

FIFTIETH LEGISLATURE
FIRST SESSION, 2011

HB 314/a

March 17, 2011

Mr. President:

Your **JUDICIARY COMMITTEE**, to whom has been referred

HOUSE BILL 314

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, line 16, after the semicolon, strike the remainder of the line, strike lines 17 and 18 in their entirety and strike line 19 through the semicolon and insert in lieu thereof "PROVIDING A DEADLINE FOR THE STATE TO INTERVENE;".

2. On page 1, line 20, before the period, insert "; DECLARING AN EMERGENCY".

3. On page 4, between lines 16 and 17, insert the following new section:

"SECTION 3. Section 44-9-3 NMSA 1978 (being Laws 2007, Chapter 40, Section 3) is amended to read:

"44-9-3. FALSE CLAIMS--LIABILITY--PENALTIES--EXCEPTION.--

A. A person shall not:

(1) knowingly present, or cause to be presented, to an employee, officer or agent of the state or to a contractor, grantee or other recipient of state funds a false or fraudulent claim for payment or approval;

(2) knowingly make or use, or cause to be made or used, a false, misleading or fraudulent record or statement to obtain or support the approval of or the payment on a false or fraudulent claim;

**FIFTIETH LEGISLATURE
FIRST SESSION, 2011**

SJC/HB 314

Page 2

(3) conspire to defraud the state by obtaining approval or payment on a false or fraudulent claim;

(4) conspire to make, use or cause to be made or used, a false, misleading or fraudulent record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the state;

(5) when in possession, custody or control of property or money used or to be used by the state, knowingly deliver or cause to be delivered less property or money than the amount indicated on a certificate or receipt;

(6) when authorized to make or deliver a document certifying receipt of property used or to be used by the state, knowingly make or deliver a receipt that falsely represents a material characteristic of the property;

(7) knowingly buy, or receive as a pledge of an obligation or debt, public property from any person that may not lawfully sell or pledge the property;

(8) knowingly make or use, or cause to be made or used, a false, misleading or fraudulent record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the state; or

(9) as a beneficiary of an inadvertent submission of a false claim and having subsequently discovered the falsity of the claim, fail to disclose the false claim to the state within a reasonable time after discovery.

B. Proof of specific intent to defraud is not required for a violation of Subsection A of this section.

C. A person who violates Subsection A of this section shall be liable for civil, remedial and curative damages as follows:

**FIFTIETH LEGISLATURE
FIRST SESSION, 2011**

SJC/HB 314

Page 3

(1) three times the amount of damages sustained by the state because of the violation;

(2) a civil penalty of not less than five thousand dollars (\$5,000) and not more than ten thousand dollars (\$10,000) for each violation;

(3) the costs of a civil action brought to recover damages or penalties; and

(4) reasonable attorney fees, including the fees of the attorney general or state agency counsel.

D. A court may assess not less than two times the amount of damages sustained by the state if the court finds all of the following:

(1) the person committing the violation furnished the attorney general with all information known to that person about the violation within thirty days after the date on which the person first obtained the information;

(2) at the time that the person furnished the attorney general with information about the violation, a criminal prosecution, civil action or administrative action had not been commenced with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation; and

(3) the person fully cooperated with any investigation by the attorney general.

E. This section does not apply to claims, records or statements made pursuant to the provisions of Chapter 7 NMSA 1978."".

4. Renumber the succeeding sections accordingly.

**FIFTIETH LEGISLATURE
FIRST SESSION, 2011**

SJC/HB 314

Page 4

5. On page 5, line 15, after the period, strike the remainder of the line, strike line 16 in its entirety and strike line 17 through the period.

6. On page 6, line 15, after the period, insert the following:

"If the state has not intervened and proceeded with the action within one hundred eighty days after receiving the complaint, the qui tam plaintiff may deem the state's inaction to be a declination to act under Paragraph (2) of Subsection D of this section, and the qui tam plaintiff may elect to proceed with the action as provided in Paragraph (2) of Subsection D of this section."

7. On page 6, line 17, after the comma, insert "which shall not exceed an additional one hundred twenty days without the concurrence of the qui tam plaintiff,".

8. On page 10, lines 3 through 7, strike Subsection I in its entirety and reletter the succeeding subsection accordingly.

9. On page 15, strike lines 10 through 13 in their entirety and insert in lieu thereof a closing quotation mark.

10. On page 19, strike lines 6 and 7 in their entirety and insert in lieu thereof the following new section:

"SECTION 10. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately."

FIFTIETH LEGISLATURE
FIRST SESSION, 2011

SJC/HB 314

Page 5

Respectfully submitted,

Richard C. Martinez, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Eichenberg, Griego, E., Harden, Lopez, Sanchez, M.

Absent: None

HB0314JU1.wpd

.186873.2