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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/13/09  
 LAST UPDATED 3/2/09      HB 499/aHCPAC/aHHGAC

SPONSOR King

SHORT TITLE Adaptive Driving Program State Vehicle Use      SB \_\_\_\_\_

ANALYST Archuleta

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		Unknown	Unknown	Unknown		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

General Services Department (GSD)

Governor's Commission on Disability (GCD) – No Response

### SUMMARY

#### Synopsis of HHGAC Amendment

The Health and Government Affairs Committee amendment to the Consumer and Public Affairs Committee amendment to House Bill 499 makes an editorial correction and makes no substantive change to the bill.

#### Synopsis of HCPAC Amendment

The Consumer and Public Affairs Committee amendment to House Bill 499 amends the description providing a change to remove the "Governor's Commission on Disability" and inserting the "state's" Adaptive driving program.

#### Synopsis of Original Bill

House Bill 499 amends the State Transportation Act and Tort Claims Act to allow individuals enrolled in the Governor's Commission on Disability Adaptive Driving Program to use special-use state vehicles for evaluation and training purposes in that program. In addition, it provides for Tort Claims coverage for individuals participating in the governor's commission on disability adaptive driving program while using a special-use state vehicle for evaluation and training purposes.

## **FISCAL IMPLICATIONS**

According to GSD, since the amendment removes the responsibility from the Governor’s Office, a state entity will be required to incur the cost associated with managing the program.

There will be costs associated with the purchase of “special use” vehicles that would be incurred by either GSD or the Governor’s Commission on Disability.

## **SIGNIFICANT ISSUES**

GSD indicates that the impact of the amendment removes the responsibility of managing the program from the Governor’s Commission on Disability’s to a state entity, which is not named. This entity will incur fiscal, performance, and administrative implications which cannot be determined without more program details.

The use of state vehicles for the training of disabled drivers creates a potential liability for the agencies involved should the disabled driver cause an accident. House Bill 499 would amend the New Mexico Tort Claims Act, Section 41-4-3, NMSA 1978, to include in the Act’s definition of “Public employee” individual drivers while participating in the program and using special use-state vehicles for training and evaluation. This is necessary to ensure that any damage caused by a driver’s negligence would be capped under the Tort Claims Act and liability insurance would be provided by the Risk Management Division of GSD. It is important that this definition be as narrow as possible to avoid having to insure drivers (who are not state employees) when they are not actually engaged in the driving portion of the evaluation and training.

## **OTHER SUBSTANTIVE ISSUES**

According to GSD, the use of state vehicles for the training of disabled drivers creates a potential liability for the agencies involved should the disabled driver cause an accident. HB 499 would amend the New Mexico Tort Claims Act, Section 41-4-3, NMSA 1978, to include in the Act’s definition of “Public employee” individual drivers while participating in the program and using special use-state vehicles for training and evaluation. This is necessary to ensure that any damage caused by a driver’s negligence would be capped under the Tort Claims Act and liability insurance would be provided by the Risk Management Division of GSD. It is important that this definition be as narrow as possible to avoid having to insure drivers (who are not state employees) when they are not actually engaged in the driving portion of the evaluation and training.

## **ADMINISTRATIVE IMPLICATIONS**

GSD will need to update the administrative rules for use of state vehicles allowing individuals enrolled in the Adaptive Driving Program to use state vehicles for training purposes.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Senate Bill 232

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The State Transportation Act and Tort Claims Act would not be amended to allow individuals enrolled in the Governor’s Commission on Disability Adaptive Driving Program to use special-use state vehicles for evaluation and training purposes in that program.

DA/mc:mt