

Fiscal Note Request HB0146, As Introduced

(continued)

TECHNICAL NOTES:

Department of Labor and Industry

1. Section 2 of HB 146 broadly defines “claim” as including a demand for services when providing those services is not justified. However, Section 3 specifies that the (false) claim needs to be submitted for payment or approval by the governmental entity. The department is unsure whether presenting an unmeritorious allegation of wrongdoing by a person to an executive branch agency with investigative and/or regulatory duties constitutes a cause of action under Section 3.

Department of Justice

2. HB 146 appears to overlap with the duties of the Legislative Auditors Office set forth in 5-13-304 and 5-13-311, MCA. The bill also potentially overlaps with the duty of the Attorney General set forth in 5-13-310, MCA, to prosecute public offenses involving a state agency.
3. Money recovered as a result of action taken under 5-13-311, MCA, (for fraud, waste, and abuse) must be deposited in the general fund. The Legislative Auditor receives calls on an 800-telephone number and refers any possible case to court, where the money would be collected. Although HB 146 could divert money from the general fund to private citizens, any amounts collected to date are inconsequential.
4. The protections for employees who cooperate in the disclosure of false claims in section 12(2) are in many respects duplicative of the protections already found in other provisions of state law, particularly in the Wrongful Discharge from Employment Act, which already prohibits discharge without cause. The WDEA provides remedies that are significantly more limited than those provided in the bill. The differences can be found by comparing this bill Section 12(3) with 39-2-905, MCA.