2 THE CIRCUMSTANCES.

3 (III) UPON A SHOWING BY THE STATE OR POLITICAL SUBDIVISION
4 THAT UNRESTRICTED PARTICIPATION DURING THE COURSE OF THE
5 LITIGATION BY THE RELATOR WOULD INTERFERE WITH OR UNDULY DELAY
6 THE STATE'S OR POLITICAL SUBDIVISION'S PROSECUTION OF THE CASE, OR
7 WOULD BE REPETITIOUS, IRRELEVANT, OR FOR PURPOSES OF HARASSMENT,
8 THE COURT MAY, IN ITS DISCRETION, IMPOSE LIMITATIONS ON THE
9 RELATOR'S PARTICIPATION, INCLUDING BUT NOT LIMITED TO:

10 (A) LIMITING THE NUMBER OF WITNESSES THE RELATOR MAY
11 CALL;

12 (B) LIMITING THE LENGTH OF THE TESTIMONY OF THE WITNESSES;

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

14 OR

15 (D) OTHERWISE LIMITING THE PARTICIPATION BY THE RELATOR IN
16 THE LITIGATION.

17 (IV) UPON A SHOWING BY THE DEFENDANT THAT UNRESTRICTED
18 PARTICIPATION DURING THE COURSE OF THE LITIGATION BY THE RELATOR
19 WOULD BE FOR PURPOSES OF HARASSMENT OR WOULD CAUSE THE
20 DEFENDANT UNDUE BURDEN OR UNNECESSARY EXPENSE, THE COURT MAY
21 LIMIT THE PARTICIPATION BY THE RELATOR IN THE LITIGATION.

22 (c) IF THE STATE OR POLITICAL SUBDIVISION ELECTS NOT TO
23 PROCEED WITH THE ACTION, THE RELATOR SHALL HAVE THE RIGHT TO
24 CONDUCT THE ACTION. THE COURT SHALL NOT DRAW AN ADVERSE
25 INFERENCE FROM THE FACT THAT THE STATE OR POLITICAL SUBDIVISION
26 HAS ELECTED NOT TO PROCEED WITH THE ACTION. THE FACT THAT THE
27 STATE OR POLITICAL SUBDIVISION HAS ELECTED NOT TO PROCEED WITH

1 THE ACTION SHALL NOT BE A BASIS FOR A MOTION TO DISMISS, MOTION FOR
2 DETERMINATION OF A QUESTION OF LAW, OR MOTION FOR SUMMARY
3 JUDGMENT, NOR SHALL IT BE A BASIS TO DENY THE COURT JURISDICTION
4 OVER THE ACTION. IF THE STATE OR POLITICAL SUBDIVISION SO REQUESTS,
5 IT SHALL BE SERVED WITH COPIES OF ALL PLEADINGS FILED IN THE ACTION
6 AND, AT THE STATE'S OR POLITICAL SUBDIVISION'S EXPENSE, SHALL BE
7 SUPPLIED WITH COPIES OF ALL DEPOSITION TRANSCRIPTS. WHEN A
8 RELATOR PROCEEDS WITH THE ACTION, THE COURT, WITHOUT LIMITING
9 THE STATUS AND RIGHTS OF THE RELATOR, MAY NEVERTHELESS PERMIT
10 THE STATE OR POLITICAL SUBDIVISION TO INTERVENE AT A LATER DATE
11 UPON A SHOWING OF GOOD CAUSE.

12 (d) REGARDLESS OF WHETHER THE STATE OR POLITICAL
13 SUBDIVISION PROCEEDS WITH THE ACTION, UPON A SHOWING BY THE STATE
14 OR POLITICAL SUBDIVISION THAT CERTAIN ACTIONS OF DISCOVERY BY THE
15 RELATOR WOULD INTERFERE WITH THE STATE'S OR POLITICAL
16 SUBDIVISION'S INVESTIGATION OR PROSECUTION OF A CRIMINAL OR CIVIL
17 MATTER ARISING OUT OF THE SAME FACTS, THE COURT MAY STAY THE
18 DISCOVERY FOR A PERIOD OF NOT MORE THAN SIXTY DAYS. ■ ■ THE
19 COURT MAY EXTEND THE SIXTY-DAY PERIOD UPON A FURTHER SHOWING
20 ■ IN THAT THE STATE OR POLITICAL SUBDIVISION HAS PURSUED THE
21 CRIMINAL OR CIVIL INVESTIGATION OR PROCEEDINGS WITH REASONABLE
22 DILIGENCE AND THAT ANY PROPOSED DISCOVERY IN THE CIVIL ACTION
23 WILL INTERFERE WITH THE ONGOING CRIMINAL OR CIVIL INVESTIGATION
24 OR PROCEEDINGS. UPON GOOD CAUSE SHOWN, A SHOWING UNDER THIS
25 PARAGRAPH (d) SHALL BE CONDUCTED IN CAMERA.

26 (e) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (3) OF
27 THIS SECTION, THE STATE OR POLITICAL SUBDIVISION MAY ELECT TO

1 PURSUE ITS CLAIM THROUGH ANY ALTERNATE REMEDY AVAILABLE TO THE
2 STATE OR POLITICAL SUBDIVISION, INCLUDING ANY ADMINISTRATIVE
3 PROCEEDING TO DETERMINE A CIVIL MONEY PENALTY. IF AN ALTERNATE
4 REMEDY IS PURSUED IN ANOTHER PROCEEDING, THE RELATOR SHALL HAVE
5 THE SAME RIGHTS IN THE PROCEEDING AS THE RELATOR WOULD HAVE HAD
6 IF THE ACTION HAD CONTINUED UNDER THIS SECTION. ANY FINDING OF
7 FACT OR CONCLUSION OF LAW MADE IN ANOTHER PROCEEDING THAT HAS
8 BECOME FINAL SHALL BE CONCLUSIVE ON ALL PARTIES TO AN ACTION
9 UNDER THIS SECTION. FOR PURPOSES OF THIS PARAGRAPH (e), A FINDING
10 OR CONCLUSION IS FINAL IF IT HAS BEEN FINALLY DETERMINED ON APPEAL
11 TO THE APPROPRIATE COURT OF THE STATE, IF ALL TIME FOR FILING SUCH
12 AN APPEAL WITH RESPECT TO THE FINDING OR CONCLUSION HAS EXPIRED,
13 OR IF THE FINDING OR CONCLUSION IS NOT SUBJECT TO JUDICIAL REVIEW.

14 (5) **Award to private persons.** (a) (I) IF THE STATE OR A
15 POLITICAL SUBDIVISION PROCEEDS WITH AN ACTION BROUGHT BY A
16 RELATOR UNDER SUBSECTION (3) OF THIS SECTION, THE RELATOR SHALL,
17 SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), RECEIVE AT
18 LEAST FIFTEEN PERCENT BUT NOT MORE THAN TWENTY-FIVE PERCENT OF
19 THE PROCEEDS OF THE ACTION OR SETTLEMENT OF THE CLAIM, DEPENDING
20 UPON THE EXTENT TO WHICH THE RELATOR SUBSTANTIALLY CONTRIBUTED
21 TO THE PROSECUTION OF THE ACTION.

22 (II) IF THE COURT FINDS THE ACTION TO BE BASED PRIMARILY ON
23 DISCLOSURES OF SPECIFIC INFORMATION, OTHER THAN INFORMATION
24 PROVIDED BY THE RELATOR, RELATING TO ALLEGATIONS OR
25 TRANSACTIONS IN A CRIMINAL, CIVIL, OR ADMINISTRATIVE HEARING, IN A
26 LEGISLATIVE, ADMINISTRATIVE, OR STATE AUDITOR'S REPORT, HEARING,
27 AUDIT, OR INVESTIGATION, OR FROM THE NEWS MEDIA, THE COURT MAY

1 AWARD TO THE RELATOR SUCH SUMS AS IT CONSIDERS APPROPRIATE, BUT
2 IN NO CASE MORE THAN TEN PERCENT OF THE PROCEEDS, TAKING INTO
3 ACCOUNT THE SIGNIFICANCE OF THE INFORMATION AND THE ROLE OF THE
4 RELATOR IN ADVANCING THE CASE TO LITIGATION.

5 (III) ANY PAYMENT TO A RELATOR UNDER SUBPARAGRAPH (I) OR
6 (II) OF THIS PARAGRAPH (a) SHALL BE MADE FROM THE PROCEEDS. THE
7 RELATOR SHALL ALSO RECEIVE AN AMOUNT FOR REASONABLE EXPENSES
8 THAT THE COURT FINDS TO HAVE BEEN NECESSARILY INCURRED PLUS
9 REASONABLE ATTORNEY FEES AND COSTS. ALL SUCH EXPENSES, FEES, AND
10 COSTS SHALL BE AWARDED AGAINST THE DEFENDANT.

11 (b) IF THE STATE OR A POLITICAL SUBDIVISION DOES NOT PROCEED
12 WITH AN ACTION BROUGHT UNDER SUBSECTION (3) OF THIS SECTION, THE
13 RELATOR SETTLING THE CLAIM SHALL RECEIVE AN AMOUNT THAT THE
14 COURT DECIDES IS REASONABLE FOR COLLECTING THE CIVIL PENALTY AND
15 DAMAGES. THE AMOUNT SHALL BE NOT LESS THAN TWENTY-FIVE PERCENT
16 AND NOT MORE THAN THIRTY PERCENT OF THE PROCEEDS OF THE ACTION
17 OR SETTLEMENT AND SHALL BE PAID OUT OF THE PROCEEDS. THE RELATOR
18 SHALL ALSO RECEIVE AN AMOUNT FOR REASONABLE EXPENSES THAT THE
19 COURT FINDS TO HAVE BEEN NECESSARILY INCURRED, PLUS REASONABLE
20 ATTORNEY FEES AND COSTS. ALL SUCH EXPENSES, FEES, AND COSTS SHALL
21 BE AWARDED AGAINST THE DEFENDANT.

22 (c) REGARDLESS OF WHETHER THE STATE OR A POLITICAL
23 SUBDIVISION PROCEEDS WITH AN ACTION BROUGHT UNDER SUBSECTION (3)
24 OF THIS SECTION, IF THE COURT FINDS THAT THE ACTION WAS BROUGHT BY
25 A RELATOR WHO PLANNED AND INITIATED THE VIOLATION OF SECTION
26 24-116-103 UPON WHICH THE ACTION WAS BROUGHT, THEN THE COURT
27 MAY, TO THE EXTENT THE COURT CONSIDERS APPROPRIATE, REDUCE THE

1 SHARE OF THE PROCEEDS OF THE ACTION THAT THE RELATOR WOULD
2 OTHERWISE RECEIVE UNDER PARAGRAPH (a) OR (b) OF THIS SUBSECTION
3 (5), TAKING INTO ACCOUNT THE ROLE OF THE RELATOR IN ADVANCING THE
4 CASE TO LITIGATION AND ANY RELEVANT CIRCUMSTANCES PERTAINING TO
5 THE VIOLATION. IF THE RELATOR IS CONVICTED OF CRIMINAL CONDUCT
6 ARISING FROM HIS OR HER ROLE IN THE VIOLATION OF SECTION
7 24-116-103, THE RELATOR SHALL BE DISMISSED FROM THE CIVIL ACTION
8 AND SHALL NOT RECEIVE ANY SHARE OF THE PROCEEDS OF THE ACTION.
9 SUCH DISMISSAL SHALL NOT PREJUDICE THE RIGHT OF THE STATE OR
10 POLITICAL SUBDIVISION TO CONTINUE THE ACTION.

11 (d) IF THE STATE OR A POLITICAL SUBDIVISION DOES NOT PROCEED
12 WITH AN ACTION BROUGHT UNDER SUBSECTION (3) OF THIS SECTION AND
13 THE RELATOR CONDUCTS THE ACTION, THE COURT MAY AWARD TO THE
14 DEFENDANT ITS REASONABLE ATTORNEY FEES AND EXPENSES IF THE
15 DEFENDANT PREVAILS IN THE ACTION AND THE COURT FINDS THAT THE
16 CLAIM OF THE RELATOR WAS CLEARLY FRIVOLOUS, CLEARLY VEXATIOUS,
17 OR BROUGHT PRIMARILY FOR PURPOSES OF HARASSMENT.

18 (6) **Certain actions barred.** (a) A COURT SHALL NOT HAVE
19 JURISDICTION OVER AN ACTION BROUGHT UNDER THIS SECTION AGAINST
20 A MEMBER OF THE GENERAL ASSEMBLY, A MEMBER OF THE STATE
21 JUDICIARY, OR AN ELECTED OFFICIAL IN THE EXECUTIVE BRANCH OF THE
22 STATE OF COLORADO.

23 (b) A RELATOR SHALL NOT BRING AN ACTION UNDER SUBSECTION
24 (3) OF THIS SECTION THAT IS BASED UPON ALLEGATIONS OR TRANSACTIONS
25 THAT ARE THE SUBJECT OF A CIVIL SUIT IN A COURT OF THIS STATE OR AN
26 ADMINISTRATIVE CIVIL MONEY PENALTY PROCEEDING IN WHICH THE STATE
27 OR A POLITICAL SUBDIVISION IS ALREADY A PARTY.

1 (c) (I) A COURT SHALL NOT HAVE JURISDICTION OVER AN ACTION
2 BROUGHT UNDER SUBSECTION (3) OF THIS SECTION IF THE ACTION IS BASED
3 UPON THE PUBLIC DISCLOSURE OF ALLEGATIONS OR TRANSACTIONS IN A
4 CRIMINAL, CIVIL, OR ADMINISTRATIVE HEARING, IN A LEGISLATIVE,
5 ADMINISTRATIVE, OR STATE AUDITOR'S REPORT, HEARING, AUDIT, OR
6 INVESTIGATION, OR FROM THE NEWS MEDIA, UNLESS THE ACTION IS
7 BROUGHT BY THE STATE OR A POLITICAL SUBDIVISION OR THE RELATOR IS
8 AN ORIGINAL SOURCE OF THE INFORMATION THAT IS THE BASIS FOR THE
9 ACTION.

10 (II) FOR PURPOSES OF THIS PARAGRAPH (c), "ORIGINAL SOURCE"
11 MEANS AN INDIVIDUAL WHO HAS DIRECT AND INDEPENDENT KNOWLEDGE
12 OF THE INFORMATION ON WHICH THE ALLEGATIONS ARE BASED AND HAS
13 VOLUNTARILY PROVIDED THE INFORMATION TO THE STATE BEFORE FILING
14 AN ACTION UNDER SUBSECTION (3) OF THIS SECTION THAT IS BASED ON THE
15 INFORMATION.

16 (7) **State or political subdivision not liable for certain**
17 **expenses.** THE STATE OR A POLITICAL SUBDIVISION IS NOT LIABLE FOR
18 EXPENSES THAT A RELATOR INCURS IN BRINGING AN ACTION UNDER THIS
19 SECTION.

20 (8) **Private action for retaliation.** (a) A RELATOR SHALL BE
21 ENTITLED TO ALL RELIEF NECESSARY TO MAKE THE RELATOR WHOLE, IF
22 THE RELATOR IS DISCHARGED, DEMOTED, SUSPENDED, THREATENED,
23 HARASSED, INTIMIDATED, SUED, DEFAMED, OR IN ANY OTHER MANNER
24 RETALIATED AGAINST OR DISCRIMINATED AGAINST IN THE TERMS AND
25 CONDITIONS OF THE RELATOR'S EMPLOYMENT, CONTRACT, BUSINESS, OR
26 PROFESSION BY THE DEFENDANT OR BY ANY OTHER PERSON BECAUSE OF
27 LAWFUL ACTS DONE BY THE RELATOR IN FURTHERANCE OF AN ACTION

1 UNDER THIS SECTION OR IN FURTHERANCE OF AN EFFORT TO STOP ANY
2 VIOLATIONS OF SECTION 24-116-103.

3 (b) AS USED IN THIS SUBSECTION (8), UNLESS THE CONTEXT
4 OTHERWISE REQUIRES:

5 (I) "LAWFUL ACTS" INCLUDES BUT IS NOT LIMITED TO THE
6 FOLLOWING:

7 (A) CONDUCTING OR ASSISTING WITH AN INVESTIGATION FOR,
8 INITIATION OF, TESTIMONY FOR, OR ASSISTANCE IN AN ACTION FILED OR TO
9 BE FILED UNDER THIS SECTION;

10 (B) MEETING WITH POTENTIAL OR RETAINED COUNSEL OR AGENTS
11 OR REPRESENTATIVES OF THE STATE OR POLITICAL SUBDIVISION ABOUT
12 THE MATTER THAT IS THE SUBJECT OF AN ACTION FILED UNDER THIS
13 SECTION;

14 (C) PROVIDING THE RELATOR'S COUNSEL OR AGENTS OR
15 REPRESENTATIVES OF THE STATE OR THE POLITICAL SUBDIVISION WITH
16 CONFIDENTIAL INFORMATION; OR

17 (D) FILING AN ACTION UNDER THIS SECTION.

18 (II) "CONFIDENTIAL INFORMATION" INCLUDES DOCUMENTS,
19 EMAILS AND OTHER ELECTRONIC DATA, MEDICAL RECORDS, FINANCIAL
20 RECORDS, TRADE SECRET INFORMATION, INTELLECTUAL PROPERTY, OR
21 INFORMATION THAT IS SUBJECT TO AN EMPLOYMENT AGREEMENT,
22 CONFIDENTIALITY AGREEMENT, OR NONDISCLOSURE AGREEMENT OR FOR
23 WHICH THE RELATOR HAS A FIDUCIARY OBLIGATION TO MAINTAIN AS
24 CONFIDENTIAL.

25 (c) (I) IF THE DISCLOSURE IS IN FURTHERANCE OF AN ACTION
26 UNDER THIS SECTION OR IN FURTHERANCE OF AN EFFORT TO STOP ANY
27 VIOLATIONS OF SECTION 24-116-103, A RELATOR HAS A PRIVILEGE TO

1 DISCLOSE CONFIDENTIAL INFORMATION TO:

2 (A) HIS OR HER COUNSEL;

3 (B) A PERSON WITH WHOM HE OR SHE HAS A STATUTORY OR
4 COMMON LAW PRIVILEGE; OR

5 (C) AN AUTHORIZED REPRESENTATIVE OF THE STATE OR POLITICAL
6 SUBDIVISION.

7 (II) THE RELATOR'S DISCLOSURE OF CONFIDENTIAL INFORMATION
8 TO HIS OR HER COUNSEL OR TO AN AGENT OR AUTHORIZED
9 REPRESENTATIVE OF THE STATE OR POLITICAL SUBDIVISION DOES NOT
10 CONSTITUTE A WAIVER BY A DEFENDANT OF ANY RIGHT OR PRIVILEGE
11 THAT THE DEFENDANT MAY BE ENTITLED TO INVOKE.

12 (d) (I) A RELATOR SEEKING RELIEF PURSUANT TO THIS SUBSECTION
13 (8) MAY SEEK RELIEF BY:

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

16 (B) BRINGING A SEPARATE ACTION IN AN APPROPRIATE COURT OF
17 THE STATE FOR THE RELIEF PROVIDED IN THIS SUBSECTION (8).

18 (II) A RELATOR WHO SEEKS RELIEF PURSUANT TO THIS SUBSECTION
19 (8) SHALL BE ENTITLED TO ALL RELIEF NECESSARY TO MAKE THE RELATOR
20 WHOLE. SUCH RELIEF SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

21 (A) IF THE RELATOR IS AN EMPLOYEE, REINSTATEMENT WITH THE
22 SAME SENIORITY STATUS THE RELATOR WOULD HAVE HAD BUT FOR THE
23 DISCRIMINATION, TWICE THE AMOUNT OF BACK PAY, AND INTEREST ON THE
24 BACK PAY;

25 (B) IF THE RELATOR IS A CONTRACTOR, SUBCONTRACTOR OR
26 INDEPENDENT CONTRACTOR, REINSTATEMENT OF A CONTRACT OR
27 SUBCONTRACT THAT WAS CANCELED, NONRENEWED, OR MODIFIED

1 BECAUSE OF RETALIATION, WITH ALL COMPENSATION OR CONTRACTUAL
2 CONSIDERATION THAT THE RELATOR WOULD HAVE RECEIVED HAD THE
3 CONTRACT OR SUBCONTRACT NOT BEEN CANCELED, NONRENEWED, OR
4 MODIFIED; AND

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

8 (III) AN EMPLOYEE MAY BRING AN ACTION IN THE APPROPRIATE
9 COURT OF THE STATE FOR THE RELIEF PROVIDED IN THIS SUBSECTION (8).

10 (e) (I) THE COURT SHALL AWARD THE RELATOR NOT LESS THAN
11 THE DAMAGES DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (e),
12 IF A DEFENDANT, EMPLOYER, OR OTHER PERSON RETALIATES AGAINST A
13 RELATOR BY BRINGING ANOTHER ACTION AGAINST THE RELATOR FOR:

14 (A) ACTS LATER DETERMINED TO BE LAWFUL ACTS PURSUANT TO
15 THIS SUBSECTION (8); OR

16 (B) DISCLOSING CONFIDENTIAL INFORMATION TO COUNSEL OR
17 AGENTS OR REPRESENTATIVES OF THE STATE OR POLITICAL SUBDIVISION
18 PURSUANT TO THIS SUBSECTION (8); OR

19 (C) VIOLATING AN EMPLOYMENT CONTRACT, CONFIDENTIALITY
20 AGREEMENT, NONDISCLOSURE AGREEMENT, OR OTHER AGREEMENT; OR

21 (D) COMMITTING ANY OTHER TORT OR BREACH OF DUTY, AND THE
22 COURT HEARING THE ACTION DETERMINES BY A PREPONDERANCE OF THE
23 EVIDENCE THAT THE DEFENDANT, EMPLOYER, OR OTHER PERSON BROUGHT
24 THE LAWSUIT AGAINST THE RELATOR PRIMARILY FOR THE PURPOSE OF
25 RETALIATING AGAINST THE RELATOR.

26 (II) IN ADDITION TO ANY OTHER REMEDY OR SHARE OF THE
27 PROCEEDS OF THE ACTION TO WHICH THE RELATOR IS ENTITLED PURSUANT

1 TO THIS SUBSECTION (8) AND REGARDLESS OF WHETHER THE RELATOR IS
2 DETERMINED TO BE ENTITLED TO SHARE IN THE PROCEEDS OF THE ACTION
3 OR CLAIM FILED UNDER SUBSECTION (3) OF THIS SECTION, IN ADDITION TO
4 ANY OTHER CONSEQUENTIAL DAMAGES PERMITTED BY LAW, THE DAMAGES
5 SHALL BE NOT LESS THAN:

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

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

12 (f) THE COURT HEARING THE ACTION BROUGHT UNDER SUBSECTION
13 (3) OF THIS SECTION SHALL HAVE JURISDICTION TO HEAR A PRIVATE
14 ACTION OR MOTION FOR RETALIATION BROUGHT UNDER THIS SUBSECTION
15 (8). UPON MOTION BY THE RELATOR, THE VENUE OF A LAWSUIT FILED
16 WITHIN A COURT OF THE STATE OF COLORADO AGAINST THE RELATOR BY
17 THE DEFENDANT, THE RELATOR'S EMPLOYER, OR OTHER PERSON ARISING
18 OUT OF THE SUBJECT MATTER OF THE ACTION BROUGHT UNDER
19 SUBSECTION (3) OF THIS SECTION SHALL BE CHANGED TO THE COURT
20 HEARING THE ACTION BROUGHT UNDER SUBSECTION (3) OF THIS SECTION.

21 (g) (I) IF A RELATOR IS A PARTY TO OR WITNESS IN AN ACTION
22 OTHER THAN AN ACTION BROUGHT UNDER SUBSECTION (3) OF THIS
23 SECTION, AND A PARTY OR PARTIES IN THE OTHER ACTION IN DISCOVERY
24 SEEK FROM THE RELATOR INFORMATION ABOUT OTHER LAWSUITS, WHICH
25 DISCOVERY WOULD REQUIRE THE RELATOR TO DISCLOSE INFORMATION
26 ABOUT AN ACTION FILED UNDER SUBSECTION (3) OF THIS SECTION WHILE
27 THE ACTION IS STILL UNDER SEAL PURSUANT TO SUBSECTION (3) OF THIS

1 SECTION, THE RELATOR SHALL:

2 (A) WITHIN A REASONABLE TIME, NOTIFY THE STATE OR POLITICAL
3 SUBDIVISION INVESTIGATING THE ACTION BROUGHT PURSUANT TO
4 SUBSECTION (3) OF THIS SECTION OF THE PENDING DISCOVERY REQUESTS;
5 AND

6 (B) RESPOND TO SUCH DISCOVERY REQUESTS BY STATING ONLY
7 THAT THE MATTER IS CONFIDENTIAL, WITHOUT FURTHER ELABORATION,
8 AND SHALL MAINTAIN THAT RESPONSE UNTIL THE STATE OR POLITICAL
9 SUBDIVISION ELECTS TO PROCEED OR NOT PROCEED WITH THE ACTION
10 BROUGHT UNDER SUBSECTION (3) OF THIS SECTION OR UNTIL THE COURT
11 LIFTS THE SEAL.

12 (II) IF NECESSARY, THE RELATOR, THE ATTORNEY GENERAL, OR
13 THE PROSECUTING AUTHORITY MAY FILE AN EX PARTE MOTION, IN CAMERA
14 AND UNDER SEAL, SEEKING A PROTECTIVE ORDER OR AN EXTENSION OF
15 TIME FOR THE RELATOR TO RESPOND TO SUCH DISCOVERY REQUESTS. IF
16 A PARTY IN THE OTHER ACTION MOVES TO COMPEL AN ANSWER TO THE
17 DISCOVERY, THE RELATOR SHALL FILE, EX PARTE AND IN CAMERA, A
18 RESPONSE TO THE MOTION TO COMPEL, IN WHICH THE ATTORNEY GENERAL
19 OR PROSECUTING AUTHORITY MAY JOIN. THE RESPONSE TO THE MOTION
20 TO COMPEL SHALL REMAIN UNDER SEAL UNTIL SUCH TIME AS THE STATE OR
21 POLITICAL SUBDIVISION ELECTS TO PROCEED OR NOT PROCEED WITH THE
22 ACTION OR UNTIL SUCH TIME AS THE COURT LIFTS THE SEAL.

23 **24-116-105. False claims procedures.** (1) A CIVIL ACTION
24 UNDER SECTION 24-116-104 (1), (2), OR (3) MAY NOT BE BROUGHT AFTER
25 THE LATER OF:

26 (a) MORE THAN SIX YEARS AFTER THE DATE ON WHICH THE
27 VIOLATION OF SECTION 24-116-103 IS COMMITTED; OR

1 (b) MORE THAN THREE YEARS AFTER THE DATE WHEN FACTS
2 MATERIAL TO THE RIGHT OF ACTION ARE KNOWN OR REASONABLY SHOULD
3 HAVE BEEN KNOWN BY THE OFFICIAL OF THE STATE OR POLITICAL
4 SUBDIVISION CHARGED WITH RESPONSIBILITY TO ACT IN THE
5 CIRCUMSTANCES, BUT IN NO EVENT MORE THAN TEN YEARS AFTER THE
6 DATE ON WHICH THE VIOLATION OF SECTION 24-116-103 IS COMMITTED.

7 (2) IF THE STATE OR POLITICAL SUBDIVISION ELECTS TO INTERVENE
8 AND PROCEED WITH AN ACTION BROUGHT UNDER SECTION 24-116-104,
9 THE STATE OR POLITICAL SUBDIVISION MAY FILE ITS OWN COMPLAINT OR
10 AMEND THE RELATOR'S COMPLAINT TO CLARIFY OR ADD DETAIL TO THE
11 CLAIMS IN WHICH THE STATE OR POLITICAL SUBDIVISION IS INTERVENING
12 AND TO ADD ANY ADDITIONAL CLAIMS WITH RESPECT TO WHICH THE STATE
13 OR POLITICAL SUBDIVISION CONTENDS IT IS ENTITLED TO RELIEF. FOR
14 STATUTE OF LIMITATIONS PURPOSES, ANY SUCH PLEADINGS BY THE STATE
15 OR POLITICAL SUBDIVISION SHALL RELATE BACK TO THE FILING DATE OF
16 THE RELATOR'S COMPLAINT, TO THE EXTENT THAT THE STATE'S OR
17 POLITICAL SUBDIVISION'S CLAIM ARISES OUT OF THE CONDUCT,
18 TRANSACTIONS, OR OCCURRENCES SET FORTH, OR ATTEMPTED TO BE SET
19 FORTH, IN THE PRIOR COMPLAINT OF THE RELATOR.

20 (3) IN AN ACTION BROUGHT UNDER SECTION 24-116-104, THE
21 STATE, POLITICAL SUBDIVISION, OR RELATOR MUST PROVE ALL ESSENTIAL
22 ELEMENTS OF THE CAUSE OF ACTION, INCLUDING DAMAGES, BY A
23 PREPONDERANCE OF THE EVIDENCE.

24 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
25 COLORADO RULES OF CRIMINAL PROCEDURE, OR THE COLORADO RULES OF
26 EVIDENCE, A FINAL JUDGMENT RENDERED IN FAVOR OF THE STATE OR A
27 POLITICAL SUBDIVISION IN A CRIMINAL PROCEEDING CHARGING FRAUD OR

1 FALSE STATEMENTS, WHETHER UPON A VERDICT AFTER TRIAL OR UPON A
2 PLEA OF GUILTY OR NOLO CONTENDERE, SHALL ESTOP THE DEFENDANT
3 FROM DENYING THE ESSENTIAL ELEMENTS OF THE OFFENSE IN ANY ACTION
4 THAT INVOLVES THE SAME TRANSACTION AS IN THE CRIMINAL PROCEEDING
5 AND THAT IS BROUGHT UNDER SECTION 24-116-104.

6 **24-116-106. False claims jurisdiction.** AN ACTION UNDER
7 SECTION 24-116-104 MAY BE BROUGHT IN ANY JUDICIAL DISTRICT IN
8 WHICH THE DEFENDANT OR, IN THE CASE OF MULTIPLE DEFENDANTS, ANY
9 ONE DEFENDANT CAN BE FOUND, RESIDES, OR TRANSACTS BUSINESS OR IN
10 WHICH AN ACT PROSCRIBED BY SECTION 24-116-103 OCCURRED. A
11 SUMMONS AS REQUIRED BY THE COLORADO RULES OF CIVIL PROCEDURE
12 SHALL BE ISSUED BY THE APPROPRIATE DISTRICT COURT AND SERVED AT
13 ANY PLACE.

14 **24-116-107. False claims civil investigation demands.**
15 (1) **General.** (a) (I) WHENEVER THE ATTORNEY GENERAL HAS REASON
16 TO BELIEVE THAT A PERSON MAY BE IN POSSESSION, CUSTODY, OR
17 CONTROL OF DOCUMENTARY MATERIAL OR INFORMATION RELEVANT TO A
18 FALSE CLAIMS LAW INVESTIGATION, THE ATTORNEY GENERAL MAY,
19 BEFORE COMMENCING A CIVIL PROCEEDING UNDER SECTION 24-116-104
20 OR OTHER FALSE CLAIMS LAW OR MAKING AN ELECTION UNDER SECTION
21 24-116-104 (3) (d), ISSUE IN WRITING AND CAUSE TO BE SERVED UPON THE
22 PERSON A CIVIL INVESTIGATIVE DEMAND REQUIRING THE PERSON TO:

23 (A) PRODUCE THE DOCUMENTARY MATERIAL FOR INSPECTION AND
24 COPYING;

25 (B) ANSWER IN WRITING WRITTEN INTERROGATORIES WITH
26 RESPECT TO THE DOCUMENTARY MATERIAL OR INFORMATION;

27 (C) GIVE ORAL TESTIMONY CONCERNING THE DOCUMENTARY

1 MATERIAL OR INFORMATION; OR

2 (D) FURNISH ANY COMBINATION OF SUCH MATERIAL, ANSWERS, OR
3 TESTIMONY.

4 (II) THE ATTORNEY GENERAL MAY NOT DELEGATE THE AUTHORITY
5 TO ISSUE CIVIL INVESTIGATIVE DEMANDS UNDER THIS SUBSECTION (1).
6 WHENEVER A CIVIL INVESTIGATIVE DEMAND IS AN EXPRESS DEMAND FOR
7 ANY PRODUCT OF DISCOVERY, THE ATTORNEY GENERAL, THE DEPUTY
8 ATTORNEY GENERAL, OR AN ASSISTANT ATTORNEY GENERAL SHALL CAUSE
9 TO BE SERVED, IN ANY MANNER AUTHORIZED BY THIS SECTION, A COPY OF
10 THE DEMAND UPON THE PERSON FROM WHOM THE DISCOVERY WAS
11 OBTAINED AND SHALL NOTIFY THE PERSON TO WHOM THE DEMAND IS
12 ISSUED OF THE DATE ON WHICH THE COPY WAS SERVED.

13 (b) (I) EACH CIVIL INVESTIGATIVE DEMAND ISSUED UNDER THIS
14 SUBSECTION (1) SHALL STATE THE NATURE OF THE CONDUCT
15 CONSTITUTING THE ALLEGED VIOLATION OF A FALSE CLAIMS LAW THAT IS
16 UNDER INVESTIGATION AND THE APPLICABLE PROVISION OF LAW ALLEGED
17 TO BE VIOLATED.

18 (II) IF THE DEMAND IS FOR THE PRODUCTION OF DOCUMENTARY
19 MATERIAL, THE DEMAND SHALL:

20 (A) DESCRIBE EACH CLASS OF DOCUMENTARY MATERIAL TO BE
21 PRODUCED WITH SUCH DEFINITENESS AND CERTAINTY AS TO PERMIT THE
22 MATERIAL TO BE FAIRLY IDENTIFIED;

23 (B) PRESCRIBE A RETURN DATE FOR EACH SUCH CLASS THAT WILL
24 PROVIDE A REASONABLE PERIOD OF TIME WITHIN WHICH THE MATERIAL SO
25 DEMANDED MAY BE ASSEMBLED AND MADE AVAILABLE FOR INSPECTION
26 AND COPYING; AND

27 (C) IDENTIFY THE FALSE CLAIMS LAW INVESTIGATOR TO WHOM

1 THE MATERIAL SHALL BE MADE AVAILABLE.

2 (III) IF THE DEMAND IS FOR ANSWERS TO WRITTEN
3 INTERROGATORIES, THE DEMAND SHALL:

4 (A) SPECIFY THE WRITTEN INTERROGATORIES TO BE ANSWERED;

5 (B) PRESCRIBE DATES ON WHICH ANSWERS TO WRITTEN
6 INTERROGATORIES SHALL BE SUBMITTED; AND

7 (C) IDENTIFY THE FALSE CLAIMS LAW INVESTIGATOR TO WHOM
8 THE ANSWERS SHALL BE SUBMITTED.

9 (IV) IF THE DEMAND IS FOR THE GIVING OF ORAL TESTIMONY, THE
10 DEMAND SHALL:

11 (A) PRESCRIBE A DATE, TIME, AND PLACE AT WHICH ORAL
12 TESTIMONY SHALL BE COMMENCED AND NOTIFY THE DEPONENT IF THE
13 ORAL TESTIMONY IS TO BE VIDEO OR AUDIO RECORDED;

14 (B) IDENTIFY A FALSE CLAIMS LAW INVESTIGATOR WHO SHALL
15 CONDUCT THE EXAMINATION AND THE CUSTODIAN TO WHOM THE
16 TRANSCRIPT OF THE EXAMINATION SHALL BE SUBMITTED;

17 (C) SPECIFY THAT SUCH ATTENDANCE AND TESTIMONY ARE
18 NECESSARY TO THE CONDUCT OF THE INVESTIGATION;

19 (D) NOTIFY THE PERSON RECEIVING THE DEMAND OF THE RIGHT TO
20 BE ACCOMPANIED BY AN ATTORNEY AND ANY OTHER REPRESENTATIVE;
21 AND

22 (E) DESCRIBE THE GENERAL PURPOSE FOR WHICH THE DEMAND IS
23 BEING ISSUED AND THE GENERAL NATURE OF THE TESTIMONY, INCLUDING
24 THE PRIMARY AREAS OF INQUIRY, THAT WILL BE TAKEN PURSUANT TO THE
25 DEMAND.

26 (V) A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER THIS SECTION
27 THAT IS AN EXPRESS DEMAND FOR ANY PRODUCT OF DISCOVERY SHALL

1 NOT BE RETURNED OR RETURNABLE UNTIL TWENTY DAYS AFTER A COPY OF
2 THE DEMAND HAS BEEN SERVED UPON THE PERSON FROM WHOM THE
3 DISCOVERY WAS OBTAINED.

4 (VI) THE DATE PRESCRIBED FOR THE COMMENCEMENT OF ORAL
5 TESTIMONY PURSUANT TO A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER
6 THIS SECTION SHALL BE A DATE THAT IS NOT LESS THAN SEVEN DAYS
7 AFTER THE DATE ON WHICH THE DEMAND IS RECEIVED, UNLESS THE
8 ATTORNEY GENERAL OR AN ASSISTANT ATTORNEY GENERAL DESIGNATED
9 BY THE ATTORNEY GENERAL DETERMINES THAT EXCEPTIONAL
10 CIRCUMSTANCES ARE PRESENT THAT WARRANT THE COMMENCEMENT OF
11 THE TESTIMONY WITHIN A LESSER PERIOD OF TIME.

12 (VII) THE ATTORNEY GENERAL SHALL NOT AUTHORIZE THE
13 ISSUANCE UNDER THIS SECTION OF MORE THAN ONE CIVIL INVESTIGATIVE
14 DEMAND FOR ORAL TESTIMONY BY THE SAME PERSON UNLESS THE PERSON
15 REQUESTS OTHERWISE OR UNLESS THE ATTORNEY GENERAL, AFTER
16 INVESTIGATION, NOTIFIES THAT PERSON IN WRITING THAT AN ADDITIONAL
17 DEMAND FOR ORAL TESTIMONY IS NECESSARY. NOTWITHSTANDING
18 SECTION 24-31-103, THE ATTORNEY GENERAL SHALL NOT AUTHORIZE THE
19 PERFORMANCE, BY ANY OTHER OFFICER, EMPLOYEE, OR AGENCY, OF ANY
20 FUNCTION VESTED IN THE ATTORNEY GENERAL UNDER THIS
21 SUBPARAGRAPH (VII).

22 (2) **Protected material or information.** (a) A CIVIL
23 INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION (1) OF THIS SECTION
24 SHALL NOT REQUIRE THE PRODUCTION OF DOCUMENTARY MATERIAL, THE
25 SUBMISSION OF ANSWERS TO WRITTEN INTERROGATORIES, OR THE GIVING
26 OF ORAL TESTIMONY IF THE MATERIAL, ANSWERS, OR TESTIMONY WOULD
27 BE PROTECTED FROM DISCLOSURE UNDER:

1 (I) THE STANDARDS APPLICABLE TO SUBPOENAS OR SUBPOENAS
2 DUCES TECUM ISSUED BY A COURT OF THIS STATE TO AID IN A GRAND JURY
3 INVESTIGATION; OR

4 (II) THE STANDARDS APPLICABLE TO DISCOVERY REQUESTS UNDER
5 THE COLORADO RULES OF CIVIL PROCEDURE, TO THE EXTENT THAT THE
6 APPLICATION OF THE STANDARDS TO ANY SUCH DEMAND IS APPROPRIATE
7 AND CONSISTENT WITH THE PROVISIONS AND PURPOSES OF THIS SECTION.

8 (b) A DEMAND THAT IS AN EXPRESS DEMAND FOR A PRODUCT OF
9 DISCOVERY SUPERCEDES ANY INCONSISTENT ORDER, RULE, OR PROVISION
10 OF LAW, OTHER THAN THIS SECTION, PREVENTING OR RESTRAINING
11 DISCLOSURE OF THE PRODUCT OF DISCOVERY TO A PERSON. DISCLOSURE
12 OF A PRODUCT OF DISCOVERY PURSUANT TO AN EXPRESS DEMAND DOES
13 NOT CONSTITUTE A WAIVER OF ANY RIGHT OR PRIVILEGE THAT THE PERSON
14 MAKING THE DISCLOSURE MAY BE ENTITLED TO INVOKE TO RESIST
15 DISCOVERY OF TRIAL PREPARATION MATERIALS.

16 (3) **Service and jurisdiction.** (a) A CIVIL INVESTIGATIVE
17 DEMAND ISSUED UNDER SUBSECTION (1) OF THIS SECTION OR A PETITION
18 BROUGHT PURSUANT TO SUBSECTION (10) OF THIS SECTION MAY BE
19 SERVED BY A FALSE CLAIMS LAW INVESTIGATOR, A SHERIFF, OR A DEPUTY
20 SHERIFF AT ANY PLACE WITHIN THE STATE.

21 (b) A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION
22 (1) OF THIS SECTION OR A PETITION FILED UNDER SUBSECTION (10) OF THIS
23 SECTION MAY BE SERVED UPON A PERSON WHO IS NOT FOUND WITHIN THE
24 STATE IN THE MANNER PRESCRIBED BY THE COLORADO RULES OF CIVIL
25 PROCEDURE FOR SERVICE IN ANOTHER STATE OR A FOREIGN COUNTRY. TO
26 THE EXTENT THAT THE COURTS OF THIS STATE CAN ASSERT JURISDICTION
27 OVER ANY SUCH PERSON CONSISTENT WITH DUE PROCESS, THE DISTRICT

1 COURT FOR THE CITY AND COUNTY OF DENVER SHALL HAVE THE SAME
2 JURISDICTION TO TAKE AN ACTION RESPECTING COMPLIANCE WITH THIS
3 SECTION BY ANY SUCH PERSON THAT THE COURT WOULD HAVE IF THE
4 PERSON WERE PERSONALLY WITHIN THE JURISDICTION OF THE COURT.

5 (4) **Service on legal entities and natural persons.** (a) SERVICE
6 OF A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION (1) OF THIS
7 SECTION OR OF A PETITION FILED UNDER SUBSECTION (10) OF THIS SECTION
8 MAY BE MADE UPON A PARTNERSHIP, CORPORATION, ASSOCIATION, OR
9 OTHER LEGAL ENTITY BY:

10 (I) DELIVERING AN EXECUTED COPY OF THE DEMAND OR PETITION
11 TO A PARTNER, EXECUTIVE OFFICER, MANAGING AGENT, OR GENERAL
12 AGENT OF THE PARTNERSHIP, CORPORATION, ASSOCIATION, OR ENTITY, OR
13 TO AN AGENT AUTHORIZED BY APPOINTMENT OR BY LAW TO RECEIVE
14 SERVICE OF PROCESS ON BEHALF OF THE PARTNERSHIP, CORPORATION,
15 ASSOCIATION, OR ENTITY;

16 (II) DELIVERING AN EXECUTED COPY OF THE DEMAND OR PETITION
17 TO THE PRINCIPAL OFFICE OR PLACE OF BUSINESS OF THE PARTNERSHIP,
18 CORPORATION, ASSOCIATION, OR ENTITY; OR

19 (III) DEPOSITING AN EXECUTED COPY OF THE DEMAND OR PETITION
20 IN THE UNITED STATES MAIL BY REGISTERED OR CERTIFIED MAIL, WITH A
21 RETURN RECEIPT REQUESTED, ADDRESSED TO THE PARTNERSHIP,
22 CORPORATION, ASSOCIATION, OR ENTITY AT ITS PRINCIPAL OFFICE OR
23 PLACE OF BUSINESS.

24 (b) SERVICE OF A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER
25 SUBSECTION (1) OF THIS SECTION OR OF A PETITION FILED UNDER
26 SUBSECTION (10) OF THIS SECTION MAY BE MADE UPON A NATURAL
27 PERSON BY:

1 (I) DELIVERING AN EXECUTED COPY OF THE DEMAND OR PETITION
2 TO THE PERSON; OR

3 (II) DEPOSITING AN EXECUTED COPY OF THE DEMAND OR PETITION
4 IN THE UNITED STATES MAIL BY REGISTERED OR CERTIFIED MAIL, WITH A
5 RETURN RECEIPT REQUESTED, ADDRESSED TO THE PERSON AT THE
6 PERSON'S RESIDENCE, PRINCIPAL OFFICE, OR PLACE OF BUSINESS.

7 (5) **Proof of service.** A VERIFIED RETURN BY THE INDIVIDUAL
8 SERVING A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION (1)
9 OF THIS SECTION OR A PETITION FILED UNDER SUBSECTION (10) OF THIS
10 SECTION SETTING FORTH THE MANNER OF THE SERVICE SHALL BE PROOF OF
11 THE SERVICE. IN THE CASE OF SERVICE BY REGISTERED OR CERTIFIED
12 MAIL, THE RETURN SHALL BE ACCOMPANIED BY THE RETURN POST OFFICE
13 RECEIPT OF DELIVERY OF THE DEMAND.

14 (6) **Documentary material.** (a) (I) THE PRODUCTION OF
15 DOCUMENTARY MATERIAL IN RESPONSE TO A CIVIL INVESTIGATIVE
16 DEMAND ISSUED UNDER SUBSECTION (1) OF THIS SECTION SHALL BE MADE
17 UNDER A SWORN CERTIFICATE, IN THE FORM AS THE DEMAND DESIGNATES,
18 BY:

19 (A) IN THE CASE OF A NATURAL PERSON, THE PERSON TO WHOM
20 THE DEMAND IS DIRECTED; OR

21 (B) IN THE CASE OF A PERSON OTHER THAN A NATURAL PERSON, A
22 PERSON HAVING KNOWLEDGE OF THE FACTS AND CIRCUMSTANCES
23 RELATING TO THE PRODUCTION AND AUTHORIZED TO ACT ON BEHALF OF
24 THE PERSON.

25 (II) THE CERTIFICATE SHALL STATE THAT ALL OF THE
26 DOCUMENTARY MATERIAL REQUIRED BY THE DEMAND AND IN THE
27 POSSESSION, CUSTODY, OR CONTROL OF THE PERSON TO WHOM THE

1 DEMAND IS DIRECTED HAS BEEN PRODUCED AND MADE AVAILABLE TO THE
2 FALSE CLAIMS LAW INVESTIGATOR IDENTIFIED IN THE DEMAND.

3 (b) A PERSON UPON WHOM A CIVIL INVESTIGATIVE DEMAND FOR
4 THE PRODUCTION OF DOCUMENTARY MATERIAL HAS BEEN SERVED UNDER
5 THIS SECTION SHALL MAKE THE MATERIAL AVAILABLE FOR INSPECTION
6 AND COPYING TO THE FALSE CLAIMS LAW INVESTIGATOR IDENTIFIED IN THE
7 DEMAND AT THE PRINCIPAL PLACE OF BUSINESS OF THE PERSON, OR AT
8 SUCH OTHER PLACE AS THE FALSE CLAIMS LAW INVESTIGATOR AND THE
9 PERSON THEREAFTER MAY AGREE AND PRESCRIBE IN WRITING, OR AS THE
10 COURT MAY DIRECT UNDER SUBSECTION (10) OF THIS SECTION. THE
11 MATERIAL SHALL BE MADE SO AVAILABLE ON THE RETURN DATE SPECIFIED
12 IN THE DEMAND, OR ON SUCH LATER DATE AS THE FALSE CLAIMS LAW
13 INVESTIGATOR MAY PRESCRIBE IN WRITING. THE PERSON MAY, UPON
14 WRITTEN AGREEMENT BETWEEN THE PERSON AND THE FALSE CLAIMS LAW
15 INVESTIGATOR, SUBSTITUTE COPIES FOR ORIGINALS OF ALL OR ANY PART
16 OF THE MATERIAL.

17 (7) **Interrogatories.** (a) EACH INTERROGATORY IN A CIVIL
18 INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION (1) OF THIS SECTION
19 SHALL BE ANSWERED SEPARATELY AND FULLY IN WRITING UNDER OATH
20 AND SHALL BE SUBMITTED UNDER A SWORN CERTIFICATE, IN THE FORM
21 THE DEMAND DESIGNATES, BY:

22 (I) IN THE CASE OF A NATURAL PERSON, THE PERSON TO WHOM THE
23 DEMAND IS DIRECTED; OR

24 (II) IN THE CASE OF A PERSON OTHER THAN A NATURAL PERSON,
25 THE PERSON OR PERSONS RESPONSIBLE FOR ANSWERING EACH
26 INTERROGATORY.

27 (b) IF AN INTERROGATORY IS OBJECTED TO, THE REASONS FOR THE

1 OBJECTION SHALL BE STATED IN THE CERTIFICATE INSTEAD OF AN ANSWER.
2 THE CERTIFICATE SHALL STATE THAT ALL INFORMATION REQUIRED BY THE
3 DEMAND AND IN THE POSSESSION, CUSTODY, CONTROL, OR KNOWLEDGE OF
4 THE PERSON TO WHOM THE DEMAND IS DIRECTED HAS BEEN SUBMITTED.
5 TO THE EXTENT THAT ANY INFORMATION IS NOT FURNISHED, THE
6 INFORMATION SHALL BE IDENTIFIED AND REASONS SET FORTH WITH
7 PARTICULARITY REGARDING THE REASONS WHY THE INFORMATION WAS
8 NOT FURNISHED.

9 (8) **Oral examinations.** [REDACTED] THE EXAMINATION OF A PERSON
10 PURSUANT TO A CIVIL INVESTIGATIVE DEMAND FOR ORAL TESTIMONY
11 ISSUED UNDER SUBSECTION (1) OF THIS SECTION SHALL BE TAKEN BEFORE
12 AN OFFICER AUTHORIZED TO ADMINISTER OATHS AND AFFIRMATIONS BY
13 THE LAWS OF THE UNITED STATES, THE STATE OF COLORADO, OR THE
14 PLACE WHERE THE EXAMINATION IS HELD. THE OFFICER BEFORE WHOM
15 THE TESTIMONY IS TO BE TAKEN SHALL PUT THE WITNESS ON OATH OR
16 AFFIRMATION AND SHALL, PERSONALLY OR WITH THE ASSISTANCE OF
17 SOMEONE ACTING UNDER THE DIRECTION OF THE OFFICER AND IN THE
18 OFFICER'S PRESENCE, RECORD THE TESTIMONY OF THE WITNESS. THE
19 TESTIMONY SHALL BE TAKEN STENOGRAPHICALLY AND SHALL BE
20 TRANSCRIBED. WHEN THE TESTIMONY IS FULLY TRANSCRIBED, THE
21 OFFICER BEFORE WHOM THE TESTIMONY IS TAKEN SHALL PROMPTLY
22 TRANSMIT A COPY OF THE TRANSCRIPT OF THE TESTIMONY TO THE
23 CUSTODIAN. THIS SUBSECTION (8) SHALL NOT PRECLUDE THE TAKING OF
24 TESTIMONY BY ANY MEANS AUTHORIZED BY, AND IN A MANNER
25 CONSISTENT WITH, THE COLORADO RULES OF CIVIL PROCEDURE.

26 [REDACTED]
27 (c) THE ORAL TESTIMONY OF A PERSON TAKEN PURSUANT TO A

1 CIVIL INVESTIGATIVE DEMAND SERVED UNDER THIS SECTION SHALL BE
2 TAKEN IN THE JUDICIAL DISTRICT OF THE STATE WITHIN WHICH THE PERSON
3 RESIDES, IS FOUND, OR TRANSACTS BUSINESS, OR IN ANOTHER PLACE AS
4 MAY BE AGREED UPON BY THE FALSE CLAIMS LAW INVESTIGATOR
5 CONDUCTING THE EXAMINATION AND THE PERSON.

6 (d) WHEN THE TESTIMONY IS FULLY TRANSCRIBED, THE FALSE
7 CLAIMS LAW INVESTIGATOR OR THE OFFICER BEFORE WHOM THE
8 TESTIMONY IS TAKEN SHALL AFFORD THE WITNESS, WHO MAY BE
9 ACCOMPANIED BY COUNSEL, A REASONABLE OPPORTUNITY TO EXAMINE
10 AND READ THE TRANSCRIPT, UNLESS THE WITNESS WAIVES THE
11 EXAMINATION AND READING. ANY CHANGES IN FORM OR SUBSTANCE
12 THAT THE WITNESS DESIRES TO MAKE SHALL BE ENTERED AND IDENTIFIED
13 UPON THE TRANSCRIPT BY THE OFFICER OR THE FALSE CLAIMS LAW
14 INVESTIGATOR, WITH A STATEMENT OF THE REASONS GIVEN BY THE
15 WITNESS FOR MAKING THE CHANGES. THE TRANSCRIPT SHALL THEN BE
16 SIGNED BY THE WITNESS, UNLESS THE WITNESS IN WRITING WAIVES THE
17 SIGNING, IS ILL, CANNOT BE FOUND, OR REFUSES TO SIGN. IF THE WITNESS
18 DOES NOT SIGN THE TRANSCRIPT WITHIN THIRTY DAYS AFTER BEING
19 AFFORDED A REASONABLE OPPORTUNITY TO EXAMINE IT, THE OFFICER OR
20 THE FALSE CLAIMS LAW INVESTIGATOR SHALL SIGN IT AND STATE ON THE
21 RECORD THE FACT OF THE WAIVER, ILLNESS, ABSENCE OF THE WITNESS, OR
22 REFUSAL TO SIGN, TOGETHER WITH THE REASONS, IF ANY, GIVEN
23 THEREFOR.

24 (e) THE OFFICER BEFORE WHOM THE TESTIMONY IS TAKEN SHALL
25 CERTIFY ON THE TRANSCRIPT THAT THE WITNESS WAS SWORN BY THE
26 OFFICER AND THAT THE TRANSCRIPT IS A TRUE RECORD OF THE TESTIMONY
27 GIVEN BY THE WITNESS, AND THE OFFICER OR FALSE CLAIMS LAW

1 INVESTIGATOR SHALL PROMPTLY DELIVER THE TRANSCRIPT, OR SEND THE
2 TRANSCRIPT BY REGISTERED OR CERTIFIED MAIL, TO THE CUSTODIAN.

3 (f) UPON PAYMENT OF REASONABLE CHARGES THEREFOR, THE
4 FALSE CLAIMS LAW INVESTIGATOR SHALL FURNISH A COPY OF THE
5 TRANSCRIPT TO THE WITNESS ONLY; EXCEPT THAT THE ATTORNEY
6 GENERAL, THE DEPUTY ATTORNEY GENERAL, OR AN ASSISTANT ATTORNEY
7 GENERAL MAY, FOR GOOD CAUSE, LIMIT THE WITNESS TO INSPECTION OF
8 THE OFFICIAL TRANSCRIPT OF THE TESTIMONY OF THE WITNESS.

9 (g) (I) A PERSON COMPELLED TO APPEAR FOR ORAL TESTIMONY
10 UNDER A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION (1) OF
11 THIS SECTION MAY BE ACCOMPANIED, REPRESENTED, AND ADVISED BY
12 COUNSEL. COUNSEL MAY ADVISE THE PERSON, IN CONFIDENCE, WITH
13 RESPECT TO ANY QUESTION ASKED OF THE PERSON. THE PERSON OR
14 COUNSEL MAY OBJECT ON THE RECORD TO ANY QUESTION, IN WHOLE OR IN
15 PART, AND SHALL BRIEFLY STATE FOR THE RECORD THE REASON FOR THE
16 OBJECTION. AN OBJECTION MAY BE MADE, RECEIVED, AND ENTERED UPON
17 THE RECORD WHEN IT IS CLAIMED THAT THE PERSON IS ENTITLED TO
18 REFUSE TO ANSWER THE QUESTION ON THE GROUNDS OF ANY
19 CONSTITUTIONAL OR OTHER LEGAL RIGHT OR PRIVILEGE, INCLUDING THE
20 PRIVILEGE AGAINST SELF-INCRIMINATION. THE PERSON MAY NOT
21 OTHERWISE OBJECT TO OR REFUSE TO ANSWER ANY QUESTION AND MAY
22 NOT DIRECTLY OR THROUGH COUNSEL OTHERWISE INTERRUPT THE ORAL
23 EXAMINATION. IF THE PERSON REFUSES TO ANSWER A QUESTION, THE
24 FALSE CLAIMS LAW INVESTIGATOR MAY FILE A PETITION IN A DISTRICT
25 COURT UNDER PARAGRAPH (a) OF SUBSECTION (10) OF THIS SECTION FOR
26 AN ORDER COMPELLING THE PERSON TO ANSWER THE QUESTION.

27 (II) IF THE PERSON REFUSES TO ANSWER A QUESTION ON THE

1 GROUND OF THE PRIVILEGE AGAINST SELF-INCRIMINATION, THE FALSE
2 CLAIMS INVESTIGATOR MAY COMPEL THE TESTIMONY OF THE PERSON IN
3 ACCORDANCE WITH THE PROVISIONS OF SECTION 13-90-118, C.R.S.

4 (III) A PERSON APPEARING FOR ORAL TESTIMONY UNDER A CIVIL
5 INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION (1) OF THIS SECTION
6 SHALL BE ENTITLED TO THE SAME FEES AND ALLOWANCES THAT ARE PAID
7 TO WITNESSES IN THE DISTRICT COURTS OF THIS STATE.

8 (9) **Custodian of documents, answers, and transcripts.**

9 (a) THE ATTORNEY GENERAL SHALL DESIGNATE A FALSE CLAIMS LAW
10 INVESTIGATOR TO SERVE AS CUSTODIAN OF DOCUMENTARY MATERIAL,
11 ANSWERS TO INTERROGATORIES, AND TRANSCRIPTS OF ORAL TESTIMONY
12 RECEIVED UNDER THIS SECTION AND SHALL DESIGNATE SUCH ADDITIONAL
13 FALSE CLAIMS LAW INVESTIGATORS AS THE ATTORNEY GENERAL
14 DETERMINES FROM TIME TO TIME TO BE NECESSARY TO SERVE AS DEPUTIES
15 TO THE CUSTODIAN.

16 (b) (I) A FALSE CLAIMS LAW INVESTIGATOR WHO RECEIVES ANY
17 DOCUMENTARY MATERIAL, ANSWERS TO INTERROGATORIES, OR
18 TRANSCRIPTS OF ORAL TESTIMONY UNDER THIS SECTION SHALL TRANSMIT
19 THEM TO THE CUSTODIAN. THE CUSTODIAN SHALL TAKE PHYSICAL
20 POSSESSION OF THE MATERIAL, ANSWERS, OR TRANSCRIPTS AND SHALL BE
21 RESPONSIBLE FOR THE USE MADE OF THEM AND FOR THE RETURN OF
22 DOCUMENTARY MATERIAL UNDER PARAGRAPH (d) OF THIS SUBSECTION
23 (9).

24 (II) THE CUSTODIAN MAY CAUSE THE PREPARATION OF COPIES OF
25 THE DOCUMENTARY MATERIAL, ANSWERS TO INTERROGATORIES, OR
26 TRANSCRIPTS OF ORAL TESTIMONY AS MAY BE REQUIRED FOR OFFICIAL USE
27 BY A FALSE CLAIMS LAW INVESTIGATOR, OR OTHER OFFICER OR EMPLOYEE

1 OF THE DEPARTMENT OF LAW, WHO IS AUTHORIZED FOR SUCH USE UNDER
2 REGULATIONS THAT THE ATTORNEY GENERAL SHALL ISSUE. THE
3 MATERIAL, ANSWERS, AND TRANSCRIPTS MAY BE USED BY ANY SUCH
4 AUTHORIZED FALSE CLAIMS LAW INVESTIGATOR OR OTHER OFFICER OR
5 EMPLOYEE IN CONNECTION WITH THE TAKING OF ORAL TESTIMONY UNDER
6 THIS SECTION.

7 (III) (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (9),
8 DOCUMENTARY MATERIAL, ANSWERS TO INTERROGATORIES, OR
9 TRANSCRIPTS OF ORAL TESTIMONY, OR COPIES THEREOF, WHILE IN THE
10 POSSESSION OF THE CUSTODIAN, SHALL NOT BE AVAILABLE FOR
11 EXAMINATION BY AN INDIVIDUAL OTHER THAN A FALSE CLAIMS LAW
12 INVESTIGATOR OR OTHER OFFICER OR EMPLOYEE OF THE DEPARTMENT OF
13 LAW AUTHORIZED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH (b).

14 (B) SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III) SHALL
15 NOT APPLY IF CONSENT IS GIVEN BY THE PERSON WHO PRODUCED THE
16 MATERIAL, ANSWERS, OR TRANSCRIPTS OR, IN THE CASE OF ANY PRODUCT
17 OF DISCOVERY PRODUCED PURSUANT TO AN EXPRESS DEMAND FOR THE
18 MATERIAL, IF CONSENT IS GIVEN BY THE PERSON FROM WHOM THE
19 DISCOVERY WAS OBTAINED.

20 (C) NOTHING IN THIS SUBPARAGRAPH (III) IS INTENDED TO
21 PREVENT DISCLOSURE TO THE GENERAL ASSEMBLY, INCLUDING ANY
22 COMMITTEE OF THE GENERAL ASSEMBLY, OR TO ANY OTHER AGENCY OF
23 THE STATE FOR USE BY THE AGENCY IN FURTHERANCE OF ITS STATUTORY
24 RESPONSIBILITIES. DISCLOSURE OF INFORMATION TO ANY SUCH OTHER
25 AGENCY SHALL BE ALLOWED ONLY UPON APPLICATION, MADE BY THE
26 ATTORNEY GENERAL TO A DISTRICT COURT, SHOWING SUBSTANTIAL NEED
27 FOR THE USE OF THE INFORMATION BY THE AGENCY IN FURTHERANCE OF

1 ITS STATUTORY RESPONSIBILITIES.

2 (IV) WHILE IN THE POSSESSION OF THE CUSTODIAN AND UNDER
3 SUCH REASONABLE TERMS AND CONDITIONS AS THE ATTORNEY GENERAL
4 SHALL PRESCRIBE:

5 (A) DOCUMENTARY MATERIAL AND ANSWERS TO
6 INTERROGATORIES SHALL BE AVAILABLE FOR EXAMINATION BY THE
7 PERSON WHO PRODUCED THE MATERIAL OR ANSWERS, OR BY A
8 REPRESENTATIVE OF THAT PERSON AUTHORIZED BY THAT PERSON TO
9 EXAMINE THE MATERIAL AND ANSWERS; AND

10 (B) TRANSCRIPTS OF ORAL TESTIMONY SHALL BE AVAILABLE FOR
11 EXAMINATION BY THE PERSON WHO PRODUCED THE TESTIMONY OR BY A
12 REPRESENTATIVE OF THAT PERSON AUTHORIZED BY THAT PERSON TO
13 EXAMINE THE TRANSCRIPTS.

14 (c) WHENEVER AN ATTORNEY OF THE DEPARTMENT OF LAW HAS
15 BEEN DESIGNATED TO APPEAR BEFORE A COURT, GRAND JURY, OR STATE
16 AGENCY IN A CASE OR PROCEEDING, THE CUSTODIAN OF ANY
17 DOCUMENTARY MATERIAL, ANSWERS TO INTERROGATORIES, OR
18 TRANSCRIPTS OF ORAL TESTIMONY RECEIVED UNDER THIS SECTION MAY
19 DELIVER TO THE ATTORNEY SUCH MATERIAL, ANSWERS, OR TRANSCRIPTS
20 FOR OFFICIAL USE IN CONNECTION WITH THE CASE OR PROCEEDING AS THE
21 ATTORNEY DETERMINES TO BE REQUIRED. UPON THE COMPLETION OF THE
22 CASE OR PROCEEDING, THE ATTORNEY SHALL RETURN TO THE CUSTODIAN
23 THE MATERIAL, ANSWERS, OR TRANSCRIPTS SO DELIVERED THAT ARE NOT
24 IN THE CONTROL OF THE COURT, GRAND JURY, OR AGENCY THROUGH
25 INTRODUCTION INTO THE RECORD OF THE CASE OR PROCEEDING.

26 (d) THE CUSTODIAN SHALL, UPON WRITTEN REQUEST OF A PERSON
27 WHO PRODUCED ANY DOCUMENTARY MATERIAL IN THE COURSE OF ANY

1 FALSE CLAIMS LAW INVESTIGATION PURSUANT TO A CIVIL INVESTIGATIVE
2 DEMAND UNDER THIS SECTION, RETURN TO THE PERSON ANY SUCH
3 MATERIAL, OTHER THAN COPIES FURNISHED TO THE FALSE CLAIMS LAW
4 INVESTIGATOR UNDER PARAGRAPH (b) OF SUBSECTION (6) OF THIS SECTION
5 OR MADE FOR THE DEPARTMENT OF LAW UNDER SUBPARAGRAPH (II) OF
6 PARAGRAPH (b) OF THIS SUBSECTION (9), THAT ARE NOT IN THE CONTROL
7 OF A COURT, GRAND JURY, OR AGENCY THROUGH INTRODUCTION INTO THE
8 RECORD OF THE CASE OR PROCEEDING, IF:

9 (I) A CASE OR PROCEEDING BEFORE A COURT OR GRAND JURY
10 ARISING OUT OF THE INVESTIGATION OR ANY PROCEEDING BEFORE A STATE
11 AGENCY INVOLVING THE MATERIAL HAS BEEN COMPLETED; OR

12 (II) A CASE OR PROCEEDING IN WHICH THE MATERIAL MAY BE USED
13 HAS NOT BEEN COMMENCED WITHIN A REASONABLE TIME AFTER
14 COMPLETION OF THE EXAMINATION AND ANALYSIS OF ALL DOCUMENTARY
15 MATERIAL AND OTHER INFORMATION ASSEMBLED IN THE COURSE OF THE
16 INVESTIGATION.

17 (e) (I) IN THE EVENT OF THE DEATH, DISABILITY, OR SEPARATION
18 FROM SERVICE IN THE DEPARTMENT OF LAW OF THE CUSTODIAN OF ANY
19 DOCUMENTARY MATERIAL, ANSWERS TO INTERROGATORIES, OR
20 TRANSCRIPTS OF ORAL TESTIMONY PRODUCED PURSUANT TO A CIVIL
21 INVESTIGATIVE DEMAND UNDER THIS SECTION, OR IN THE EVENT OF THE
22 OFFICIAL RELIEF OF THE CUSTODIAN FROM RESPONSIBILITY FOR THE
23 CUSTODY AND CONTROL OF THE MATERIAL, ANSWERS, OR TRANSCRIPTS,
24 THE ATTORNEY GENERAL SHALL PROMPTLY:

25 (A) DESIGNATE ANOTHER FALSE CLAIMS LAW INVESTIGATOR TO
26 SERVE AS CUSTODIAN OF THE MATERIAL, ANSWERS, OR TRANSCRIPTS; AND

27 (B) TRANSMIT IN WRITING TO THE PERSON WHO PRODUCED THE

1 MATERIAL, ANSWERS, OR TESTIMONY NOTICE OF THE IDENTITY AND
2 ADDRESS OF THE SUCCESSOR SO DESIGNATED.

3 (II) A PERSON WHO IS DESIGNATED TO BE A SUCCESSOR UNDER
4 THIS PARAGRAPH (e) SHALL HAVE, WITH REGARD TO THE MATERIAL,
5 ANSWERS, OR TRANSCRIPTS, THE SAME DUTIES AND RESPONSIBILITIES AS
6 WERE IMPOSED BY THIS SECTION UPON THAT PERSON'S PREDECESSOR IN
7 OFFICE; EXCEPT THAT THE SUCCESSOR SHALL NOT BE HELD RESPONSIBLE
8 FOR ANY DEFAULT OR DERELICTION THAT OCCURRED BEFORE THAT
9 DESIGNATION.

10 (10) **Judicial proceedings.** (a) WHENEVER A PERSON FAILS TO
11 COMPLY WITH A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION
12 (1) OF THIS SECTION, OR WHENEVER SATISFACTORY COPYING OR
13 REPRODUCTION OF THE MATERIAL REQUESTED IN A DEMAND CANNOT BE
14 DONE AND THE PERSON REFUSES TO SURRENDER THE MATERIAL, THE
15 ATTORNEY GENERAL MAY FILE, IN A DISTRICT COURT FOR THE JUDICIAL
16 DISTRICT IN WHICH THE PERSON RESIDES, IS FOUND, OR TRANSACTS
17 BUSINESS, AND SERVE UPON THE PERSON A PETITION FOR AN ORDER OF THE
18 COURT FOR THE ENFORCEMENT OF THE CIVIL INVESTIGATIVE DEMAND.

19 (b) (I) A PERSON WHO HAS RECEIVED A CIVIL INVESTIGATIVE
20 DEMAND ISSUED UNDER SUBSECTION (1) OF THIS SECTION MAY FILE A
21 PETITION FOR AN ORDER OF THE COURT TO MODIFY OR SET ASIDE THE
22 DEMAND. THE PERSON SHALL FILE THE PETITION IN A DISTRICT COURT FOR
23 THE JUDICIAL DISTRICT WITHIN WHICH THE PERSON RESIDES, IS FOUND, OR
24 TRANSACTS BUSINESS AND SHALL SERVE A COPY OF THE PETITION UPON
25 THE FALSE CLAIMS LAW INVESTIGATOR IDENTIFIED IN THE DEMAND. IN
26 THE CASE OF A PETITION ADDRESSED TO AN EXPRESS DEMAND FOR A
27 PRODUCT OF DISCOVERY, THE PERSON MAY FILE A PETITION TO MODIFY OR

1 SET ASIDE THE DEMAND ONLY IN THE DISTRICT COURT FOR THE JUDICIAL
2 DISTRICT IN WHICH THE PROCEEDING IN WHICH THE DISCOVERY WAS
3 OBTAINED IS OR WAS LAST PENDING. THE PERSON SHALL FILE A PETITION
4 UNDER THIS SUBPARAGRAPH (I):

5 (A) WITHIN TWENTY DAYS AFTER THE DATE OF SERVICE OF THE
6 CIVIL INVESTIGATIVE DEMAND OR AT ANY TIME BEFORE THE RETURN DATE
7 SPECIFIED IN THE DEMAND, WHICHEVER DATE IS EARLIER; OR

8 (B) WITHIN SUCH LONGER PERIOD AS MAY BE PRESCRIBED IN
9 WRITING BY A FALSE CLAIMS LAW INVESTIGATOR IDENTIFIED IN THE
10 DEMAND.

11 (II) THE PETITION SHALL SPECIFY EACH GROUND UPON WHICH THE
12 PETITIONER RELIES IN SEEKING RELIEF UNDER SUBPARAGRAPH (I) OF THIS
13 PARAGRAPH (b) AND MAY BE BASED UPON ANY FAILURE OF THE DEMAND
14 TO COMPLY WITH THE PROVISIONS OF THIS SECTION OR UPON ANY
15 CONSTITUTIONAL OR OTHER LEGAL RIGHT OR PRIVILEGE OF THE PERSON.
16 DURING THE PENDENCY OF THE PETITION IN THE COURT, THE COURT MAY
17 STAY, AS IT DEEMS PROPER, THE RUNNING OF THE TIME ALLOWED FOR
18 COMPLIANCE WITH THE DEMAND, IN WHOLE OR IN PART; EXCEPT THAT THE
19 PERSON FILING THE PETITION SHALL COMPLY WITH ANY PORTIONS OF THE
20 DEMAND NOT SOUGHT TO BE MODIFIED OR SET ASIDE.

21 (c) (I) IN THE CASE OF A CIVIL INVESTIGATIVE DEMAND ISSUED
22 UNDER SUBSECTION (1) OF THIS SECTION THAT IS AN EXPRESS DEMAND FOR
23 A PRODUCT OF DISCOVERY, THE PERSON FROM WHOM THE DISCOVERY WAS
24 OBTAINED MAY FILE A PETITION FOR AN ORDER OF THE COURT TO MODIFY
25 OR SET ASIDE THOSE PORTIONS OF THE DEMAND REQUIRING PRODUCTION
26 OF ANY PRODUCT OF DISCOVERY. THE PERSON SHALL FILE THE PETITION
27 IN THE DISTRICT COURT FOR THE JUDICIAL DISTRICT IN WHICH THE

1 PROCEEDING IN WHICH THE DISCOVERY WAS OBTAINED IS OR WAS LAST
2 PENDING AND SHALL SERVE A COPY OF THE PETITION UPON A FALSE CLAIMS
3 LAW INVESTIGATOR IDENTIFIED IN THE DEMAND AND UPON THE RECIPIENT
4 OF THE DEMAND. THE PERSON SHALL FILE A PETITION UNDER THIS
5 SUBPARAGRAPH (I):

6 (A) WITHIN TWENTY DAYS AFTER THE DATE OF SERVICE OF THE
7 CIVIL INVESTIGATIVE DEMAND OR AT ANY TIME BEFORE THE RETURN DATE
8 SPECIFIED IN THE DEMAND, WHICHEVER DATE IS EARLIER; OR

9 (B) WITHIN SUCH LONGER PERIOD AS MAY BE PRESCRIBED IN
10 WRITING BY A FALSE CLAIMS LAW INVESTIGATOR IDENTIFIED IN THE
11 DEMAND.

12 (II) THE PETITION SHALL SPECIFY EACH GROUND UPON WHICH THE
13 PETITIONER RELIES IN SEEKING RELIEF UNDER SUBPARAGRAPH (I) OF THIS
14 PARAGRAPH (c), AND MAY BE BASED UPON ANY FAILURE OF THE PORTIONS
15 OF THE DEMAND FROM WHICH RELIEF IS SOUGHT TO COMPLY WITH THE
16 PROVISIONS OF THIS SECTION OR UPON ANY CONSTITUTIONAL OR OTHER
17 LEGAL RIGHT OR PRIVILEGE OF THE PETITIONER. DURING THE PENDENCY
18 OF THE PETITION, THE COURT MAY STAY, AS IT DEEMS PROPER,
19 COMPLIANCE WITH THE DEMAND AND THE RUNNING OF THE TIME ALLOWED
20 FOR COMPLIANCE WITH THE DEMAND.

21 (d) AT ANY TIME DURING WHICH A CUSTODIAN IS IN CUSTODY OR
22 CONTROL OF ANY DOCUMENTARY MATERIAL OR ANSWERS TO
23 INTERROGATORIES PRODUCED, OR TRANSCRIPTS OF ORAL TESTIMONY
24 GIVEN, BY A PERSON IN COMPLIANCE WITH A CIVIL INVESTIGATIVE
25 DEMAND ISSUED UNDER SUBSECTION (1) OF THIS SECTION, THE PERSON,
26 AND IN THE CASE OF AN EXPRESS DEMAND FOR ANY PRODUCT OF
27 DISCOVERY, THE PERSON FROM WHOM THE DISCOVERY WAS OBTAINED,

1 MAY FILE A PETITION FOR AN ORDER OF THE COURT TO REQUIRE THE
2 PERFORMANCE BY THE CUSTODIAN OF ANY DUTY IMPOSED UPON THE
3 CUSTODIAN BY THIS SECTION. THE PERSON SHALL FILE THE PETITION IN
4 THE DISTRICT COURT FOR THE JUDICIAL DISTRICT WITHIN WHICH THE
5 OFFICE OF THE CUSTODIAN IS SITUATED AND SHALL SERVE A COPY OF THE
6 PETITION UPON THE CUSTODIAN.

7 (e) WHENEVER A PETITION IS FILED IN A DISTRICT COURT UNDER
8 THIS SUBSECTION (10), THE COURT SHALL HAVE JURISDICTION TO HEAR
9 AND DETERMINE THE MATTER SO PRESENTED AND TO ENTER SUCH ORDER
10 OR ORDERS AS MAY BE REQUIRED TO CARRY OUT THE PROVISIONS OF THIS
11 SECTION. A FINAL ORDER SO ENTERED SHALL BE SUBJECT TO APPEAL
12 UNDER SECTION 13-4-102, C.R.S. ANY DISOBEDIENCE OF A FINAL ORDER
13 ENTERED BY A COURT UNDER THIS SECTION SHALL BE PUNISHED AS A
14 CONTEMPT OF THE COURT.

15 (f) THE COLORADO RULES OF CIVIL PROCEDURE SHALL APPLY TO
16 A PETITION UNDER THIS SUBSECTION (10) TO THE EXTENT THAT THE RULES
17 ARE CONSISTENT WITH THE PROVISIONS OF THIS SECTION.

18 (11) **Disclosure exemption.** ANY DOCUMENTARY MATERIAL,
19 ANSWERS TO WRITTEN INTERROGATORIES, OR ORAL TESTIMONY PROVIDED
20 UNDER A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION (1) OF
21 THIS SECTION SHALL BE EXEMPT FROM DISCLOSURE UNDER SECTION
22 24-72-203. THE PROVISIONS OF THIS SUBSECTION (11) SHALL NOT APPLY
23 TO DOCUMENTS OR INFORMATION IN THE CUSTODY OF THE COURT.

24 (12) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
25 OTHERWISE REQUIRES:

26 (a) "CUSTODIAN" MEANS THE CUSTODIAN, OR ANY DEPUTY
27 CUSTODIAN, DESIGNATED BY THE ATTORNEY GENERAL UNDER PARAGRAPH

1 (a) OF SUBSECTION (9) OF THIS SECTION.

2 (b) "DOCUMENTARY MATERIAL" MEANS THE ORIGINAL OR A COPY
3 OF A BOOK, RECORD, REPORT, MEMORANDUM, PAPER, COMMUNICATION,
4 TABULATION, CHART, OR OTHER DOCUMENT, OR DATA COMPILATIONS
5 STORED IN OR ACCESSIBLE THROUGH COMPUTER OR OTHER INFORMATION
6 RETRIEVAL SYSTEMS, TOGETHER WITH INSTRUCTIONS AND ALL OTHER
7 MATERIALS NECESSARY TO USE OR INTERPRET THE DATA COMPILATIONS,
8 AND ANY PRODUCT OF DISCOVERY.

9 (c) "FALSE CLAIMS LAW" MEANS:

10 (I) THIS ARTICLE; AND

11 (II) ANY LAW ENACTED BEFORE, ON, OR AFTER THE EFFECTIVE
12 DATE OF THIS ARTICLE THAT PROHIBITS OR MAKES AVAILABLE TO THE
13 STATE IN A COURT OF THE STATE A CIVIL REMEDY WITH RESPECT TO A
14 FALSE CLAIM AGAINST, BRIBERY OF, OR CORRUPTION OF AN OFFICER OR
15 EMPLOYEE OF THE STATE.

16 (d) "FALSE CLAIMS LAW INVESTIGATION" MEANS AN INQUIRY
17 CONDUCTED BY A FALSE CLAIMS LAW INVESTIGATOR FOR THE PURPOSE OF
18 ASCERTAINING WHETHER A PERSON IS OR HAS BEEN ENGAGED IN A
19 VIOLATION OF A FALSE CLAIMS LAW.

20 (e) "FALSE CLAIMS LAW INVESTIGATOR" MEANS AN ATTORNEY OR
21 INVESTIGATOR EMPLOYED BY THE DEPARTMENT OF LAW WHO IS CHARGED
22 WITH THE DUTY OF ENFORCING OR CARRYING INTO EFFECT A FALSE CLAIMS
23 LAW OR AN OFFICER OR EMPLOYEE OF THE STATE ACTING UNDER THE
24 DIRECTION AND SUPERVISION OF THE ATTORNEY OR INVESTIGATOR IN
25 CONNECTION WITH A FALSE CLAIMS LAW INVESTIGATION.

26 (f) "PERSON" MEANS A NATURAL PERSON, PARTNERSHIP,
27 CORPORATION, ASSOCIATION, OR OTHER LEGAL ENTITY, INCLUDING ANY

1 POLITICAL SUBDIVISION OF THE STATE.

2 (g) "PRODUCT OF DISCOVERY" MEANS:

3 (I) THE ORIGINAL OR DUPLICATE OF A DEPOSITION,
4 INTERROGATORY, DOCUMENT, THING, RESULT OF THE INSPECTION OF LAND
5 OR OTHER PROPERTY, EXAMINATION, OR ADMISSION, ANY ONE OF WHICH
6 IS OBTAINED BY A METHOD OF DISCOVERY IN A JUDICIAL OR
7 ADMINISTRATIVE PROCEEDING OF AN ADVERSARIAL NATURE;

8 (II) A DIGEST, ANALYSIS, SELECTION, COMPILATION, OR
9 DERIVATION OF AN ITEM LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH
10 (g); AND

11 (III) AN INDEX OR OTHER MANNER OF ACCESS TO AN ITEM LISTED
12 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (g).

13 **24-116-108. Use of recoveries - health sciences center false**
14 **claims recovery cash fund.** (1) (a) EXCEPT AS OTHERWISE PROVIDED IN
15 SUBSECTION (2) OF THIS SECTION, THE STATE TREASURER SHALL TRANSFER
16 TWO PERCENT OF ANY PROCEEDS RETAINED BY THE STATE FROM A FALSE
17 CLAIMS ACTION BROUGHT PURSUANT TO THIS ARTICLE TO THE HEALTH
18 SCIENCES CENTER FALSE CLAIMS RECOVERY CASH FUND, WHICH FUND IS
19 HEREBY CREATED AND REFERRED TO IN THIS SECTION AS THE "FUND". THE
20 MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY
21 THE GENERAL ASSEMBLY TO THE UNIVERSITY OF COLORADO HEALTH
22 SCIENCES CENTER.

23 (b) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE
24 OF THIS SECTION MAY BE INVESTED BY THE STATE TREASURER AS
25 PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE
26 INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED
27 TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS

1 REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN
2 THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE
3 GENERAL FUND OR ANOTHER FUND.

4 (2) IF THE UNIVERSITY OF COLORADO HEALTH SCIENCES CENTER
5 IS A DEFENDANT IN AN ACTION BROUGHT PURSUANT TO THIS ARTICLE, THE
6 TREASURER SHALL NOT TRANSFER ANY MONEY FROM THE PROCEEDS OF
7 THE ACTION TO THE FUND.

8 **SECTION 3. Appropriation.** In addition to any other
9 appropriation, there is hereby appropriated to the department of law,
10 criminal justice and appellate division, for allocation to the Medicaid
11 fraud control unit, for the fiscal year beginning July 1, 2010, the sum of
12 two hundred seventy-six thousand five hundred eighty dollars (\$276,580)
13 and 3.0 FTE, or so much thereof as may be necessary, for the
14 implementation of the provisions of this act that pertain to the "Colorado
15 Medical Assistance Act" of title 25.5, Colorado Revised Statutes. Of this
16 sum, sixty-nine thousand one hundred forty-five dollars (\$69,145) shall
17 be from the general fund and two hundred seven thousand four hundred
18 thirty-five dollars (\$207,435) shall be from federal funds. The
19 appropriation from the general fund shall be subject to the "(M)" notation
20 as defined in the general appropriation act.

21 **SECTION 4. Appropriation.** In addition to any other
22 appropriation, there is hereby appropriated, out of any moneys in the
23 general fund not otherwise appropriated, to the department of law, special
24 purpose division, for the fiscal year beginning July 1, 2010, the sum of
25 one hundred seventy-seven thousand two hundred twenty-six dollars
26 (\$177,226) and 2.0 FTE, or so much thereof as may be necessary, for the
27 implementation of the provisions of this act that do not pertain to the

1 "Colorado Medical Assistance Act" of title 25.5, Colorado Revised
2 Statutes.

3 **SECTION 5. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.