

Senate Bill 26-084

Legislation Concerning the Preservation of Privileges for Certain State Entities in Connection with Information Made Available to the Office of the State Auditor in the Performance of its Statutorily Prescribed Duties Related to the State's Fraud Hotline

What Would this Bill Do?

This Bill would amend statute to state that when an entity discloses information to the State Auditor during the course of a fraud investigation, this disclosure, by itself, does not waive an otherwise valid claim of privilege, confidentiality, or other protection held by the entity making the disclosure, including a claim of attorney-client privilege.

Why is this Bill Necessary?

A state agency may request that the Office of the State Auditor (OSA) conduct or participate in a fraud investigation resulting from allegations received by the OSA through its Fraud Hotline. According to statute, when this occurs, the State Auditor has access to all of the information maintained by the agency that is directly related to the scope of the investigation [Section 2-3-110.5, C.R.S.]. Statute also states that any information that the OSA receives during the course of a fraud investigation must be kept confidential by the OSA. However, there is a risk that state agencies may not be willing to provide information to the OSA necessary for the investigation that would fall under attorney-client or some other type of privilege out of a concern that providing the information would be considered a waiver of that privilege. This Bill makes it clear that providing this type of information would not, by itself, constitute a waiver of that privilege.