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FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/2009

SPONSOR Keller LAST UPDATED 2/12/2009 HB _____

SHORT TITLE State Vehicles for Commission for Disability SB 232/aSPAC/aSFL#1

ANALYST Moser

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total			\$42.6	\$127.9	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Governor's Commission on Disability (GCD)

General Services Department (GSD)

SUMMARY

Synopsis of Senate Floor Amendment #1

Senate Floor Amendment #1 allows the use of "specially adapted" state vehicles, specifically for the Adaptive Driving Initiative (ADI), to evaluate, train or re-train persons with Disabilities and Senior Citizens for driving, when such may be indicated, needed or wanted following change in physical ability.

Synopsis of Amendment

Senate Public Affairs Committee amendment to Senate Bill 232 modifies the bill from being specific to the Governor's Commission on Disability. This will allow the program to be in another agency.

Synopsis of Original Bill

Senate Bill 232 amends State Transportations Act (section 15-8-6 NMSA 1978) and the Tort Claims Act (section 41-4-3 NMSA 1978) to allow use of state vehicles specifically for the Governor's Commission on Disability's Adaptive Driving Program (ADP) to evaluate and train persons with Disabilities and Senior Citizens for safety in driving and to write rules allowing such. Additionally, this legislation adds these individuals participating in the Adaptive Driving Program to the Tort Claims Act definition of "public employees."

FISCAL IMPLICATIONS

There is no appropriation associated with this bill. However, GCD expresses concern that this bill has the potential to have a significant financial impact on the GCD operating budget, when fully implemented. The department estimates that in FY11 it may need an additional FTE and that an additional 2 to 3 FTEs will be needed when the program becomes fully functional and operational. Additionally, GCD indicates that it would need additional operating budget for increased: 1) Office space for FTEs and other office needs; 2) Additional general funds for increased in-state travel; 3) additional general funds for potential access to legal services related to: Fair Hearings, lawsuits and/or Civil Rights complaints; and 4) Additional funds if necessary, to develop, hold public hearings and issue regulations, together with capacity for legal review.

The current budget impact is reflected in GCD current budget request, but a conservative impact on the current budget, only during the start-up is projected at just over \$3,300 per annum expenses for the program have been built into the operating budget request for the Governor's Commission on Disability (GCD) for FY10.

GCD cautions that the above estimate over one and 3 years is based on current FTE Entry Level position, plus benefits. The 3-year estimate is based on the start-up year and does include additional FTE needs, but does not include potential legal costs, office expansion, travel or office needs; as noted above a 2nd FTE would add an additional \$42,630.58 in salaries and benefits only.

GSD notes that if the Governor's Commission chooses to purchase vehicles under the definition of "special use," there will be no fiscal impact to the General Services Department's Transportation Services Division. If GSD's Transportation Services Division is required to lease vehicles to the Commission a capitol outlay appropriation would be needed in order to purchase the vehicles.

SIGNIFICANT ISSUES

GSD indicates that the proposed change to the New Mexico Tort Claims Act, Section 41-4-3, NMSA 1978, 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. GSD cautions that 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

An FTE to coordinate and implement this program was approved in 2008 Legislative Session. Capital Outlay to purchase and equip vehicle(s) was approved in 2007. A 30-day public comment period will be needed via GSD in order to adopt rules re: use of state vehicles (see section "G" of bill) (SEE FISCAL IMPLICATIONS)

GM/mt:mc