

HOUSE COMMITTEE OF REFERENCE REPORT

\_\_\_\_\_  
Chairman of Committee

February 23, 2012  
Date

Committee on Health and Environment.

After consideration on the merits, the Committee recommends the following:

HB12-1268 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 25-1.5-103, **add** (5)  
4 as follows:

5 **25-1.5-103. Health facilities - powers and duties of department**  
6 **- limitations on rules promulgated by department.** (5) (a) THIS  
7 SUBSECTION (5) APPLIES TO CONSTRUCTION, INCLUDING SUBSTANTIAL  
8 RENOVATION, OF A HEALTH CARE FACILITY BUILDING OR STRUCTURE ON  
9 OR AFTER JULY 1, 2012. ALL HEALTH FACILITY BUILDINGS AND  
10 STRUCTURES SHALL BE CONSTRUCTED IN CONFORMITY WITH THE  
11 STANDARDS ADOPTED BY THE DIRECTOR OF THE DIVISION OF FIRE SAFETY  
12 IN THE OFFICE OF PREPAREDNESS, SECURITY, AND FIRE SAFETY WITHIN THE  
13 DEPARTMENT OF PUBLIC SAFETY.

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

22 (c) HOME CARE AGENCIES, ASSISTED LIVING RESIDENCES, AND  
23 OTHER FACILITIES OF A LIKE NATURE THAT DO NOT MAINTAIN BUILDINGS

1 OR STRUCTURES AT WHICH HEALTH CARE SERVICES ARE PROVIDED ARE  
2 NOT REQUIRED TO OBTAIN A CERTIFICATE OF COMPLIANCE IN ACCORDANCE  
3 WITH PARAGRAPH (b) OF THIS SUBSECTION (5) AS A CONDITION OF  
4 LICENSURE BY THE DEPARTMENT.

5 (d) THE DEPARTMENT HAS NO AUTHORITY TO ESTABLISH OR  
6 ENFORCE STANDARDS RELATING TO BUILDING OR FIRE CODES. ALL  
7 FUNCTIONS, PERSONNEL, AND PROPERTY OF THE DEPARTMENT AS OF JUNE  
8 30, 2012, THAT ARE PRINCIPALLY DIRECTED TO THE ADMINISTRATION,  
9 INSPECTION, AND ENFORCEMENT OF ANY BUILDING OR FIRE CODES OR  
10 STANDARDS SHALL BE TRANSFERRED TO THE HEALTH FACILITY  
11 CONSTRUCTION AND INSPECTION SECTION OF THE DIVISION OF FIRE SAFETY  
12 PURSUANT TO SECTION 24-33.5-1201 (4), C.R.S.

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

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

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

40 (b) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT  
41 SHALL TAKE ACTION ON AN APPLICATION FOR LICENSURE WITHIN THIRTY

1 DAYS AFTER THE DATE IT RECEIVES THE CERTIFICATE OF COMPLIANCE  
2 FROM THE DIVISION OF FIRE SAFETY.

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

5 **25-3-105. License - fee - rules - penalty.** (4) ON JUNE 30, 2012,  
6 ANY MONEYS REMAINING IN THE HEALTH FACILITIES GENERAL LICENSURE  
7 CASH FUND CREATED IN SECTION 25-3-103.1 (1) FROM FEES COLLECTED BY  
8 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR HEALTH  
9 FACILITY BUILDING AND STRUCTURE CODE PLAN REVIEWS AND  
10 INSPECTIONS ARE TRANSFERRED TO THE HEALTH FACILITY CONSTRUCTION  
11 AND INSPECTION CASH FUND CREATED IN SECTION 24-33.5-1207.8, C.R.S.

12 **SECTION 4.** In Colorado Revised Statutes, 24-33.5-1201, **add**  
13 (4) as follows:

14 **24-33.5-1201. Division of fire safety - creation - public school**  
15 **construction and inspection section - health facility construction and**  
16 **inspection section.** (4) (a) THERE IS HEREBY CREATED WITHIN THE  
17 DIVISION THE HEALTH FACILITY CONSTRUCTION AND INSPECTION SECTION  
18 TO IMPLEMENT SECTION 24-33.5-1212.5 AND TO ADMINISTER AND  
19 ENFORCE THE CODES IN ACCORDANCE WITH SECTIONS 24-33.5-1212.5 AND  
20 24-33.5-1213. THE HEALTH FACILITY CONSTRUCTION AND INSPECTION  
21 SECTION SHALL PERFORM ITS DUTIES AND FUNCTIONS UNDER THE DIVISION  
22 AND THE EXECUTIVE DIRECTOR AS IF THE SAME WERE TRANSFERRED TO  
23 THE DEPARTMENT BY A **TYPE 2** TRANSFER, AS SUCH TRANSFER IS DEFINED  
24 IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF  
25 THIS TITLE.

26 (b) ON AND AFTER JULY 1, 2012, ALL POSITIONS OF EMPLOYMENT  
27 IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR WHICH  
28 PRINCIPAL DUTIES ARE CONCERNED WITH LIFE SAFETY INSPECTION AND  
29 THAT ARE DETERMINED BY THE DIRECTOR TO BE NECESSARY TO CARRY  
30 OUT THE PURPOSES OF THE HEALTH FACILITY CONSTRUCTION AND  
31 INSPECTION SECTION ARE TRANSFERRED TO THE DIVISION AND ARE  
32 EMPLOYMENT POSITIONS THEREIN. THE EXECUTIVE DIRECTOR SHALL  
33 APPOINT SUCH EMPLOYEES AS ARE NECESSARY TO CARRY OUT THE DUTIES  
34 AND EXERCISE THE POWERS SPECIFIED IN THIS PART 12. THE EXECUTIVE  
35 DIRECTOR MAY DELEGATE APPOINTING AUTHORITY AS APPROPRIATE.

36 (c) ON AND AFTER JULY 1, 2012, ALL EMPLOYEES OF THE  
37 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT CARRYING OUT THE  
38 DUTIES PRINCIPALLY RELATING TO LIFE SAFETY CODE COMPLIANCE ARE  
39 EMPLOYEES OF THE HEALTH FACILITY CONSTRUCTION AND INSPECTION  
40 SECTION IN THE DIVISION. THE EMPLOYEES RETAIN ALL RIGHTS UNDER THE  
41 STATE PERSONNEL SYSTEM AND TO RETIREMENT BENEFITS PURSUANT TO

1 THE LAWS OF THIS STATE, AND THEIR SERVICES ARE DEEMED TO HAVE  
2 BEEN CONTINUOUS.

3 (d) ON JULY 1, 2012, ALL ITEMS OF PROPERTY, REAL AND  
4 PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS,  
5 DOCUMENTS, AND RECORDS OF THE DEPARTMENT OF PUBLIC HEALTH AND  
6 ENVIRONMENT USED IN CARRYING OUT THE DUTIES PRINCIPALLY RELATING  
7 TO LIFE SAFETY CODE COMPLIANCE ARE TRANSFERRED TO THE HEALTH  
8 FACILITY CONSTRUCTION AND INSPECTION SECTION IN THE DIVISION AND  
9 BECOME THE PROPERTY OF THAT SECTION.

10 (e) WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS  
11 PARAGRAPH (e), THE DIVISION SHALL WORK WITH THE GOVERNOR TO SEEK  
12 FROM THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH  
13 AND HUMAN SERVICES A MODIFICATION TO THE AGREEMENT ENTERED  
14 INTO BETWEEN THE SECRETARY AND THE STATE OF COLORADO PURSUANT  
15 TO SECTION 1864 OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C.  
16 SEC. 1395aa, THAT ALLOWS THE DIVISION TO FULFILL THE DUTIES UNDER  
17 THAT LAW ASSOCIATED WITH THE ASSESSMENT OF COMPLIANCE WITH THE  
18 FEDERAL FIRE SAFETY CODE REQUIREMENTS FOR HEALTH FACILITIES.

19 **SECTION 5.** In Colorado Revised Statutes, 24-33.5-1202,  
20 **amend** (7.7); and **add** (7.9) as follows:

21 **24-33.5-1202. Definitions.** As used in this part 12, unless the  
22 context otherwise requires:

23 (7.7) ~~"Manufacturer" means any one or more of the following:~~

24 ~~(a) An entity that manufactures or otherwise produces cigarettes~~  
25 ~~or causes cigarettes to be manufactured with the intent that such cigarettes~~  
26 ~~be sold in Colorado, regardless of where the cigarettes are manufactured~~  
27 ~~or produced and regardless of whether they are imported from outside the~~  
28 ~~United States;~~

29 ~~(b) The first purchaser anywhere that intends to resell, in the~~  
30 ~~United States, cigarettes manufactured anywhere that the original~~  
31 ~~manufacturer or producer does not intend to be sold in the United States;~~  
32 ~~or~~

33 ~~(c) An entity that becomes a successor to an entity described in~~  
34 ~~paragraph (a) or (b) of this subsection (7.7) "HEALTH FACILITY" MEANS~~  
35 ~~A GENERAL HOSPITAL, HOSPITAL UNIT AS DEFINED IN SECTION 25-3-101~~  
36 ~~(2), C.R.S., PSYCHIATRIC HOSPITAL, COMMUNITY CLINIC, REHABILITATION~~  
37 ~~CENTER, CONVALESCENT CENTER, COMMUNITY MENTAL HEALTH CENTER,~~  
38 ~~ACUTE TREATMENT UNIT, FACILITY FOR PERSONS WITH DEVELOPMENTAL~~  
39 ~~DISABILITIES, HABILITATION CENTER FOR CHILDREN WITH BRAIN DAMAGE,~~  
40 ~~CHIROPRACTIC CENTER AND HOSPITAL, MATERNITY HOSPITAL, NURSING~~  
41 ~~CARE FACILITY, REHABILITATIVE NURSING FACILITY, HOSPICE CARE~~

1 FACILITY, DIALYSIS TREATMENT CLINIC, AMBULATORY SURGICAL CENTER,  
2 BIRTHING CENTER, OR OTHER FACILITY OF A LIKE NATURE; EXCEPT THAT  
3 "HEALTH FACILITY" DOES NOT INCLUDE A FACILITY AT WHICH HEALTH  
4 SERVICES ARE NOT PROVIDED TO INDIVIDUALS.

5 (7.9) "MANUFACTURER" MEANS ANY ONE OR MORE OF THE  
6 FOLLOWING:

7 (a) AN ENTITY THAT MANUFACTURES OR OTHERWISE PRODUCES  
8 CIGARETTES OR CAUSES CIGARETTES TO BE MANUFACTURED WITH THE  
9 INTENT THAT SUCH CIGARETTES BE SOLD IN COLORADO, REGARDLESS OF  
10 WHERE THE CIGARETTES ARE MANUFACTURED OR PRODUCED AND  
11 REGARDLESS OF WHETHER THEY ARE IMPORTED FROM OUTSIDE THE  
12 UNITED STATES;

13 (b) THE FIRST PURCHASER ANYWHERE THAT INTENDS TO RESELL,  
14 IN THE UNITED STATES, CIGARETTES MANUFACTURED ANYWHERE THAT  
15 THE ORIGINAL MANUFACTURER OR PRODUCER DOES NOT INTEND TO BE  
16 SOLD IN THE UNITED STATES; OR

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

19 **SECTION 6.** In Colorado Revised Statutes, 24-33.5-1203,  
20 **amend** (1) (b.5); and **add** (1) (p.5) as follows:

21 **24-33.5-1203. Duties of division.** (1) The division shall perform  
22 the following duties:

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

26 (p.5) CONDUCT, WHEN THERE IS NO LOCAL BUILDING DEPARTMENT  
27 OR FIRE DEPARTMENT, CONSTRUCTION PLAN REVIEWS AND INSPECTIONS OF  
28 HEALTH FACILITY BUILDINGS AND STRUCTURES AND ENFORCE THE CODES  
29 IN ACCORDANCE WITH SECTIONS 24-33.5-1212.5 AND 24-33.5-1213;

30 **SECTION 7.** In Colorado Revised Statutes, 24-33.5-1204.5,  
31 **amend** (1) (g); and **add** (1) (f.5) as follows:

32 **24-33.5-1204.5. Powers and duties of administrator - rules.**

33 (1) In addition to any other duties and powers granted by this section or  
34 sections 24-33.5-1206.2 and 24-33.5-1206.4, the administrator has the  
35 following duties and powers:

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

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

41 (II) THE DEVELOPMENT OF A PROGRAM FOR CERTIFICATION OF

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

8 **SECTION 8.** In Colorado Revised Statutes, 24-33.5-1206,  
9 **amend** (2) as follows:

10 **24-33.5-1206. Education and training programs - certification**  
11 **programs - supervision and control.** (2) The public school construction  
12 and inspection program, THE HEALTH FACILITY CONSTRUCTION AND  
13 INSPECTION PROGRAM, and the certification ~~program~~ PROGRAMS for public  
14 school and junior college building inspectors AND LIFE SAFETY CODE  
15 INSPECTORS established pursuant to this part 12 ~~shall be~~ ARE under the  
16 supervision and control of the director with the advice of the board of  
17 appeals created in section 24-33.5-1213.7.

18 **SECTION 9.** In Colorado Revised Statutes, **add** 24-33.5-1207.8  
19 as follows:

20 **24-33.5-1207.8. Health facility construction and inspection**  
21 **cash fund - created.** ALL MONEYS COLLECTED BY THE DIVISION  
22 PURSUANT TO SECTION 24-33.5-1212.5 SHALL BE TRANSMITTED TO THE  
23 STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE HEALTH  
24 FACILITY CONSTRUCTION AND INSPECTION CASH FUND, WHICH IS HEREBY  
25 CREATED. ALL MONEYS CREDITED TO THE FUND AND ALL INTEREST  
26 EARNED THEREON ARE SUBJECT TO ANNUAL APPROPRIATION BY THE  
27 GENERAL ASSEMBLY FOR PAYING THE EXPENSES OF THE HEALTH FACILITY  
28 CONSTRUCTION AND INSPECTION PROGRAM. ANY UNEXPENDED AND  
29 UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A  
30 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR  
31 TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

32 **SECTION 10.** In Colorado Revised Statutes, **add** 24-33.5-1212.5  
33 as follows:

34 **24-33.5-1212.5. Health facility fire and building codes -**  
35 **third-party inspections authorized - temporary certificate of**  
36 **occupancy - fees - rules - board of appeals.** (1) (a) THIS SECTION  
37 APPLIES TO HEALTH FACILITY BUILDINGS OR STRUCTURES, INCLUDING THE  
38 CONSTRUCTION OR SUBSTANTIAL REMODELING THEREOF, WHEN THERE IS  
39 NO LOCAL BUILDING DEPARTMENT OR FIRE DEPARTMENT TO PERFORM  
40 SUCH FUNCTIONS.

41 (b) ON AND AFTER JULY 1, 2012, HEALTH FACILITY BUILDINGS AND

1 STRUCTURES SHALL BE MAINTAINED IN ACCORDANCE WITH THEIR LOCAL  
2 BUILDING AND FIRE CODES OR, IF NO SUCH LOCAL BUILDING AND FIRE  
3 CODES EXIST, WITH THE BUILDING AND FIRE CODES ADOPTED BY THE  
4 DIRECTOR PURSUANT TO SECTION 24-33.5-1203.5.

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

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

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

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

26 (II) IF A THIRD-PARTY INSPECTOR IS USED, THE DIVISION SHALL  
27 REQUIRE A SUFFICIENT NUMBER OF THIRD-PARTY INSPECTION REPORTS TO  
28 BE SUBMITTED BY THE INSPECTOR TO THE DIVISION BASED UPON THE  
29 SCOPE OF THE PROJECT TO ENSURE QUALITY INSPECTIONS ARE PERFORMED.  
30 EXCEPT AS SPECIFIED IN SUBSECTION (4) OF THIS SECTION, THE  
31 THIRD-PARTY INSPECTOR SHALL ATTEST THAT INSPECTIONS ARE COMPLETE  
32 AND ALL VIOLATIONS ARE CORRECTED BEFORE THE HEALTH FACILITY IS  
33 ISSUED A CERTIFICATE OF OCCUPANCY. INSPECTION RECORDS SHALL BE  
34 RETAINED BY THE THIRD-PARTY INSPECTOR FOR TWO YEARS AFTER THE  
35 CERTIFICATE OF OCCUPANCY IS ISSUED. IF THE DIVISION FINDS THAT  
36 INSPECTIONS ARE NOT COMPLETED SATISFACTORILY, AS DETERMINED BY  
37 RULE OF THE DIVISION, OR THAT ALL VIOLATIONS ARE NOT CORRECTED,  
38 THE DIVISION SHALL TAKE ENFORCEMENT ACTION AGAINST THE  
39 APPROPRIATE HEALTH FACILITY PURSUANT TO SECTION 24-33.5-1213.

40 (4) **Temporary certificate of occupancy.** IF INSPECTIONS ARE  
41 NOT COMPLETED AND A BUILDING OR STRUCTURE REQUIRES IMMEDIATE

1 OCCUPANCY, AND IF THE HEALTH FACILITY HAS PASSED THE APPROPRIATE  
2 INSPECTIONS THAT INDICATE THERE ARE NO LIFE SAFETY ISSUES, THE  
3 DIVISION MAY ISSUE A TEMPORARY CERTIFICATE OF OCCUPANCY. THE  
4 TEMPORARY CERTIFICATE OF OCCUPANCY EXPIRES NINETY DAYS AFTER  
5 THE DATE OF OCCUPANCY. IF NO RENEWAL OF THE TEMPORARY  
6 CERTIFICATE OF OCCUPANCY IS ISSUED OR A PERMANENT CERTIFICATE OF  
7 OCCUPANCY IS NOT ISSUED, THE BUILDING OR STRUCTURE SHALL BE  
8 VACATED UPON EXPIRATION OF THE TEMPORARY CERTIFICATE. THE  
9 DIVISION SHALL ENFORCE THIS SUBSECTION (4) PURSUANT TO SECTION  
10 24-33.5-1213.

11 (5) **Division fees.** IF THE DIVISION CONDUCTS THE NECESSARY  
12 PLAN REVIEWS AND PERFORMS THE NECESSARY INSPECTIONS TO  
13 DETERMINE THAT A BUILDING OR STRUCTURE HAS BEEN CONSTRUCTED IN  
14 CONFORMITY WITH THE BUILDING AND FIRE CODES ADOPTED BY THE  
15 DIRECTOR, THE DIVISION SHALL CHARGE FEES AS ESTABLISHED BY THE  
16 DIRECTOR BY RULE, BASED ON THE DIRECT COST OF PROVIDING THE  
17 SERVICE. THE FEES SHALL COVER THE ACTUAL, REASONABLE, AND  
18 NECESSARY EXPENSES OF THE DIVISION. THE DIRECTOR, BY RULE OR AS  
19 OTHERWISE PROVIDED BY LAW, MAY INCREASE OR REDUCE THE AMOUNT  
20 OF THE FEES AS NECESSARY TO COVER THE ACTUAL, REASONABLE, AND  
21 NECESSARY COSTS OF THE DIVISION. ANY FEES COLLECTED BY THE  
22 DIVISION PURSUANT TO THIS SUBSECTION (5) SHALL BE TRANSMITTED TO  
23 THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE HEALTH  
24 FACILITY CONSTRUCTION AND INSPECTION CASH FUND CREATED IN  
25 SECTION 24-33.5-1207.8.

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

28 (7) **Board of appeals.** (a) (I) THERE IS HEREBY CREATED IN THE  
29 DIVISION THE HEALTH FACILITY CONSTRUCTION AND INSPECTION PROGRAM  
30 BOARD OF APPEALS, REFERRED TO IN THIS SECTION AS THE "BOARD OF  
31 APPEALS". THE BOARD OF APPEALS CONSISTS OF SEVEN MEMBERS  
32 APPOINTED BY THE EXECUTIVE DIRECTOR.

33 (II) THE MEMBERS OF THE BOARD OF APPEALS SHALL BE PERSONS  
34 WHO ARE QUALIFIED BY EXPERIENCE AND TRAINING TO PASS UPON  
35 MATTERS PERTAINING TO HEALTH FACILITY BUILDING CONSTRUCTION AND  
36 SHALL INCLUDE:

37 (A) THE FOUR MEMBERS OF THE BOARD OF APPEALS CREATED IN  
38 SECTION 24-33.5-1213.7 WHO REPRESENT THE COLORADO CHAPTER OF  
39 THE INTERNATIONAL CODE COUNCIL, THE FIRE MARSHAL'S ASSOCIATION OF  
40 COLORADO, THE COLORADO STATE FIRE CHIEFS' ASSOCIATION, AND  
41 COLORADO COUNTIES, INCORPORATED, OR ANY MEMBER APPOINTED FROM



1 A SUCCESSOR TO ANY OF THESE ORGANIZATIONS REPRESENTING  
2 COMPARABLE INTERESTS; AND

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

9 (III) THE MEMBERS OF THE BOARD OF APPEALS SERVE AT THE  
10 PLEASURE OF THE EXECUTIVE DIRECTOR.

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

12 (A) THE MEMBERS SERVING PURSUANT TO SUB-SUBPARAGRAPH  
13 (A) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) SERVE TERMS  
14 COEXTENSIVE WITH THE TERMS TO WHICH THEY WERE APPOINTED UNDER  
15 SECTION 24-33.5-1213.7; AND

16 (B) FOR THE MEMBERS APPOINTED PURSUANT TO  
17 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (a),  
18 THE EXECUTIVE DIRECTOR SHALL APPOINT ONE MEMBER FOR A ONE-YEAR  
19 TERM, ONE MEMBER FOR A TWO-YEAR TERM, AND ONE MEMBER FOR A  
20 THREE-YEAR TERM. ALL SUBSEQUENT APPOINTMENTS ARE FOR  
21 THREE-YEAR TERMS; EXCEPT THAT AN APPOINTMENT TO FILL A VACANCY  
22 ON THE BOARD SHALL BE FOR THE REMAINDER OF THE PREDECESSOR'S  
23 TERM.

24 (V) THE MEMBERS OF THE BOARD OF APPEALS SHALL NOT BE  
25 COMPENSATED FOR THEIR SERVICE ON THE BOARD AND SHALL NOT BE  
26 REIMBURSED FOR EXPENSES.

27 (b) THE BOARD OF APPEALS SHALL SELECT A CHAIR FROM AMONG  
28 ITS MEMBERS AND SHALL ADOPT REASONABLE PROCEDURES FOR  
29 CONDUCTING ITS DELIBERATIONS.

30 (c) (I) A HEALTH FACILITY REPRESENTATIVE MAY APPEAL TO THE  
31 BOARD OF APPEALS A FINAL WRITTEN DECISION OF A DIVISION INSPECTOR  
32 OR THIRD-PARTY INSPECTOR THAT CONDUCTS A PLAN REVIEW OR  
33 INSPECTION PURSUANT TO THIS SECTION. THE APPEAL SHALL BE FILED  
34 WITH THE DIVISION WITHIN THIRTY DAYS AFTER THE DATE OF THE  
35 DECISION. THE DIVISION SHALL SPECIFY THE FORM ON WHICH AN APPEAL  
36 SHALL BE MADE AND SHALL PROVIDE THE FORM TO A HEALTH FACILITY  
37 REPRESENTATIVE UPON REQUEST.

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

41 (III) THE BOARD OF APPEALS MAY REVIEW A FINAL WRITTEN

1 DECISION BY AN INSPECTING ENTITY THAT IS BASED ON THE CODES OR  
2 STANDARDS ADOPTED BY THE DIRECTOR. THE BOARD OF APPEALS SHALL  
3 NOT WAIVE ANY REQUIREMENT OF THE CODES OR STANDARDS. THE BOARD  
4 OF APPEALS MAY RECOMMEND ALTERNATIVE MATERIALS AS PROVIDED IN  
5 THE CODES OR STANDARDS. THE FINAL WRITTEN DECISION OF THE BOARD  
6 IS FINAL AGENCY ACTION FOR PURPOSES OF SECTION 24-4-106.

7 (d) IN ADDITION TO HEARING APPEALS AS PROVIDED IN THIS  
8 SECTION, THE BOARD OF APPEALS SHALL ADVISE THE DIRECTOR IN  
9 PROMULGATING RULES AND ENACTING STANDARDS FOR THE HEALTH  
10 FACILITY CONSTRUCTION AND INSPECTION PROGRAM.

11 **SECTION 11.** In Colorado Revised Statutes, 24-33.5-1213,  
12 **amend** (1), (2) (a), and (4) (b) as follows:

13 **24-33.5-1213. Fire and building code - violations - enforcement**  
14 **- inspections.** (1) The director shall enforce ~~the provisions of sections~~  
15 ~~22-32-124 (2), and 23-71-122 (1) (v), C.R.S., and sections~~  
16 ~~24-33.5-1212.5, 24-33.5-1213.3, and 24-33.5-1213.5, C.R.S., by~~  
17 appropriate actions in courts of competent jurisdiction.

18 (2) (a) The director may issue a notice of violation to a person  
19 who is believed to have violated the codes as determined by an inspection  
20 pursuant to section 22-32-124 (2), ~~or 23-71-122 (1) (v), C.R.S., or section~~  
21 ~~24-33.5-1212.5, OR 24-33.5-1213.3, C.R.S.~~ The notice shall be delivered  
22 to the alleged violator by certified mail, return receipt requested, or by  
23 any means that verifies receipt as reliably as certified mail, return receipt  
24 requested.

25 (4) (b) A civil penalty collected pursuant to this subsection (4)  
26 shall be deposited in the public school construction and inspection cash  
27 fund created in section 24-33.5-1207.7 OR THE HEALTH FACILITY  
28 CONSTRUCTION AND INSPECTION CASH FUND CREATED IN SECTION  
29 24-33.5-1207.8, AS APPROPRIATE.

30 **SECTION 12.** In Colorado Revised Statutes, 24-33.5-1213.7,  
31 **add** (6) as follows:

32 **24-33.5-1213.7. Board of appeals.** (6) THIS SECTION ONLY  
33 APPLIES TO MATTERS RELATED TO SCHOOL REVIEWS AND INSPECTIONS.

34 **SECTION 13.** In Colorado Revised Statutes, 24-75-402, **amend**  
35 (5) (y) as follows:

36 **24-75-402. Cash funds - limit on uncommitted reserves -**  
37 **reduction in amount of fees - exclusions.** (5) Notwithstanding any  
38 provision of this section to the contrary, the following cash funds are  
39 excluded from the limitations specified in this section:

40 (y) The public school construction and inspection cash fund  
41 created in section 24-33.5-1207.7 AND THE HEALTH FACILITY

1 CONSTRUCTION AND INSPECTION CASH FUND CREATED IN SECTION  
2 24-33.5-1207.8;

3 **SECTION 14. Safety clause.** The general assembly hereby finds,  
4 determines, and declares that this act is necessary for the immediate  
5 preservation of the public peace, health, and safety."

6 Page 1, line 107, strike "**RENAMING THE PUBLIC SCHOOL**" and substitute  
7 "**CREATING THE HEALTH FACILITY**".

\*\* \*\*\* \*\* \*\*\* \*\*