

Schedule 13
Change Request for FY 2010-11 Budget Request Cycle

Decision Item FY 2010-11 <input checked="" type="checkbox"/>		Base Reduction Item FY 2010-11 <input type="checkbox"/>		Supplemental FY 2009-10 <input type="checkbox"/>		Budget Amendment FY 2010-11 <input type="checkbox"/>					
Request Title: Addition of Denver Conveyance Program		Department: Labor and Employment		Dept. Approval by: <i>[Signature]</i>		Date: 10-15-09					
Priority Number: DI #1				OSPB Approval: <i>[Signature]</i>		Date: 10-20-09					
	Fund	1 Prior-Year Actual FY 2008-09	2 Appropriation FY 2009-10	3 Supplemental Request FY 2009-10	4 Total Revised Request FY 2009-10	5 Base Request FY 2010-11	6 Decision/ Base Reduction FY 2010-11	7 November 1 Request FY 2010-11	8 Budget Amendment FY 2010-11	9 Total Revised Request FY 2010-11	10 Change from Base (Column 5) FY 2011-12
Total of All Line Items	Total	6,632,536	6,114,483	0	6,114,483	4,939,320	339,545	5,278,865	0	5,278,865	316,195
	FTE	0.0	78.3	0.0	78.3	78.3	5.0	83.3	0.0	83.3	5.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	5,703,700	5,483,773	0	5,483,773	4,297,898	339,545	4,637,443	0	4,637,443	316,195
	CFE/RF	24,018	23,714	0	23,714	24,069	0	24,069	0	24,069	0
	FF	904,820	606,996	0	606,996	617,353	0	617,353	0	617,353	0
(1) Executive Director's Office, Vehicle Lease Payments	Total	94,066	95,134	0	95,134	94,582	600	95,182	0	95,182	600
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	42,604	43,088	0	43,088	42,536	600	43,136	0	43,136	600
	CFE/RF	4,502	4,553	0	4,553	4,553	0	4,553	0	4,553	0
	FF	46,960	47,493	0	47,493	47,493	0	47,493	0	47,493	0
(4) Division of Oil and Public Safety, Personal Services	Total	5,504,620	5,537,468	0	5,537,468	4,505,816	265,765	4,771,581	0	4,771,581	265,765
	FTE	0.0	78.3	0.0	78.3	78.3	5.0	83.3	0.0	83.3	5.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	4,915,973	4,958,804	0	4,958,804	3,916,440	265,765	4,182,205	0	4,182,205	265,765
	CFE/RF	19,516	19,161	0	19,161	19,516	0	19,516	0	19,516	0
	FF	569,131	559,503	0	559,503	569,860	0	569,860	0	569,860	0
(4) Division of Oil and Public Safety, Operating Expenses	Total	1,033,852	481,881	0	481,881	338,922	73,180	412,102	0	412,102	49,830
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	745,123	481,881	0	481,881	338,922	73,180	412,102	0	412,102	49,830
	CFE/RF	0	0	0	0	0	0	0	0	0	0
	FF	288,729	0	0	0	0	0	0	0	0	0

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Decision Item FY 2010-11 <input checked="" type="checkbox"/>		Base Reduction Item FY 2010-11 <input type="checkbox"/>			Supplemental FY 2009-10 <input type="checkbox"/>			Budget Amendment FY 2010-11 <input type="checkbox"/>			
Request Title: Addition of Denver Conveyance Program											
Department: Labor and Employment				Dept. Approval by:				Date:			
Priority Number: DI #1				OSPB Approval:				Date:			
		1	2	3	4	5	6	7	8	9	10
	Fund	Prior-Year Actual FY 2008-09	Appropriation FY 2009-10	Supplemental Request FY 2009-10	Total Revised Request FY 2009-10	Base Request FY 2010-11	Decision/ Base Reduction FY 2010-11	November 1 Request FY 2010-11	Budget Amendment FY 2010-11	Total Revised Request FY 2010-11	Change from Base (Column 5) FY 2011-12
Non-Line Item Request:											
Letternote Revised Text: (1) a. \$1,683,483 \$1,683,793 shall be from various cash fund sources. (4) ... \$204,486 \$543,131 shall be from the Conveyance Safety Fund created in Section 9-5.5-111 (2) (b) C.R.S.											
Cash or Federal Fund Name and COFRS Fund Number: Fund # 13d Conveyance Safety Fund											
Reappropriated Funds Source, by Department and Line Item Name:											
Approval by OIT? Yes: <input type="checkbox"/> No: <input type="checkbox"/> N/A: <input checked="" type="checkbox"/>											
Schedule 13s from Affected Departments: N/A											

CHANGE REQUEST for FY 2010-11 BUDGET REQUEST CYCLE

Department:	Labor and Employment
Priority Number:	DI #1
Change Request Title:	Addition of Denver Conveyance Program

SELECT ONE (click on box):

- Decision Item FY 2010-11
- Base Reduction Item FY 2010-11
- Supplemental Request FY 2009-10
- Budget Request Amendment FY 2010-11

SELECT ONE (click on box):

Supplemental or Budget Request Amendment Criterion:

- Not a Supplemental or Budget Request Amendment
- An emergency
- A technical error which has a substantial effect on the operation of the program
- New data resulting in substantial changes in funding needs
- Unforeseen contingency such as a significant workload change

Short Summary of Request:

This Department requests \$339,545 and 5.0 FTE for FY 2010-11 and \$316,195 and 5.0 FTE for FY 2011-12 in cash funding. The Division of Oil and Public Safety within the Department of Labor and Employment is responsible for enforcing statutes governing the Elevator and Escalator Certification Act. This request is for additional funding and Full Time Equivalents (FTE) due to the significant additional workload not anticipated by the fiscal note of SB 07-123. SB 07-123 anticipated that the City and County of Denver and most local jurisdictions would execute a Memorandum of Agreement with the department and continue their conveyance programs. However this has not happened, the City and County of Denver has not executed a Memorandum of Agreement with the Department and has informed the department that they have no plans to do so. Thus the City and County of Denver has eliminated its' conveyance inspection program.

Background and Appropriation History:

The Division of Oil and Public Safety was created by statute in 2001 and consists of the Oil Field Inspection Section, the Remediation Section, the State Fund Section (all part of the former Oil Inspection Section), the Boiler Inspection and Public Safety (Explosives,

Carnivals and Amusement Parks, and Public School Construction) Section. The programs within each section ensure the implementation of statutory mandates, codes and standards needed to maintain a safe work and educational environment, and environmental and consumer protection.

In 2007 the Legislature identified the need for statewide oversight, placing a statutory mandate on CDLE to oversee conveyance safety. Industry entities such as conveyance installation/maintenance contractors, the International Union of Elevator Constructors, jurisdictional building officials, fire department officials, and conveyance inspection and consulting firms identified conveyance safety issues that include:

- There were no licensure requirements for mechanics, inspectors, or contractors.
- Many local jurisdictions did not have conveyance inspection programs and in these jurisdictions, inspections either were not being completed or were being completed by personnel employed by the maintenance contractors. The law requires third party inspections by licensed personnel not affiliated with the contractor.
- There was no Colorado database for conveyances, leaving many conveyances unknown and not inspected or safety tested. The Act requires registration of all conveyances with the Division who is developing the web-based database.
- There was no consistency in code adoption amongst jurisdictions that did have programs. If an elevator code was even adopted, some jurisdictions were on the 1996 version and others were on the 2004 version.

Senate Bill 07-123 created the Elevator and Escalator Certification (Act). This Act required that all mechanical conveyances be registered with the Division of Oil and Public Safety in the Department of Labor and Employment by August 1, 2008. Additionally, mechanics, inspectors, and contractors who service mechanical conveyances must be licensed by the department. The following provisions pertain to the requirements for conveyances:

- conveyances include devices such as moving walkways, escalators, elevators, and dumbwaiters, material lifts, stairway chair lifts, wheel chair lifts, and automated people movers (trains at DIA);

- devices used in specified industrial applications are exempted from the requirements for mechanical conveyances;
- all qualifying existing and new conveyances must be registered with the department;
- all covered conveyances must be inspected annually and issued a certificate of operation indicating compliance with the bill; and
- local jurisdictions with standards equivalent to the state's shall be authorized by the department to regulate conveyances.

Mechanics, inspectors, and contractors must become licensed by the department and meet the following qualifications:

- mechanics must have certification from a conveyance mechanic training program;
- inspectors must have certification from a nationally recognized conveyance association and must have insurance of at least \$1.0 million for death and injury and \$500,000 for property damage;
- mechanics must obtain at least 8 hours of continuing education every two years; and
- contractors must employ at least one mechanic and carry insurance of at least \$1.0 million for death and injury, \$500,000 for property damage, and coverage mandated by the "Workers' Compensation Act of Colorado".

The Act (revised by Senate Bill 08-224) allows existing inspectors and mechanics to be "grandfathered" in under certain circumstances. It also allows for the issuance of temporary or emergency licenses should situations warrant them. The Act requires the department to set fees for licenses, certificates of operation, and registrations. The department will establish renewal schedules, and promulgate rules for the construction, operation, inspection, and maintenance of conveyances. The department's enforcement authority includes:

- investigating alleged violations;
- suspending or revoking inspector, mechanic, or contractor certifications;
- requiring dangerous conveyances to cease operating until repaired; and

- referring persons in violation of the act for prosecution.

Currently, the Division of Oil and Public Safety regulates elevators, escalators, and other conveyances. The division is required to adopt rules conforming with these national standards:

* ASCE 21 – American Society of Civil Engineer's standard for automated people movers;

*ASME A17.1 – American Society of Mechanical Engineer's standard for regulations governing the installation, testing, inspection, maintenance, alteration, and repair of conveyances;

* ASME A17.3 – ASME's standard providing minimum retroactive requirements for existing elevators and escalators; and

*ASME A18.1 – ASME's standard for inclined stairway chairlifts and inclined and vertical platform lifts (much like ASME 17.1 for these lifts).

This Act eliminates the deadline for adopting rules from within 6 months of the national standard's effective date. The Act allows the division to promulgate rules exempting conveyances installed prior to July 1, 2008 from ASME A17.3 requirements unless there is a substantial alteration to the conveyance or there exists a material danger to the public's safety.

The Act also allows the division to:

- (1) establish a schedule for local jurisdictions to adopt local standards that meet or exceed the listed national standards; and
- (2) promulgate rules modifying national standards that the division deems to be in the public interest.
- (3) Finally, the Act clarifies that the insurance requirement for conveyance contractors does not extend to local jurisdictions or employees of the local jurisdictions.

General Description of Request:

Provisions within the Elevator and Escalator Certification Act indicate that statute sponsors and industry representatives believed that local jurisdictions would execute Memorandums of Agreement (MOA) with the Division of Oil and Public Safety (OPS) allowing them to regulate conveyances within their territories. Following several meetings with the City and County of Denver (CCOD), CCOD officially notified the Department June 11, 2009 that it would not execute an MOA, transferring approximately 7,000 conveyances to OPS responsibility (more than doubling the number of conveyances under the direct administration of the division and the anticipated workload for the division). Currently 68 jurisdictions (approximately 6,500 conveyances) have executed MOAs with OPS, and estimating a total of 20,000 conveyances and assuming no other jurisdictions execute MOAs, another 6,500 conveyances in northeast, southwest, and western Colorado will also be under OPS' responsibility. Because of this lack of jurisdiction participation, OPS' workload has increased to 68% overall. These numbers are displayed in the table below.

Jurisdiction	Estimated Number of Conveyances	Percent of Total Conveyances in Colorado
1. Executed MOA	6,500	32%
2. No MOA CCOD	7,000	35%
3. No MOA excluding CCOD	6,500	32%
4. OPS responsibility (2 + 3)	13,500	68%
Total (3 + 4)	20,000	100%

For each conveyance under the department's direct supervision (no MOA with local jurisdiction) there is significant work performed that would otherwise be handled by the local jurisdiction. OPS must now perform the following functions for the approximately 7,000 conveyances inherited from the CCOD:

- Compliance audits of the additional conveyances, including locating the unregistered conveyances and notifying the owners of the registration and other program requirements.
- Working with private inspectors to ensure all conveyances are inspected annually and safety tests are completed.
- Reviewing inspection reports and any installation/alteration plan applications submitted by inspectors or contractors.
- Issuing annual (or periodic) Certificates of Operation for each conveyance.
- Enforcement processing for the additional conveyances.
- Processing, tracking and filing of records associated with the above tasks.

This work is in addition to statutorily assigned responsibilities for program development, outreach, conveyance registration, rule updates, program auditing (licensing, registration, Certificate of Operation, and jurisdictions), review and research of proposed new technologies and other alternate materials and methods, and enforcement. The original 3.3 FTE appropriated for FY 2009-10 is not sufficient to handle this increased workload.

Consequences if Not Funded:

If this request is not funded, OPS will not be successful in completing the above listed tasks due to insufficient staff for the current workload. The lack of resources will allow:

- Potentially unqualified and unlicensed persons to work on conveyances.
- Many conveyances to operate without being registered with the Division and therefore the status of their safety unknown and unchecked.
- Conveyances to be installed or altered without assurance of code and safety compliance. For newly installed conveyances or alterations to existing conveyances, a Certificate of Operation is issued only after a passing inspection that ensures the conveyance was properly installed or altered according to code and that required initial safety tests have been completed with passing results.
- Conveyances to operate without a current Certificate of Operation. For existing conveyances, the Certificate of Operation is issued only after a passing annual inspection. This inspection ensures conformance to standards and the requirements of the specific

maintenance program and that continued required safety tests have been completed with passing results.

All of the above are scenarios that will affect the safety of the public riding conveyances in Colorado.

Calculations for Request:

Summary of Request FY 2010-11	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Total Request	\$339,545	\$0	\$339,545	\$0	\$0	5.0
Personal Services	\$265,765	\$0	\$265,765	\$0	\$0	5.0
Operating Expenses	\$73,710	\$0	\$73,780	\$0	\$0	N/A
Vehicle Lease Payments	\$600	\$0	\$600	\$0	\$0	N/A

Summary of Request FY 2011-12	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Total Request	\$316,195	\$0	\$316,195	\$0	\$0	5.0
Personal Services	\$265,765	\$0	\$265,765	\$0	\$0	5.0
Operating Expenses	\$49,830	\$0	\$49,830	\$0	\$0	N/A
Vehicle Lease Payments	\$600	\$0	\$600	\$0	\$0	N/A

	FTE	FY 10-11 Cost	FTE	FY 11-12 Cost
Administrative Asst II	1.0	\$ 34,458	1.00	\$ 34,458
Inspector I	2.0	\$ 105,743	2.00	\$ 105,743
General Professional III	1.0	\$ 52,162	1.00	\$ 52,162
General Professional V	1.0	\$ 73,402	1.00	\$ 73,402
Total Personal Services	5.0	\$ 265,765	5.00	\$ 265,765
Common Policy Operating Expenses (includes supplies, computers, office equipment, and telephones)		\$ 28,100		\$ 4,750
Cellular Phone		\$ 840		\$ 840
State Fleet Vehicle Variable Mileage		\$ 7,920		\$ 7,920
Per Diem		\$ 24,000		\$ 24,000
Postage		\$ 4,320		\$ 4,320
Training		\$ 8,000		\$ 8,000
Subtotal Operating Expense		\$ 73,180		\$ 49,830
State Fleet Vehicle Lease		\$ 600		\$ 600
Total Request		\$ 339,545		\$ 316,195

Cash Funds Projections:

Cash Fund Name	Cash Fund Number	FY 2008-09 Expenditures	FY 2008-09 End of Year Cash Balance	FY 2009-10 End of Year Cash Balance Estimate	FY 2010-11 End of Year Cash Balance Estimate	FY 2011-12 End of Year Cash Balance Estimate
Conveyance Fund	13d	\$233,757	\$2,598,181	\$3,308,181	\$3,173,636	\$2,802,441

	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12
Beginning Balance	\$0	\$35,117	\$2,598,181	\$3,308,181	\$3,173,636
Current Revenue (original fiscal note projection)	\$100,225	\$2,816,035	\$220,000	\$220,000	\$220,000
Additional Revenue due to this request	\$0	\$0	\$750,000	\$250,000	\$0
Original estimated expenses	(\$65,108)	(\$252,971)	(\$260,000)	(\$265,000)	(\$275,000)
Additional expenses due to this request	\$0	\$0	\$0	(\$339,545)	(\$316,195)
Ending Fund Balance	\$35,117	\$2,598,181	\$3,308,181	\$3,173,636	\$2,802,441

The Division estimates that there are approximately 5,000 additional conveyances that were not part of the original fiscal note. This would represent an additional \$1,000,000 in revenue for the one-time initial registration of \$200 per conveyance.

Assumptions for Calculations:

The Division estimates that a minimum of 8.3 FTEs (additional 5.0 FTEs will be necessary to ensure program success. These FTE include; one manager position, two technical specialists, three audit inspectors, and two administrative assistants. The Division is forecasting the funding for the additional FTE is required. The specific breakdown of tasks is described below:

1. **General Professional V** (Manager - new 1.0 FTE) – this position will perform management of the section including personnel performance, outreach to stakeholders, rule updates, enforcement, and liaison activities and meeting agendas for the Conveyance Advisory Board.
2. **General Professional IV** (Technical Specialist - existing 1.0 FTE) – this position will assist the Technical Specialist GP III in the review of construction plans and inspection reports, but will focus the remaining time on review and research for alternate materials and methods requests, new technologies, accident tracking and investigations, outreach to stakeholders, rule updates, enforcement, and technical assistance to the Conveyance Advisory Board.
3. **General Professional III** (Technical Specialist - new 1.0 FTE) – the primary focus for this position would be review of construction plans and inspection reports in cooperation with administrative assistant staff and database management. Other duties would include licensing of inspectors, mechanics and contractors, as well as coordination with the Audit Inspector II for audits of mechanic training programs.
4. **Administrative Assistant II** (existing 1.0 FTE) – this position will be responsible for the receipt, preliminary review, and data entry of all documents (registrations, plans, reports, license applications, etc.) received by office. Other duties would include the emailing or printing and mailing of permits, certificates of operation, licenses, and the coordination of registration label distribution to conveyance owners.
5. **Administrative Assistant II** (new 1.0 FTE) – this position will be responsible for the receipt, preliminary review, data entry, and filing of all documents (registrations, plans, reports, license applications, etc.) received by office.
6. **Inspector II** (audit - existing 1.0 FTE) – This inspector has QEI certification and will perform audits of facilities and persons within the Denver metro area with

periodic audits of approved jurisdictions in this area. Approximately 35% of conveyances and 75% of high-rise conveyances within Colorado are located in this area which makes audits and investigations much more complicated than in remaining areas of the state.

7. **Inspector I** (audit - new 1.0 FTE) – A person who has national certification or who has experience to obtain certification within six months of hire. This inspector would perform audits of facilities and persons regarding registration and certificate of operation, licensing audits, and other tasks in the territory such as accident or complaint investigations. The territory covered would include northeast and southeast Colorado with periodic audits of approved jurisdictions within the east half of the state.
8. **Inspector I** (audit - new 1.0 FTE)- A person who has national certification or who has experience to obtain certification within six months of hire. This inspector would perform audits of facilities and persons regarding registration and certificate of operation, licensing audits, and other tasks in the territory such as accident or complaint investigations. The territory covered would include the west half of Colorado with periodic audits of approved jurisdictions within this area.

Operating expenses will include the standard common policy items of supplies, computer, office suite software, office equipment and telephone. In addition the two new inspectors will have a requirement for use of a cellular phone. Also each inspector will be required to have a vehicle from state fleet. Due to the inspectors being on the road often per diem will also be required.

Impact on Other Government Agencies: Not Applicable.

Cost Benefit Analysis: The increased revenue of \$1,000,000 shown in the table on page 8, adequately offsets the additional costs of this request.

<u>Cost Benefit Analysis Summary</u>	
Number of Additional Conveyances	5,000
One-Time Registration Fee	\$ 200.00
Additional Program Revenue	\$ 1,000,000
FY 10-11 Request	\$ 339,545

Implementation Schedule:

Task	Month/Year
Hire Positions	July 2010

Statutory and Federal Authority:

9-5.5-101, C.R.S. (2008) This article shall be known and may be cited as the "Elevator and Escalator Certification Act".

9-5.5-112 C.R.S. (2008) Compliance - rules.

(2) (a) The administrator shall determine whether a local jurisdiction's standards are equal to or greater than those of this article. If so, then the administrator shall enter into a memorandum of agreement with the local jurisdiction that approves the jurisdiction's authority to regulate conveyances.

(b) The administrator may establish a schedule for a local jurisdiction to adopt updated standards, equaling or exceeding the standards imposed under subsection (1) of this

section, which shall be adopted within a reasonable amount of time as needed for a local jurisdiction to update its standards.

9-5.5-116. (2008) Enforcement - rules.

(1) The administrator may adopt rules to administer and enforce this article. The administrator may use certified conveyance inspectors for any investigation of an alleged violation of the rules or this article. The administrator may appoint an advisory board to assist in the formulation of rules authorized by this section.

(2) A person may request an investigation into an alleged violation of the rules or this article, or of a danger posed by any conveyance, by giving notice to the administrator of such violation or danger. Such notice shall be in writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the person making the request. Upon the request of a person signing the notice, such person's name shall not appear on any copy of such notice or any record published, released, or made available.

(3) Upon receipt of such notification, if the administrator determines that there are reasonable grounds to believe that such violation or danger exists, the administrator shall investigate in accordance with this article to determine if such violation or danger exists. If the administrator determines that there are no reasonable grounds to believe that a violation or danger exists, the administrator shall notify the party in writing of such determination.

Performance Measures:

Division of Oil and Public Safety Objectives:

- a. Protect the health and safety of workers, students, and all Colorado citizens.
- b. Protect the environment.
- c. Protect consumers.

STATE OF COLORADO FY 2010-11 BUDGET REQUEST CYCLE: Department of Labor and Employment

Department Performance Measures		FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Appr	FY 10-11 Request
Protect the health and safety of workers, students, and citizens by minimizing hazards that cause injuries, as identified through violations noted during field inspections: Percent of field inspections with noted violations.	Benchmark	10 %	10 %	20 %	20%
	Actual	18%	28%		

Division Performance Measures		FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Appr	FY 10-11 Request
Protect health and safety of workers, students, and citizens by minimizing hazards that cause injuries, as identified through deficiencies or violations noted during remediation and construction plan reviews, and permit and certification submittal reviews: Effectiveness determined based on a reduction in the percentage of plan, permit, and certification reviews that note safety violations.	Benchmark	30%	30%	30%	30%
	Actual	31%	30%		