STATE OF NEW YORK

9813

IN SENATE

May 31, 2024

Introduced by Sen. KRUEGER -- (at request of the Attorney General) -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the state finance law, the executive law and the tax law, in relation to certain false claims

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (b) of subdivision 11 of section 4 of the state finance law, as amended by chapter 171 of the laws of 2022, is amended to read as follows:

(b) Paragraph (a) of this subdivision shall not apply to (1) moneys to be distributed to the federal government, to a local government, or to any holder of a bond or other debt instrument issued by the state, any public authority, or any public benefit corporation; (2) moneys to be distributed solely or exclusively as a payment of damages or restitution to individuals or entities that were specifically injured or harmed by the defendant's or settling party's conduct and that are identified in, or can be identified by the terms of, the relevant judgment, agreement to settle, assurance of discontinuance, or relevant instrument resolving the claim or cause of action; (3) moneys recovered or obtained by a state agency or a state official or employee acting in their official capacity where application of paragraph (a) of this subdivision is prohibited by federal law, rule, or regulation, or would result in the reduction or loss of federal funds or eligibility for federal benefits pursuant to federal law, rule, or regulation; (4) moneys recovered or obtained by or on behalf of a public authority, a public benefit corporation, the department of taxation and finance, the workers' compensation board, the New York state higher education services corporation, the tobacco settlement financing corporation, a state or local retirement system, an employee health benefit program administered by the New York state department of civil service, the Title IV-D child support fund, the lottery prize fund, the abandoned property fund, or an endowment of the state university of New York or any unit thereof or any state agency, provided that all of the moneys received or recovered are

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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immediately transferred to the relevant public authority, public benefit corporation, department, fund, program, or endowment; (5) moneys to be refunded to an individual or entity as (i) an overpayment of a tax, fine, penalty, fee, insurance premium, loan payment, charge or surcharge; (ii) a return of seized assets, or (iii) a payment made in error; (6) moneys to be used to prevent, abate, restore, mitigate, or control any identifiable instance of prior or ongoing water, land or air pollution; [~~and~~] (7) moneys deposited to the opioid settlement fund established in section ninety-nine-nn of this chapter**; and (8) moneys to be distributed pursuant to subdivision five or six of section one hundred ninety of this chapter**.

§ 2. Subdivision 5 of section 188 of the state finance law, as added by chapter 379 of the laws of 2010, is amended to read as follows:

5. "Material" means having a natural tendency to influence, or be capable of influencing the payment or receipt of money or property. **A claim, record, or statement is material if it has a natural tendency to influence, or is capable of influencing, the payment or receipt of money or property at the time it is presented, made, or used, or caused to be presented, made, or used, regardless of whether it actually influences the payment or receipt of money or property.**

§ 3. Paragraph (h) of subdivision 1 and paragraph (a) of subdivision 4 of section 189 of the state finance law, paragraph (h) of subdivision 1 as amended by section 1 of part J of chapter 57 of the laws of 2018 and paragraph (a) of subdivision 4 as amended by section 1 of part DD of chapter 59 of the laws of 2023, are amended to read as follows:

(h) knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state or a local government, or conspires to do the same; shall be liable to the state or a local government, as applicable, for a civil penalty of not less than six thousand dollars and not more than twelve thousand dollars, as adjusted to be equal to the civil penalty allowed under the federal False Claims Act, 31 U.S.C. sec. 3729, et seq., as amended, as adjusted for inflation by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (28 U.S.C. 2461 note; Pub. L. No. 101-410), plus three times the amount of all damages, including consequential damages, which the state or local government sustains because of the act of that person. **Damages under this section shall be calculated and multiplied before any subtractions are made for compensatory payments or credits received by the government from any source, including but not limited to the defendant.**

(a) This section shall apply to tax law violations only if: (i) the **revenue,** net income**,** or sales of [~~the~~] **at least one** person against whom the action is brought equals or exceeds one million dollars for any taxable year subject to any action brought pursuant to this article**, or the value of the assets of at least one person against whom the action is brought equals or exceeds five million dollars during any taxable year subject to any action brought pursuant to this article**; and (ii) the **aggregate** damages **to the state and local governments** pleaded in such action exceed [~~three hundred and fifty thousand~~] **one million** dollars; provided that for purposes of applying paragraph (h) of subdivision one of this section to a tax law violation, the person is alleged to have knowingly concealed or knowingly and improperly avoided an obligation to pay taxes to the state or a local government.

§ 4. Section 190 of the state finance law, as added by section 39 of part C of chapter 58 of the laws of 2007, subdivision 1, paragraphs (a) and (b) of subdivision 2 and subdivision 9 as amended and the closing

paragraphs of paragraphs (a) and (f) of subdivision 2 as added by chapter 379 of the laws of 2010, paragraphs (d) and (e) of subdivision 2 as amended by section 9, subdivision 4 as amended by section 9-a and subdivisions 6 and 7 as amended by section 9-b of part A of chapter 56 of the laws of 2013, and paragraphs (a) and (b) of subdivision 6 as amended by chapter 791 of the laws of 2022, is amended to read as follows:

§ 190. Civil actions for false claims. 1. Civil enforcement actions. (a) The attorney general shall have the authority to investigate violations under section one hundred eighty-nine of this article. If the attorney general believes that a person has violated or is violating such section, then the attorney general may bring a civil action on behalf of the people of the state of New York or on behalf of a local government against such person. A local government also shall have the authority to investigate violations that may have resulted in damages to such local government under section one hundred eighty-nine of this article, and may bring a civil action on its own behalf, or on behalf of any subdivision of such local government, to recover damages sustained by such local government as a result of such violations. No action may be filed pursuant to this subdivision against the federal government, the state or a local government, or any officer or employee thereof acting in [~~his or her~~] their official capacity. The attorney general shall consult with the office of medicaid inspector general prior to filing any action related to the medicaid program.

(b) The attorney general is empowered to subpoena witnesses, compel their attendance, examine them under oath before the attorney general or a magistrate, a court of record or a judge or justice thereof and require the production of any books or papers which the attorney general deems relevant or material to the inquiry. If the attorney general believes it to be in the public interest that an investigation be made, the attorney general may either require or permit any person to file with the attorney general a statement in writing under oath or otherwise as to all the facts and circumstances concerning the subject matter which the attorney general believes it is in the public interest to investigate, and for that purpose may prescribe forms upon which such statements shall be made. The attorney general may also require such other data and information as the attorney general may deem relevant and may make such special and independent investigations as the attorney general may deem necessary in connection with the matter. The attorney general's investigative powers shall not abate or terminate by reason of any action or proceeding brought by the attorney general, a local government, or a qui tam plaintiff under this article.

2. Qui tam civil actions. (a) Any person may bring a qui tam civil action for a violation of section one hundred eighty-nine of this article on behalf of the person and the people of the state of New York or a local government. No action may be filed pursuant to this subdivision against the federal government, the state or a local government, or any officer or employee thereof acting in [~~his or her~~] their official capacity.

For purposes of subparagraphs (i) and (iv) of paragraph (a) of subdivision eight of section seventy-three of the public officers law, any activity by a former government employee in connection with the securing of rights, protections or benefits related to preparing or filing an action under this article shall not be deemed to be an appearance or practice before any agency.

(b) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be

served on the state pursuant to subdivision one of section three hundred seven of the civil practice law and rules. Any complaint filed in a court of the state of New York shall be filed in supreme court in camera, shall remain under seal for at least sixty days, and shall not be served on the defendant until the court so orders. The seal shall not preclude the attorney general, a local government, or the qui tam plaintiff from serving the complaint, any other pleadings, or the written disclosure of substantially all material evidence and information possessed by the person bringing the action, on relevant **federal,** state**,** or local government agencies, or on law enforcement authorities of the state, a local government, **the federal government,** or other jurisdictions, so that the actions may be investigated or prosecuted, except that such seal applies to the agencies or authorities so served to the same extent as the seal applies to other parties in the action.

If the allegations in the complaint allege a violation of section one hundred eighty-nine of this article involving damages to a local government, then the attorney general may at any time provide a copy of such complaint and written disclosure to the attorney for such local government; provided, however, that if the allegations in the complaint involve damages only to a city with a population of one million or more, or only to the state and such a city, then the attorney general shall provide such complaint and written disclosure to the corporation counsel of such city within thirty days.

The state may elect to supersede or intervene and proceed with the action, or to authorize a local government that may have sustained damages to supersede or intervene, within sixty days after it receives both the complaint and the material evidence and information; provided, however, that if the allegations in the complaint involve damages only to a city with a population of one million or more, then the attorney general may not supersede or intervene in such action without the consent of the corporation counsel of such city. The attorney general shall consult with the office of the medicaid inspector general prior to superseding or intervening in any action related to the medicaid program. The attorney general may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under this subdivision. Any such motions may be supported by affidavits or other submissions in camera.

(c) Prior to the expiration of the sixty day period or any extensions obtained under paragraph (b) of this subdivision, the attorney general shall notify the court that [~~he or she~~] **they**:

(i) [~~intends~~] **intend** to file a complaint against the defendant on behalf of the people of the state of New York or a local government, and thereby be substituted as the plaintiff in the action and convert the action in all respects from a qui tam civil action brought by a private person into a civil enforcement action by the attorney general under subdivision one of this section;

(ii) [~~intends~~] **intend** to intervene in such action, as of right, so as to aid and assist the plaintiff in the action; or

(iii) if the action involves damages sustained by a local government, [~~intends~~] **intend** to grant the local government permission to: (A) file and serve a complaint against the defendant, and thereby be substituted as the plaintiff in the action and convert the action in all respects from a qui tam civil action brought by a private person into a civil enforcement action by the local government under subdivision one of this section; or (B) intervene in such action, as of right, so as to aid and assist the plaintiff in the action.

The attorney general shall provide the local government with a copy of any such notification at the same time the court is notified.

(d) If the state notifies the court that it intends to file a complaint against the defendant and thereby be substituted as the plaintiff in the action, or to permit a local government to do so, such complaint, whether filed separately or as an amendment to the qui tam plaintiff's complaint, must be filed within thirty days after the notification to the court. For statute of limitations purposes, any such complaint filed by the state or a local government shall relate back to the filing date of the complaint of the qui tam plaintiff, to the extent that the cause of action of the state or local government arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the complaint of the qui tam plaintiff.

(e) If the state notifies the court that it intends to intervene in the action, or to permit a local government to do so, then such motion to intervene, whether filed separately or as an amendment to the qui tam plaintiff's complaint, shall be filed within thirty days after the notification to the court. For statute of limitations purposes, any complaint filed by the state or a local government, whether filed separately or as an amendment to the qui tam plaintiff's complaint, shall relate back to the filing date of the complaint of the qui tam plaintiff, to the extent that the cause of action of the state or local government arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the complaint of the qui tam plaintiff.

(f) If the state declines to participate in the action or to authorize participation by a local government, the qui tam action may proceed subject to judicial review under this section, the civil practice law and rules, and other applicable law. **Once thirty days have passed following the date on which the state was required to or in fact did inform the court pursuant to paragraph (c) of this subdivision whether it intends to supersede or intervene, or authorize a local government to do so, (i) a qui tam claim alleging a violation of section one hundred eighty-nine of this article on behalf of the state shall be discontinued only with the consent of the attorney general or a court order; (ii) a qui tam claim alleging a violation of section one hundred eighty-nine of this article on behalf of the state and a local government shall be discontinued only with the consent of the attorney general or a court order; and (iii) a qui tam claim alleging a violation of section one hundred eighty-nine of this article solely on behalf of a local government shall be discontinued only with the consent of the attorney general, such local government, or a court order.**

The qui tam plaintiff shall provide the state or any applicable local government with a copy of any document filed with the court on or about the date it is filed, or any order issued by the court on or about the date it is issued. A qui tam plaintiff shall notify the state or any applicable local government within five business days of any decision, order or verdict resulting in judgment in favor of the state or local government. **The qui tam plaintiff shall provide the state or local government a draft of any proposed settlement agreement affecting the qui tam action at least five business days before executing any settlement agreement.**

3. Time to answer. If the state decides to participate in a qui tam action or to authorize the participation of a local government, the court shall order that the qui tam complaint be unsealed and served at the time of the filing of the complaint or intervention motion by the

state or local government. After the complaint is unsealed, or if a complaint is filed by the state or a local government pursuant to subdivision one of this section, the defendant shall be served with the complaint and summons pursuant to article three of the civil practice law and rules. A copy of any complaint which alleges that damages were sustained by a local government shall also be served on such local government. The defendant shall be required to respond to the summons and complaint within the time allotted under rule three hundred twenty of the civil practice law and rules.

4. Related actions. When a person brings a qui tam action under this section, no person other than the attorney general, or a local government attorney acting pursuant to subdivision one of this section or paragraph (b) of subdivision two of this section, may intervene or bring a related civil action based upon the facts underlying the pending action; provided, however, that nothing in this subdivision shall be deemed to deny persons the right, upon leave of court, to file briefs amicus curiae.

5. Rights of the parties of qui tam actions. (a) If the attorney general elects to convert the qui tam civil action into an attorney general enforcement action, then the state shall have the primary responsibility for prosecuting the action. If the attorney general elects to intervene in the qui tam civil action then the state and the person who commenced the action, and any local government which sustained damages and intervenes in the action, shall share primary responsibility for prosecuting the action. If the attorney general elects to permit a local government to convert the action into a civil enforcement action, then the local government shall have primary responsibility for investigating and prosecuting the action. If the action involves damages to a local government but not the state, and the local government intervenes in the qui tam civil action, then the local government and the person who commenced the action shall share primary responsibility for prosecuting the action. Under no circumstances shall the state or a local government be bound by an act of the person bringing the original action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (b) of this subdivision. Under no circumstances shall the state be bound by the act of a local government that intervenes in an action involving damages to the state. If neither the attorney general nor a local government intervenes in the qui tam action then the qui tam plaintiff shall have the responsibility for prosecuting the action, subject to the attorney general's right to intervene at a later date upon a showing of good cause.

(b)(i) The state may move to dismiss the action notwithstanding the objections of the person initiating the action if the person has been served with the motion to dismiss and the court has provided the person with an opportunity to be heard on the motion. If the action involves damages to both the state and a local government, then the state shall consult with such local government before moving to dismiss the action. If the action involves damages sustained by a local government but not the state, then the local government may move to dismiss the action notwithstanding the objections of the person initiating the action if the person has been served with the motion to dismiss and the court has provided the person with an opportunity to be heard on the motion.

(ii) The state or a local government may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after an opportunity to be heard, that

the proposed settlement is fair, adequate, and reasonable with respect to all parties under all the circumstances. Upon a showing of good cause, such opportunity to be heard may be held in camera.

(iii) Upon a showing by the attorney general or a local government that the original plaintiff's unrestricted participation during the course of the litigation would interfere with or unduly delay the prosecution of the case, or would be repetitious or irrelevant, or upon a showing by the defendant that the original qui tam plaintiff's unrestricted participation during the course of the litigation would be for purposes of harassment or would cause the defendant undue burden, the court may, in its discretion, impose limitations on the original plaintiff's participation in the case, such as:

(A) limiting the number of witnesses the person may call;

(B) limiting the length of the testimony of such witnesses;

(C) limiting the person's cross-examination of witnesses; or

(D) otherwise limiting the participation by the person in the litigation.

(c) Notwithstanding any other provision of law, whether or not the attorney general or a local government elects to supersede or intervene in a qui tam civil action, the attorney general and such local government may elect to pursue any remedy available with respect to the criminal or civil prosecution of the presentation of false claims, including any administrative proceeding to determine a civil money penalty or to refer the matter to the office of the medicaid inspector general for medicaid related matters. If any such alternate civil remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section.

(d) Notwithstanding any other provision of law, whether or not the attorney general elects to supersede or intervene in a qui tam civil action, or to permit a local government to supersede or intervene in the qui tam civil action, upon a showing by the state or local government that certain actions of discovery by the person initiating the action would interfere with the state's or a local government's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than sixty days. Such a showing shall be conducted in camera. The court may extend the period of such stay upon a further showing in camera that the state or a local government has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

6. Awards to qui tam plaintiff. (a) If the attorney general elects to convert the qui tam civil action into an attorney general enforcement action, or to permit a local government to convert the action into a civil enforcement action by such local government, or if the attorney general or a local government elects to intervene in the qui tam civil action, then the person or persons who initiated the qui tam civil action collectively shall be entitled to receive between fifteen and twenty-five percent of the proceeds recovered in the action or in settlement of the action. The court shall determine the percentage of the proceeds to which a person commencing [~~a~~] **any** qui tam civil action is entitled, by considering the extent to which the plaintiff substantially contributed to the prosecution of the action. Where the court finds that the action was based primarily on disclosures of specific information (other than information provided by the person bringing the

action) relating to allegations or transactions in a criminal, civil or administrative hearing, in a legislative or administrative report, hearing, audit or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than ten percent of the proceeds, taking into account the significance of the information and the role of the person or persons bringing the action in advancing the case to litigation. Where the court finds that the action was based on disclosure of specific information related to the use of government funds during a declaration of a state of emergency, the court shall increase the percentage of the proceeds to which the person commencing such qui tam civil action is entitled by up to five percent more than the maximum percentage allowed pursuant to this paragraph. Any such person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, reasonable attorneys' fees, and costs pursuant to article eighty-one of the civil practice law and rules. All such expenses, fees, and costs shall be awarded against the defendant.

(b) If the attorney general or a local government does not elect to intervene or convert the action, and the action is successful, then the person or persons who initiated the qui tam action which obtains proceeds shall be entitled to receive between twenty-five and thirty percent of the proceeds recovered in the action or settlement of the action. The court shall determine the percentage of the proceeds to which a person commencing [~~a~~] **any** qui tam civil action is entitled, by considering the extent to which the plaintiff substantially contributed to the prosecution of the action. Where the court finds that the action was based on disclosure of specific information related to the use of government funds during a declaration of a state of emergency, the court shall increase the percentage of the proceeds to which the person commencing such qui tam civil action is entitled by up to ten percent more than the maximum percentage allowed pursuant to this paragraph. Such person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, reasonable attorneys' fees, and costs pursuant to article eighty-one of the civil practice law and rules. All such expenses, fees, and costs shall be awarded against the defendant.

(c) With the exception of a court award of costs, expenses or attorneys' fees, any payment to a person pursuant to this paragraph shall be made from the proceeds.

(d) If the attorney general or a local government does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

7. Costs, expenses, disbursements and attorneys' fees. In any action brought pursuant to this article, the court may award any local government that participates as a party in the action an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees, plus costs pursuant to article eighty-one of the civil practice law and rules. All such expenses, fees and costs shall be awarded directly against the defendant and shall not be charged from the proceeds, but shall only be awarded if a local government prevails in the action.

8. Exclusion from recovery. If the court finds that the qui tam civil action was brought by a person who planned or initiated the violation of

section one hundred eighty-nine of this article upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise be entitled to receive under subdivision six of this section, taking into account the role of such person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the qui tam civil action is convicted of criminal conduct arising from [~~his or her~~] **their** role in the violation of section one hundred eighty-nine of this article, that person shall be dismissed from the qui tam civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the attorney general to supersede or intervene in such action and to civilly prosecute the same on behalf of the state or a local government.

9. Certain actions barred. (a) The court shall dismiss a qui tam action under this article if:

(i) it is based on allegations or transactions which are the subject of a pending civil action or an administrative action in which the state or a local government is already a party;

(ii) the state or local government has reached a binding settlement or other agreement with the person who violated section one hundred eighty-nine of this article resolving the matter and such agreement has been approved in writing by the attorney general, or by the applicable local government attorney; or

(iii) against a member of the legislature, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the state when the action was brought.

(b) The court shall dismiss a qui tam action under this article, unless opposed by the state or an applicable local government, or unless the qui tam plaintiff is an original source of the information, if substantially the same allegations or transactions as alleged in the action were publicly disclosed:

(i) in a state or local government criminal, civil, or administrative hearing in which the state or a local government or its agent is a party;

(ii) in a federal, New York state or New York local government report, hearing, audit, or investigation that is made on the public record or disseminated broadly to the general public; provided that such information shall not be deemed "publicly disclosed" in a report or investigation because it was disclosed or provided pursuant to article six of the public officers law, or under any other federal, state or local law, rule or program enabling the public to request, receive or view documents or information in the possession of public officials or public agencies;

(iii) in the news media, provided that such allegations or transactions are not "publicly disclosed" in the "news media" merely because information of allegations or transactions have been posted on the internet or on a computer network.

(c) This subdivision is not jurisdictional.

10. Liability. Neither the state nor any local government shall be liable for any expenses which any person incurs in bringing a qui tam civil action under this article.

§ 5. Paragraph (b) of subdivision 16 of section 63 of the executive law, as amended by chapter 171 of the laws of 2022, is amended to read as follows:

(b) Paragraph (a) of this subdivision shall not apply to any provision in the resolution of a claim or cause of action providing (1) moneys to be distributed to the federal government, to a local government, or to any holder of a bond or other debt instrument issued by the state, any public authority, or any public benefit corporation; (2) moneys to be distributed solely or exclusively as a payment of damages or restitution to individuals or entities that were specifically injured or harmed by the defendant's or settling party's conduct and that are identified in, or can be identified by the terms of, the relevant judgment, stipulation, decree, agreement to settle, assurance of discontinuance, or relevant instrument resolving the claim or cause of action; (3) moneys recovered or obtained by the attorney general where application of paragraph (a) of this subdivision is prohibited by federal law, rule, or regulation, or would result in the reduction or loss of federal funds or eligibility for federal benefits pursuant to federal law, rule, or regulation; (4) moneys recovered or obtained by or on behalf of a public authority, a public benefit corporation, the department of taxation and finance, the workers' compensation board, the New York state higher education services corporation, the tobacco settlement financing corporation, a state or local retirement system, an employee health benefit program administered by the New York state department of civil service, the Title IV-D child support fund, the lottery prize fund, the abandoned property fund, or an endowment of the state university of New York or any unit thereof or any state agency, provided that all of the moneys received or recovered are immediately transferred to the relevant public authority, public benefit corporation, department, fund, program, or endowment; (5) moneys to be refunded to an individual or entity as (i) an overpayment of a tax, fine, penalty, fee, insurance premium, loan payment, charge or surcharge; (ii) a return of seized assets; or (iii) a payment made in error; (6) moneys to be used to prevent, abate, restore, mitigate or control any identifiable instance of prior or ongoing water, land or air pollution; [~~and/or~~] (7) state moneys received as part of any statewide opioid settlement agreements as defined in section 25.18 of the mental hygiene law, to be spent on eligible expenditures as defined in section 25.18 of the mental hygiene law**; and/or (8) moneys to be distributed pursuant to subdivision five or six of section one hundred ninety of the state finance law**.

§ 6. Section 171 of the tax law is amended by adding a new subdivision twenty-ninth to read as follows:

Twenty-ninth. Notwithstanding any provision of law to the contrary, have authority to divulge or make known to the attorney general and the attorney general's specifically-identified assistants any particulars set forth in any return or report required to be made under the tax law so that potential violations of the New York false claims act may be investigated or prosecuted. Any information provided to the attorney general pursuant to this authority (i) shall be specially marked and shall be kept by the attorney general in a segregated file, access to which shall be limited to the attorney general and the specifically-identified assistants, (ii) shall not be divulged or made known to anyone else except as provided below, and (iii) shall be exempt from disclosure under the freedom of information law. Notwithstanding any provision of law to the contrary, the commissioner may authorize the attorney general and the attorney general's specifically-identified assistants to divulge or make known any particulars in any such report as necessary to investigate or prosecute potential violations of article thirteen of the state finance law.

§ 7. Section 190-b of the state finance law, as added by section 2 of part J of chapter 57 of the laws of 2018, is amended to read as follows:

§ 190-b. [~~**Medicaid fraud**~~] **False claims act** recovery reporting. The attorney general shall make an annual report to the temporary president of the senate, speaker of the assembly, chair of the senate finance committee, chair of the assembly ways and means committee, chair of the senate health committee, and chair of the assembly health committee by April fifteenth of each year. Such report shall include the amount of monies recovered by the [~~**medicaid fraud control unit**~~] **attorney general** pursuant to the false claims act for the preceding calendar year**, delineated by three separate categories: (1) money recovered by the medicaid fraud control unit; (2) money recovered in cases involving frauds unrelated to medicaid fraud or violations of the tax law; and (3) money recovered in cases involving violations of the tax law**.

§ 8. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this act directly involved in the controversy in which the judgment shall have been rendered.

§ 9. This act shall take effect immediately and shall apply to any pending cause of action brought pursuant to article 13 of the state finance law; provided however, that no pending cause of action shall be dismissed for failure to plead one million dollars in damages if that action pleads damages in excess of three hundred fifty thousand dollars.