

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0675.01 Kate Meyer x4348

HOUSE BILL 12-1268

HOUSE SPONSORSHIP

Acree, Beezley, Joshi, Kerr J., McCann, Ramirez

SENATE SPONSORSHIP

Hudak,

House Committees

Health and Environment
Health and Environment
Appropriations

Senate Committees

Business, Labor and Technology
Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING A TRANSFER OF FUNCTIONS PERTAINING TO HEALTH**
102 **FACILITY COMPLIANCE WITH CERTAIN BUILDING SAFETY**
103 **STANDARDS FROM THE DEPARTMENT OF PUBLIC HEALTH AND**
104 **ENVIRONMENT TO THE DIVISION OF FIRE SAFETY IN THE OFFICE**
105 **OF PREPAREDNESS, SECURITY, AND FIRE SAFETY WITHIN THE**
106 **DEPARTMENT OF PUBLIC SAFETY, AND, IN CONNECTION**
107 **THEREWITH, CREATING THE HEALTH FACILITY CONSTRUCTION**
108 **AND INSPECTION SECTION IN THE DIVISION OF FIRE SAFETY.**

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

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
May 1, 2012

HOUSE
Amended 2nd Reading
April 30, 2012

applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills/summaries>.)

Currently, the division of fire safety (division) in the office of preparedness, security, and fire safety within the Colorado department of public safety conducts construction plan reviews and performs inspections of public school buildings to determine compliance with building and fire safety codes. The department of public health and environment (department) is responsible for such reviews and inspections for health facility buildings.

Effective July 1, 2012, the bill transfers to the division the department's functions, personnel, and property directed principally for inspections of health care facilities for conformity to building and fire safety standards. With the exception of certain health facilities for which there are no central buildings used to provide health services to individuals, the division will be responsible for adopting building and fire safety standards, reviewing plans for construction, performing inspections, issuing certificates of occupancy and compliance, and otherwise assessing and enforcing compliance with building and fire safety standards.

To reflect its broader scope, the division's public school construction and inspection section is renamed the "health facility and public school construction and inspection section" (section). Laws setting forth the current administrative duties and processes of the division and the section, as they relate to the public school construction and inspection program, are amended to include health facilities.

The bill leaves intact the existing authority of a local jurisdiction to adopt and enforce concurrent building and fire safety codes, and describes the interaction between local and division oversight and regulations.

The department is prohibited from licensing a health facility unless the division issues to the department a certificate of compliance certifying that the health facility's buildings and structures conform to the building and fire safety standards adopted by the director of the division. Upon receipt of such certificate, the department must take action regarding the pending application for licensure within 30 days.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-1.5-103, **add** (5)

3 as follows:

4 **25-1.5-103. Health facilities - powers and duties of department**

1 - limitations on rules promulgated by department. (5) (a) THIS
2 SUBSECTION (5) APPLIES TO CONSTRUCTION, INCLUDING SUBSTANTIAL
3 RENOVATION, AND ONGOING COMPLIANCE WITH ARTICLE 33.5 OF TITLE 24,
4 C.R.S., OF A HEALTH CARE FACILITY BUILDING OR STRUCTURE ON OR
5 AFTER JULY 1, 2013. ALL HEALTH FACILITY BUILDINGS AND STRUCTURES
6 SHALL BE CONSTRUCTED IN CONFORMITY WITH THE STANDARDS ADOPTED
7 BY THE DIRECTOR OF THE DIVISION OF FIRE SAFETY IN THE OFFICE OF
8 PREPAREDNESS, SECURITY, AND FIRE SAFETY WITHIN THE DEPARTMENT OF
9 PUBLIC SAFETY.

10 (b) EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION
11 (5) BUT NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
12 CONTRARY, THE DEPARTMENT SHALL NOT ISSUE OR RENEW ANY LICENSE
13 UNDER THIS ARTICLE UNLESS THE DEPARTMENT HAS RECEIVED A
14 CERTIFICATE OF COMPLIANCE FROM THE DIVISION OF FIRE SAFETY
15 CERTIFYING THAT THE BUILDING OR STRUCTURE OF THE HEALTH FACILITY
16 ARE IN CONFORMITY WITH THE STANDARDS ADOPTED BY THE DIRECTOR OF
17 THE DIVISION OF FIRE SAFETY.

18 (c) THE DEPARTMENT HAS NO AUTHORITY TO ESTABLISH OR
19 ENFORCE STANDARDS RELATING TO BUILDING OR FIRE CODES. ALL
20 FUNCTIONS, PERSONNEL, AND PROPERTY OF THE DEPARTMENT AS OF JUNE
21 30, 2013, THAT ARE PRINCIPALLY DIRECTED TO THE ADMINISTRATION,
22 INSPECTION, AND ENFORCEMENT OF ANY BUILDING OR FIRE CODES OR
23 STANDARDS SHALL BE TRANSFERRED TO THE HEALTH FACILITY
24 CONSTRUCTION AND INSPECTION SECTION OF THE DIVISION OF FIRE SAFETY
25 PURSUANT TO SECTION 24-33.5-1201 (4), C.R.S.

26 (d) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
27 CONTRARY, ALL HEALTH FACILITIES SEEKING CERTIFICATION PURSUANT TO

1 THE FEDERAL INSURANCE OR ASSISTANCE PROVIDED BY TITLE XIX OF THE
2 FEDERAL "SOCIAL SECURITY ACT", AS AMENDED AND COMMONLY KNOWN
3 AS "MEDICAID", OR THE FEDERAL INSURANCE OR ASSISTANCE PROVIDED BY
4 TITLE XVIII OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED AND
5 COMMONLY KNOWN AS "MEDICARE", OR ANY SUCCESSOR CODE ADOPTED
6 OR PROMULGATED BY THE APPROPRIATE FEDERAL AUTHORITIES, SHALL
7 CONTINUE TO MEET SUCH CERTIFICATION REQUIREMENTS.

8 (f) NOTHING IN THIS SUBSECTION (5) DIVESTS THE DEPARTMENT OF
9 THE AUTHORITY TO PERFORM HEALTH SURVEY WORK OR PREVENTS THE
10 DEPARTMENT FROM ACCESSING RELATED FUNDS.

11 **SECTION 2.** In Colorado Revised Statutes, 25-3-102, **amend** (1);
12 and **add** (3) as follows:

13 **25-3-102. License - application - issuance - certificate of**
14 **compliance required.** (1) An application for a license described in
15 section 25-3-101 shall be made to the department of public health and
16 environment annually upon such form and in such manner as prescribed
17 by the department; except that a community residential home shall make
18 application for a license pursuant to section 27-10.5-109, C.R.S. The
19 department has authority to administer oaths, subpoena witnesses or
20 documents, and take testimony in all matters relating to issuing, denying,
21 limiting, suspending, or revoking such license. The department shall issue
22 licenses to applicants furnishing satisfactory evidence of fitness to
23 conduct and maintain a facility described in section 25-3-101 in
24 accordance with ~~the provisions of this part 1 and the rules and regulations~~
25 ~~adopted by such~~ THE department. The license shall be signed by the
26 president and attested by the secretary of the state board of health and
27 have the seal thereof affixed thereto. ~~Such~~ THE license expires one year

1 from the date of issuance.

2 (3) (a) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
3 CONTRARY, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
4 SHALL NOT ISSUE OR RENEW ANY LICENSE DESCRIBED IN SECTION 25-3-101
5 FOR A FACILITY COVERED BY SECTION 25-1.5-103 (5) UNLESS THE
6 DEPARTMENT RECEIVES A CERTIFICATE OF COMPLIANCE FOR THE
7 APPLICANT'S BUILDING OR STRUCTURE FROM THE DIVISION OF FIRE SAFETY
8 IN THE OFFICE OF PREPAREDNESS, SECURITY, AND FIRE SAFETY WITHIN THE
9 DEPARTMENT OF PUBLIC SAFETY IN ACCORDANCE WITH PART 12 OF
10 ARTICLE 33.5 OF TITLE 24, C.R.S.

11 (b) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
12 SHALL TAKE ACTION ON AN APPLICATION FOR LICENSURE WITHIN THIRTY
13 DAYS AFTER THE DATE THAT THE DEPARTMENT RECEIVES FROM THE
14 APPLICANT ALL OF THE NECESSARY INFORMATION AND DOCUMENTATION
15 REQUIRED FOR LICENSURE, INCLUDING A CERTIFICATE OF COMPLIANCE
16 FROM THE DIVISION OF FIRE SAFETY.

17 **SECTION 3.** In Colorado Revised Statutes, 25-3-105, **add** (4) as
18 follows:

19 **25-3-105. License - fee - rules - penalty.** (4) ON JULY 1, 2013,
20 ANY MONEYS REMAINING IN THE HEALTH FACILITIES GENERAL LICENSURE
21 CASH FUND CREATED IN SECTION 25-3-103.1 (1) FROM FEES COLLECTED BY
22 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR HEALTH
23 FACILITY BUILDING AND STRUCTURE CODE PLAN REVIEWS AND
24 INSPECTIONS ARE TRANSFERRED TO THE HEALTH FACILITY CONSTRUCTION
25 AND INSPECTION CASH FUND CREATED IN SECTION 24-33.5-1207.8, C.R.S.

26 **SECTION 4.** In Colorado Revised Statutes, **amend** 25-27-107.5
27 as follows:

1 **25-27-107.5. Assisted living residence cash fund created.**

2 (1) The fees collected pursuant to section 25-27-107, plus any civil
3 penalty collected pursuant to section 25-27-103 (1) (b), shall be
4 transmitted to the state treasurer, who shall credit the same to the assisted
5 living residence cash fund, which fund is hereby created. The moneys in
6 the fund shall be subject to annual appropriation by the general assembly
7 for the direct and indirect costs of the department in performing its duties
8 under this article. NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION,
9 at the end of any fiscal year, all unexpended and unencumbered moneys
10 in the fund shall remain therein and shall not be credited or transferred to
11 the general fund or any other fund.

12 (2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, ON JULY
13 1, 2013, ANY MONEYS REMAINING IN THE FUND FROM FEES COLLECTED BY
14 THE DEPARTMENT FOR ASSISTED LIVING RESIDENCE BUILDING AND
15 STRUCTURE CODE PLAN REVIEWS AND INSPECTIONS ARE TRANSFERRED TO
16 THE HEALTH FACILITY CONSTRUCTION AND INSPECTION CASH FUND
17 CREATED IN SECTION 24-33.5-1207.8, C.R.S.

18 **SECTION 5.** In Colorado Revised Statutes, 24-33.5-1201, add
19 (4) as follows:

20 **24-33.5-1201. Division of fire safety - creation - public school**
21 **construction and inspection section - health facility construction and**
22 **inspection section - legislative declaration.** (4) (a) THERE IS HEREBY
23 CREATED WITHIN THE DIVISION THE HEALTH FACILITY CONSTRUCTION AND
24 INSPECTION SECTION TO IMPLEMENT SECTION 24-33.5-1212.5 AND TO
25 ADMINISTER AND ENFORCE THE CODES IN ACCORDANCE WITH SECTIONS
26 24-33.5-1212.5 AND 24-33.5-1213. THE HEALTH FACILITY CONSTRUCTION
27 AND INSPECTION SECTION SHALL PERFORM ITS DUTIES AND FUNCTIONS

1 UNDER THE DIVISION AND THE EXECUTIVE DIRECTOR AS IF THE SAME WERE
2 TRANSFERRED TO THE DEPARTMENT BY A **TYPE 2** TRANSFER, AS SUCH
3 TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF
4 1968", ARTICLE 1 OF THIS TITLE.

5 (b) ON AND AFTER JULY 1, 2013, ALL POSITIONS OF EMPLOYMENT
6 IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR WHICH
7 PRINCIPAL DUTIES ARE CONCERNED WITH LIFE SAFETY INSPECTION AND
8 THAT ARE DETERMINED BY THE DIRECTOR TO BE NECESSARY TO CARRY
9 OUT THE PURPOSES OF THE HEALTH FACILITY CONSTRUCTION AND
10 INSPECTION SECTION ARE TRANSFERRED TO THE DIVISION AND ARE
11 EMPLOYMENT POSITIONS THEREIN. THE EXECUTIVE DIRECTOR SHALL
12 APPOINT SUCH EMPLOYEES AS ARE NECESSARY TO CARRY OUT THE DUTIES
13 AND EXERCISE THE POWERS SPECIFIED IN THIS PART 12. THE EXECUTIVE
14 DIRECTOR MAY DELEGATE APPOINTING AUTHORITY AS APPROPRIATE.

15 (c) ON AND AFTER JULY 1, 2013, ALL EMPLOYEES OF THE
16 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT CARRYING OUT THE
17 DUTIES PRINCIPALLY RELATING TO LIFE SAFETY CODE COMPLIANCE ARE
18 EMPLOYEES OF THE HEALTH FACILITY CONSTRUCTION AND INSPECTION
19 SECTION IN THE DIVISION. THE EMPLOYEES RETAIN ALL RIGHTS UNDER THE
20 STATE PERSONNEL SYSTEM AND TO RETIREMENT BENEFITS PURSUANT TO
21 THE LAWS OF THIS STATE, AND THEIR SERVICES ARE DEEMED TO HAVE
22 BEEN CONTINUOUS.

23 (d) ON JULY 1, 2013, ALL ITEMS OF PROPERTY, REAL AND
24 PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS,
25 DOCUMENTS, AND RECORDS OF THE DEPARTMENT OF PUBLIC HEALTH AND
26 ENVIRONMENT USED IN CARRYING OUT THE DUTIES PRINCIPALLY RELATING
27 TO LIFE SAFETY CODE COMPLIANCE ARE TRANSFERRED TO THE HEALTH

1 FACILITY CONSTRUCTION AND INSPECTION SECTION IN THE DIVISION AND
2 BECOME THE PROPERTY OF THAT SECTION.

3 (e) BY OCTOBER 1, 2012, THE DIVISION AND THE GOVERNOR SHALL
4 SUBMIT AN APPLICATION TO THE SECRETARY OF THE UNITED STATES
5 DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR A MODIFICATION TO
6 THE AGREEMENT ENTERED INTO BETWEEN THE SECRETARY AND THE STATE
7 OF COLORADO PURSUANT TO SECTION 1864 OF THE FEDERAL "SOCIAL
8 SECURITY ACT", 42 U.S.C. SEC. 1395AA, WHICH MODIFICATION ALLOWS
9 THE DIVISION TO FULFILL THE DUTIES UNDER THAT LAW ASSOCIATED WITH
10 THE ASSESSMENT OF COMPLIANCE WITH THE FEDERAL FIRE SAFETY CODE
11 REQUIREMENTS FOR HEALTH FACILITIES, AND A MODIFICATION TO
12 WAIVERS FOR RESIDENTIAL MEDICAID PROVIDER TYPES TO ALLOW THE
13 DIVISION TO CONDUCT CONSTRUCTION PLANS AND INSPECTIONS.

14 (f) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND
15 DECLARES THAT, IN DISCHARGING ITS DUTIES UNDER THIS ARTICLE, AS
16 THEY PERTAIN TO HEALTH FACILITY BUILDINGS AND STRUCTURES, THE
17 HEALTH FACILITY CONSTRUCTION AND INSPECTION SECTION IS
18 ENCOURAGED TO COOPERATE WITH LOCAL AUTHORITIES, ESPECIALLY IN
19 REGARD TO PLAN REVIEWS AND WHETHER SUCH PLANS COMPORT WITH
20 LOCAL REQUIREMENTS.

21 **SECTION 6.** In Colorado Revised Statutes, 24-33.5-1202,
22 **amend** (7.7); and **add** (7.9) as follows:

23 **24-33.5-1202. Definitions.** As used in this part 12, unless the
24 context otherwise requires:

25 (7.7) "Manufacturer" means any one or more of the following:

26 (a) ~~An entity that manufactures or otherwise produces cigarettes~~
27 ~~or causes cigarettes to be manufactured with the intent that such cigarettes~~

1 be sold in Colorado, regardless of where the cigarettes are manufactured
2 or produced and regardless of whether they are imported from outside the
3 United States;

4 (b) ~~The first purchaser anywhere that intends to resell, in the~~
5 ~~United States, cigarettes manufactured anywhere that the original~~
6 ~~manufacturer or producer does not intend to be sold in the United States;~~
7 or

8 (c) ~~An entity that becomes a successor to an entity described in~~
9 ~~paragraph (a) or (b) of this subsection (7.7) "HEALTH FACILITY" MEANS~~
10 ~~A GENERAL HOSPITAL, HOSPITAL UNIT AS DEFINED IN SECTION 25-3-101~~
11 ~~(2), C.R.S., PSYCHIATRIC HOSPITAL, COMMUNITY CLINIC, REHABILITATION~~
12 ~~CENTER, CONVALESCENT CENTER, COMMUNITY MENTAL HEALTH CENTER,~~
13 ~~ACUTE TREATMENT UNIT, FACILITY FOR PERSONS WITH DEVELOPMENTAL~~
14 ~~DISABILITIES, HABILITATION CENTER FOR CHILDREN WITH BRAIN DAMAGE,~~
15 ~~CHIROPRACTIC CENTER AND HOSPITAL, MATERNITY HOSPITAL, NURSING~~
16 ~~CARE FACILITY, REHABILITATIVE NURSING FACILITY, HOSPICE CARE~~
17 ~~FACILITY, DIALYSIS TREATMENT CLINIC, AMBULATORY SURGICAL CENTER,~~
18 ~~BIRTHING CENTER, HOME CARE AGENCY, ASSISTED LIVING RESIDENCE, OR~~
19 ~~OTHER FACILITY OF A LIKE NATURE; EXCEPT THAT "HEALTH FACILITY"~~
20 ~~DOES NOT INCLUDE A FACILITY AT WHICH HEALTH SERVICES ARE NOT~~
21 ~~PROVIDED TO INDIVIDUALS.~~

22 (7.9) "MANUFACTURER" MEANS ANY ONE OR MORE OF THE
23 FOLLOWING:

24 (a) AN ENTITY THAT MANUFACTURES OR OTHERWISE PRODUCES
25 CIGARETTES OR CAUSES CIGARETTES TO BE MANUFACTURED WITH THE
26 INTENT THAT SUCH CIGARETTES BE SOLD IN COLORADO, REGARDLESS OF
27 WHERE THE CIGARETTES ARE MANUFACTURED OR PRODUCED AND

1 REGARDSLESS OF WHETHER THEY ARE IMPORTED FROM OUTSIDE THE
2 UNITED STATES;

3 (b) THE FIRST PURCHASER ANYWHERE THAT INTENDS TO RESELL,
4 IN THE UNITED STATES, CIGARETTES MANUFACTURED ANYWHERE THAT
5 THE ORIGINAL MANUFACTURER OR PRODUCER DOES NOT INTEND TO BE
6 SOLD IN THE UNITED STATES; OR

7 (c) AN ENTITY THAT BECOMES A SUCCESSOR TO AN ENTITY
8 DESCRIBED IN PARAGRAPH (a) OR (b) OF THIS SUBSECTION (7.9).

9 **SECTION 7.** In Colorado Revised Statutes, 24-33.5-1203,
10 **amend** (1) (b.5); and **add** (1) (p.5) as follows:

11 **24-33.5-1203. Duties of division.** (1) The division shall perform
12 the following duties:

13 (b.5) Advise the governor and the general assembly regarding
14 implementation of the public school construction and inspection program
15 AND THE HEALTH FACILITY CONSTRUCTION AND INSPECTION PROGRAM;

16 (p.5) WHEN THERE IS NO LOCAL BUILDING DEPARTMENT OR FIRE
17 DEPARTMENT, OR WHEN NECESSARY FOR FACILITIES CERTIFIED OR SEEKING
18 CERTIFICATION BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID
19 SERVICES, CONDUCT CONSTRUCTION PLAN REVIEWS AND INSPECTIONS OF
20 HEALTH FACILITY BUILDINGS AND STRUCTURES, ENFORCE THE CODES IN
21 ACCORDANCE WITH SECTIONS 24-33.5-1212.5 AND 24-33.5-1213, AND
22 ISSUE CERTIFICATES OF COMPLIANCE FOR SUCH BUILDINGS AND
23 STRUCTURES;

24 **SECTION 8.** In Colorado Revised Statutes, 24-33.5-1204.5,
25 **amend** (1) (g); and **add** (1) (f.5) as follows:

26 **24-33.5-1204.5. Powers and duties of administrator - rules.**
27 (1) In addition to any other duties and powers granted by this section or

1 sections 24-33.5-1206.2 and 24-33.5-1206.4, the administrator has the
2 following duties and powers:

3 (f.5) TO ESTABLISH AND ADOPT RULES NECESSARY TO ADMINISTER
4 THE HEALTH FACILITY CONSTRUCTION AND INSPECTION PROGRAM FOR:

5 (I) WHERE THERE IS NO LOCAL BUILDING DEPARTMENT OR FIRE
6 DEPARTMENT, THE INSPECTION OF HEALTH FACILITY BUILDINGS AND
7 STRUCTURES AND PERFORMANCE OF PLAN REVIEWS; AND

8 (II) THE DEVELOPMENT OF A PROGRAM FOR CERTIFICATION OF
9 HEALTH FACILITY LIFE SAFETY INSPECTORS;

10 (g) To conduct hearings upon charges for discipline of a school
11 building inspector, HEALTH FACILITY LIFE SAFETY CODE INSPECTOR, OR
12 THIRD-PARTY INSPECTOR; issue subpoenas; compel attendance of
13 witnesses; compel the production of books, records, papers, and
14 documents; administer oaths to persons giving testimony at hearings; and
15 recommend prosecution of persons violating this part 12.

16 **SECTION 9.** In Colorado Revised Statutes, 24-33.5-1206,
17 **amend** (2) as follows:

18 **24-33.5-1206. Education and training programs - certification**
19 **programs - supervision and control.** (2) The public school construction
20 and inspection program, THE HEALTH FACILITY CONSTRUCTION AND
21 INSPECTION PROGRAM, and the certification ~~program~~ PROGRAMS for public
22 school and junior college building inspectors AND LIFE SAFETY CODE
23 INSPECTORS established pursuant to this part 12 ~~shall be~~ ARE under the
24 supervision and control of the director with the advice of the board of
25 appeals created in section 24-33.5-1213.7.

26 **SECTION 10.** In Colorado Revised Statutes, **add** 24-33.5-1207.8
27 as follows:

1 **24-33.5-1207.8. Health facility construction and inspection**
2 **cash fund - created.** ALL MONEYS COLLECTED BY THE DIVISION
3 PURSUANT TO SECTION 24-33.5-1212.5 SHALL BE TRANSMITTED TO THE
4 STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE HEALTH
5 FACILITY CONSTRUCTION AND INSPECTION CASH FUND, WHICH IS HEREBY
6 CREATED. ALL MONEYS CREDITED TO THE FUND AND ALL INTEREST
7 EARNED THEREON ARE SUBJECT TO ANNUAL APPROPRIATION BY THE
8 GENERAL ASSEMBLY FOR PAYING THE EXPENSES OF THE HEALTH FACILITY
9 CONSTRUCTION AND INSPECTION PROGRAM. ANY UNEXPENDED AND
10 UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A
11 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR
12 TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

13 **SECTION 11.** In Colorado Revised Statutes, **add** 24-33.5-1212.5
14 as follows:

15 **24-33.5-1212.5. Health facility fire and building codes -**
16 **third-party inspections authorized - temporary certificate of**
17 **occupancy - fees - rules - board of appeals.** (1) (a) THIS SECTION
18 APPLIES TO HEALTH FACILITY BUILDINGS OR STRUCTURES, INCLUDING THE
19 CONSTRUCTION OR SUBSTANTIAL REMODELING AND ONGOING COMPLIANCE
20 WITH THIS ARTICLE THEREOF, WHEN THERE IS NO LOCAL BUILDING
21 DEPARTMENT OR FIRE DEPARTMENT TO PERFORM SUCH FUNCTIONS. THE
22 DIVISION SHALL CONDUCT THE NECESSARY PLAN REVIEWS AND
23 INSPECTIONS AND ISSUE CERTIFICATES OF COMPLIANCE TO CERTIFY THAT
24 SUCH BUILDINGS OR STRUCTURES ARE CONSTRUCTED OR MAINTAINED IN
25 CONFORMITY WITH THE CODES ADOPTED BY THE DIRECTOR.

26 (b) ON AND AFTER JULY 1, 2013, HEALTH FACILITY BUILDINGS AND
27 STRUCTURES SHALL BE MAINTAINED IN ACCORDANCE WITH THEIR LOCAL

1 BUILDING AND FIRE CODES OR, IF NO SUCH LOCAL BUILDING AND FIRE
2 CODES EXIST, WITH THE BUILDING AND FIRE CODES ADOPTED BY THE
3 DIRECTOR PURSUANT TO SECTION 24-33.5-1203.5.

4 (c) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (1),
5 UPON REQUEST OF THE LOCAL FIRE AUTHORITY, THE DIRECTOR OF THE
6 DIVISION SHALL PROVIDE TECHNICAL ASSISTANCE IN THE REVIEW OF
7 HEALTH FACILITY PLANS AND, IF APPROPRIATE, CONDUCT INSPECTIONS ON
8 BEHALF OF THE LOCAL FIRE AUTHORITY.

9 (2) EXCEPT AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION, IN
10 THE ABSENCE OF A LOCAL BUILDING DEPARTMENT OR FIRE DEPARTMENT,
11 THE DIVISION SHALL CONDUCT THE NECESSARY PLAN REVIEWS, ISSUE
12 BUILDING PERMITS, CAUSE THE NECESSARY INSPECTIONS TO BE
13 PERFORMED, PERFORM FINAL INSPECTIONS, AND ISSUE CERTIFICATES OF
14 OCCUPANCY TO ASSURE THAT A HEALTH FACILITY BUILDING OR
15 STRUCTURE HAS BEEN CONSTRUCTED IN CONFORMITY WITH THE BUILDING
16 AND FIRE CODES ADOPTED BY THE DIRECTOR AND THAT THE HEALTH
17 FACILITY HAS COMPLIED WITH THIS SECTION.

18 (3) **Third-party inspectors.** (a) THE DIVISION MAY CONTRACT
19 WITH THIRD-PARTY INSPECTORS WHO ARE CERTIFIED IN ACCORDANCE
20 WITH SECTION 24-33.5-1213.5 TO PERFORM INSPECTIONS.

21 (b) (I) A HEALTH FACILITY MAY HIRE AND COMPENSATE
22 THIRD-PARTY INSPECTORS UNDER CONTRACT WITH THE DIVISION OR HIRE
23 AND COMPENSATE OTHER THIRD-PARTY INSPECTORS WHO ARE CERTIFIED
24 IN ACCORDANCE WITH SECTION 24-33.5-1213.5 TO PERFORM INSPECTIONS.

25 (II) IF A THIRD-PARTY INSPECTOR IS USED, THE DIVISION SHALL
26 REQUIRE A SUFFICIENT NUMBER OF THIRD-PARTY INSPECTION REPORTS TO
27 BE SUBMITTED BY THE INSPECTOR TO THE DIVISION BASED UPON THE

1 SCOPE OF THE PROJECT TO ENSURE QUALITY INSPECTIONS ARE PERFORMED.
2 EXCEPT AS SPECIFIED IN SUBSECTION (4) OF THIS SECTION, THE
3 THIRD-PARTY INSPECTOR SHALL ATTEST THAT INSPECTIONS ARE COMPLETE
4 AND ALL VIOLATIONS ARE CORRECTED BEFORE THE HEALTH FACILITY IS
5 ISSUED A CERTIFICATE OF OCCUPANCY. INSPECTION RECORDS SHALL BE
6 RETAINED BY THE THIRD-PARTY INSPECTOR FOR TWO YEARS AFTER THE
7 CERTIFICATE OF OCCUPANCY IS ISSUED. IF THE DIVISION FINDS THAT
8 INSPECTIONS ARE NOT COMPLETED SATISFACTORILY, AS DETERMINED BY
9 RULE OF THE DIVISION, OR THAT ALL VIOLATIONS ARE NOT CORRECTED,
10 THE DIVISION SHALL TAKE ENFORCEMENT ACTION AGAINST THE
11 APPROPRIATE HEALTH FACILITY PURSUANT TO SECTION 24-33.5-1213.

12 (4) **Temporary certificate of occupancy.** IF INSPECTIONS ARE
13 NOT COMPLETED AND A BUILDING OR STRUCTURE REQUIRES IMMEDIATE
14 OCCUPANCY, AND IF THE HEALTH FACILITY HAS PASSED THE APPROPRIATE
15 INSPECTIONS THAT INDICATE THERE ARE NO LIFE SAFETY ISSUES, THE
16 DIVISION MAY ISSUE A TEMPORARY CERTIFICATE OF OCCUPANCY. THE
17 TEMPORARY CERTIFICATE OF OCCUPANCY EXPIRES NINETY DAYS AFTER
18 THE DATE OF OCCUPANCY. IF NO RENEWAL OF THE TEMPORARY
19 CERTIFICATE OF OCCUPANCY IS ISSUED OR A PERMANENT CERTIFICATE OF
20 OCCUPANCY IS NOT ISSUED, THE BUILDING OR STRUCTURE SHALL BE
21 VACATED UPON EXPIRATION OF THE TEMPORARY CERTIFICATE. THE
22 DIVISION SHALL ENFORCE THIS SUBSECTION (4) PURSUANT TO SECTION
23 24-33.5-1213.

24 (5) **Division fees.** IF THE DIVISION CONDUCTS THE NECESSARY
25 PLAN REVIEWS AND PERFORMS THE NECESSARY INSPECTIONS TO
26 DETERMINE THAT A BUILDING OR STRUCTURE HAS BEEN CONSTRUCTED IN
27 CONFORMITY WITH THE BUILDING AND FIRE CODES ADOPTED BY THE

1 DIRECTOR, THE DIVISION SHALL CHARGE FEES AS ESTABLISHED BY THE
2 DIRECTOR BY RULE, BASED ON THE DIRECT AND INDIRECT COST OF
3 PROVIDING THE SERVICE. THE FEES SHALL COVER THE ACTUAL,
4 REASONABLE, AND NECESSARY EXPENSES OF THE DIVISION. THE DIRECTOR,
5 BY RULE OR AS OTHERWISE PROVIDED BY LAW, MAY INCREASE OR REDUCE
6 THE AMOUNT OF THE FEES AS NECESSARY TO COVER THE ACTUAL,
7 REASONABLE, AND NECESSARY COSTS OF THE DIVISION. ANY FEES
8 COLLECTED BY THE DIVISION PURSUANT TO THIS SUBSECTION (5) SHALL BE
9 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
10 TO THE HEALTH FACILITY CONSTRUCTION AND INSPECTION CASH FUND
11 CREATED IN SECTION 24-33.5-1207.8.

12 (6) **Rules.** RULES PROMULGATED PURSUANT TO THIS SECTION
13 SHALL BE ADOPTED IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE.

14 (7) **Board of appeals.** (a) (I) THERE IS HEREBY CREATED IN THE
15 DIVISION THE HEALTH FACILITY CONSTRUCTION AND INSPECTION PROGRAM
16 BOARD OF APPEALS, REFERRED TO IN THIS SECTION AS THE "BOARD OF
17 APPEALS". THE BOARD OF APPEALS CONSISTS OF SEVEN MEMBERS
18 APPOINTED BY THE EXECUTIVE DIRECTOR AND ONE EX OFFICIO NONVOTING
19 MEMBER APPOINTED IN ACCORDANCE WITH SUB-SUBPARAGRAPH (C) OF
20 SUBPARAGRAPH (II) OF THIS PARAGRAPH (a).

21 (II) THE MEMBERS OF THE BOARD OF APPEALS SHALL BE PERSONS
22 WHO ARE QUALIFIED BY EXPERIENCE AND TRAINING TO PASS UPON
23 MATTERS PERTAINING TO HEALTH FACILITY BUILDING CONSTRUCTION,
24 INCLUDING ONE MEMBER WITH EXPERIENCE AND KNOWLEDGE OF THE LIFE
25 SAFETY CODE, AND SHALL INCLUDE:

26 (A) THE FOUR MEMBERS OF THE BOARD OF APPEALS CREATED IN
27 SECTION 24-33.5-1213.7 WHO REPRESENT THE COLORADO CHAPTER OF

1 THE INTERNATIONAL CODE COUNCIL, THE FIRE MARSHAL'S ASSOCIATION OF
2 COLORADO, THE COLORADO STATE FIRE CHIEFS' ASSOCIATION, AND
3 COLORADO COUNTIES, INCORPORATED, OR ANY MEMBER APPOINTED FROM
4 A SUCCESSOR TO ANY OF THESE ORGANIZATIONS REPRESENTING
5 COMPARABLE INTERESTS;

6 (B) ONE REPRESENTATIVE FROM EACH OF THE FOLLOWING
7 ORGANIZATIONS OR A SUCCESSOR TO ANY OF SUCH ORGANIZATIONS
8 REPRESENTING COMPARABLE INTERESTS: THE COLORADO ASSOCIATION OF
9 HEALTHCARE ENGINEERS AND DIRECTORS; THE AMERICAN SOCIETY FOR
10 HEALTHCARE ENGINEERING; AND THE COLORADO CHAPTER OF THE
11 AMERICAN INSTITUTE OF ARCHITECTS; AND

12 (C) ONE EX OFFICIO NONVOTING MEMBER, APPOINTED BY THE
13 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND
14 ENVIRONMENT, WHO IS EMPLOYED BY THAT DEPARTMENT AS A HEALTH
15 SURVEYOR.

16 (III) THE MEMBERS OF THE BOARD OF APPEALS SERVE AT THE
17 PLEASURE OF THE EXECUTIVE DIRECTOR.

18 (IV) FOR THE INITIAL APPOINTMENTS TO THE BOARD OF APPEALS:

19 (A) THE MEMBERS SERVING PURSUANT TO SUB-SUBPARAGRAPH
20 (A) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) SERVE TERMS
21 COEXTENSIVE WITH THE TERMS TO WHICH THEY WERE APPOINTED UNDER
22 SECTION 24-33.5-1213.7; AND

23 (B) FOR THE MEMBERS APPOINTED PURSUANT TO
24 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (a),
25 THE EXECUTIVE DIRECTOR SHALL APPOINT ONE MEMBER FOR A ONE-YEAR
26 TERM, ONE MEMBER FOR A TWO-YEAR TERM, AND ONE MEMBER FOR A
27 THREE-YEAR TERM. EACH TERM FOR THE MEMBER APPOINTED PURSUANT

1 TO SUB-SUBPARAGRAPH (C) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH
2 (a) IS TWO YEARS. ALL SUBSEQUENT APPOINTMENTS ARE FOR THREE-YEAR
3 TERMS; EXCEPT THAT AN APPOINTMENT TO FILL A VACANCY ON THE
4 BOARD SHALL BE FOR THE REMAINDER OF THE PREDECESSOR'S TERM.

5 (V) THE MEMBERS OF THE BOARD OF APPEALS SHALL NOT BE
6 COMPENSATED FOR THEIR SERVICE ON THE BOARD AND SHALL NOT BE
7 REIMBURSED FOR EXPENSES.

8 (b) THE BOARD OF APPEALS SHALL SELECT A CHAIR FROM AMONG
9 ITS MEMBERS AND SHALL ADOPT REASONABLE PROCEDURES FOR
10 CONDUCTING ITS DELIBERATIONS.

11 (c) (I) A HEALTH FACILITY REPRESENTATIVE MAY APPEAL TO THE
12 BOARD OF APPEALS A FINAL WRITTEN DECISION OF A DIVISION INSPECTOR
13 OR THIRD-PARTY INSPECTOR THAT CONDUCTS A PLAN REVIEW OR
14 INSPECTION PURSUANT TO THIS SECTION. THE APPEAL SHALL BE FILED
15 WITH THE DIVISION WITHIN THIRTY DAYS AFTER THE DATE OF THE
16 DECISION. THE DIVISION SHALL SPECIFY THE FORM ON WHICH AN APPEAL
17 SHALL BE MADE AND SHALL PROVIDE THE FORM TO A HEALTH FACILITY
18 REPRESENTATIVE UPON REQUEST.

19 (II) UPON RECEIPT OF AN APPEAL, THE DIVISION SHALL NOTIFY THE
20 CHAIR OF THE BOARD OF APPEALS AND SCHEDULE A HEARING NO MORE
21 THAN FIFTEEN DAYS AFTER THE DATE ON WHICH THE APPEAL WAS FILED.

22 (III) THE BOARD OF APPEALS MAY REVIEW A FINAL WRITTEN
23 DECISION BY AN INSPECTING ENTITY THAT IS BASED ON THE CODES OR
24 STANDARDS ADOPTED BY THE DIRECTOR. THE BOARD OF APPEALS SHALL
25 NOT WAIVE ANY REQUIREMENT OF THE CODES OR STANDARDS. THE BOARD
26 OF APPEALS MAY RECOMMEND ALTERNATIVE MATERIALS AS PROVIDED IN
27 THE CODES OR STANDARDS. THE FINAL WRITTEN DECISION OF THE BOARD

1 IS FINAL AGENCY ACTION FOR PURPOSES OF SECTION 24-4-106.

2 (d) IN ADDITION TO HEARING APPEALS AS PROVIDED IN THIS
3 SECTION, THE BOARD OF APPEALS SHALL ADVISE THE DIRECTOR IN
4 PROMULGATING RULES AND ENACTING STANDARDS FOR THE HEALTH
5 FACILITY CONSTRUCTION AND INSPECTION PROGRAM.

6 **SECTION 12.** In Colorado Revised Statutes, 24-33.5-1213,
7 **amend** (1), (2) (a), and (4) (b) as follows:

8 **24-33.5-1213. Fire and building code - violations - enforcement**
9 **- inspections.** (1) The director shall enforce ~~the provisions of sections~~
10 ~~22-32-124 (2), and 23-71-122 (1) (v), C.R.S., and sections~~
11 ~~24-33.5-1212.5, 24-33.5-1213.3, and 24-33.5-1213.5, C.R.S., by~~
12 ~~appropriate actions in courts of competent jurisdiction.~~

13 (2) (a) The director may issue a notice of violation to a person
14 who is believed to have violated the codes as determined by an inspection
15 pursuant to section 22-32-124 (2), ~~or 23-71-122 (1) (v), C.R.S., or section~~
16 ~~24-33.5-1212.5, OR 24-33.5-1213.3, C.R.S.~~ The notice shall be delivered
17 to the alleged violator by certified mail, return receipt requested, or by
18 any means that verifies receipt as reliably as certified mail, return receipt
19 requested.

20 (4) (b) A civil penalty collected pursuant to this subsection (4)
21 shall be deposited in the public school construction and inspection cash
22 fund created in section 24-33.5-1207.7 OR THE HEALTH FACILITY
23 CONSTRUCTION AND INSPECTION CASH FUND CREATED IN SECTION
24 24-33.5-1207.8, AS APPROPRIATE.

25 **SECTION 13.** In Colorado Revised Statutes, 24-33.5-1213.7,
26 **add** (6) as follows:

27 **24-33.5-1213.7. Board of appeals. (6) THIS SECTION ONLY**

1 APPLIES TO MATTERS RELATED TO SCHOOL REVIEWS AND INSPECTIONS.

2 **SECTION 14.** In Colorado Revised Statutes, 24-75-402, **amend**
3 (5) (y) as follows:

4 **24-75-402. Cash funds - limit on uncommitted reserves -**
5 **reduction in amount of fees - exclusions.** (5) Notwithstanding any
6 provision of this section to the contrary, the following cash funds are
7 excluded from the limitations specified in this section:

8 (y) The public school construction and inspection cash fund
9 created in section 24-33.5-1207.7 AND THE HEALTH FACILITY
10 CONSTRUCTION AND INSPECTION CASH FUND CREATED IN SECTION
11 24-33.5-1207.8;

12

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13 **SECTION 15. Effective date.** (1) Except as otherwise provided
14 in subsection (2) of this section, this act takes effect July 1, 2013, only if
15 the division of fire safety in the department of public safety notifies the
16 revisor of statutes in writing, by June 30, 2013, that the secretary of the
17 United States department of health and human services has granted a
18 modification to the agreement entered into between said secretary and the
19 state of Colorado pursuant to section 1864 of the federal "Social Security
20 Act", 42 U.S.C. sec. 1395aa, which modification allows said division to
21 fulfill the duties under that law associated with the assessment of
22 compliance with the federal fire safety code requirements for health
23 facilities.

24 (2) Section 24-33.5-1201 (4) (e), Colorado Revised Statutes, as
25 enacted in section 5 of this act, takes effect upon passage.

26 **SECTION 16. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.