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FISCAL IMPACT REPORT

SPONSOR <u>Lujan/Cates/Roybal Caballero</u>	LAST UPDATED <u>2/11/2025</u>
	ORIGINAL DATE <u>1/26/2025</u>
SHORT TITLE <u>Accessibility of State Agencies</u>	BILL NUMBER <u>House Bill 120/aHGEIC</u>
	ANALYST <u>Hernandez</u>

APPROPRIATION* (dollars in thousands)

FY25	FY26	Recurring or Nonrecurring	Fund Affected
	\$200	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
 General Services Department (GSD)
 Department of Information and Technology (DoIT)
 Office of Broadband Access and Expansion
 Commission on the Deaf and Hard of Hearing (CDHH)
 Health Care Authority (HCA)
 Higher Education Department (HED)
 Governor’s Commission on Disability (GDC)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of the HGEIC Amendment to House Bill 120

The House Government, Elections and Indian Affairs Committee amendment to House Bill 120 (HB120) makes three notable changes. First, it strikes the private right of action, meaning that individuals are not able to sue the state if the state does not meet the compliance standards outlined in HB120. Second, HB120 now states that agencies do not have to take any action to reach compliance if the action would result in a fundamental alteration of the services, programs, or activities or if it creates an undue financial or administrative burden. Finally, the amendment strikes any mention of a director and instead creates a position entitled “chief accessibility officer.”

Synopsis of House Bill 120

HB120 appropriates \$200 thousand from the general fund to the Governor’s Commission on Disability for the purpose of creating the Office of Accessibility. HB120 would mandate that all state agencies meet the requirements set by the U.S. Department of Justice in digital standards by April 1, 2026. HB120 requires that each state agency comply with physical accessibility standards. The Office of Accessibility would be responsible for monitoring compliance with the provisions of HB120 and would be required to write a report to the Governor on April 1, 2026, and every two years thereafter documenting compliance. HB120 also creates a private right of action allowing an individual with a disability who is unable to access digital content, services or platforms, or physical facilities of a state agency due to noncompliance the ability to file civil action in a court.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

The appropriation of \$200 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY26 shall revert to the general fund. While the appropriation is only for one year, the bill requires the Office of Accessibility to monitor compliance and publish a report every two years, meaning the appropriation would likely be recurring.

Before HB120 was amended to remove the ability of an individual to seek private rights of action against the state, the General Services Department (GSD) and LFC analyses indicated the right of private action could leave the state liable for damages between \$10.5 million and \$50 million annually. In addition, while several agencies listed additional operating expenses, totaling at least \$2.8 million, the agencies must comply with similar federal standards less than a month before HB120 would go into effect, which means they will incur those costs, with or without HB120.

SIGNIFICANT ISSUES

GSD notes:

On April 24, 2024, the Federal Register published the U.S. Department of Justice’s final rule updating its regulations for Title II of the Americans with Disabilities Act (ADA). The final rule has specific requirements about how to ensure that web content and mobile applications (apps) are accessible to people with disabilities. The Web Content Accessibility Guidelines (WCAG) Version 2.1, Level AA is the technical standard for state and local governments’ web content and mobile apps. State and local governments must make sure that their web content and mobile apps meet WCAG 2.1, Level AA within two or three years of when the rule was published on April 24, 2024, depending on their population. Because New Mexico state agencies serve a population of more than 500,000, the compliance deadline for WCAG will be April 24, 2026.

HB120 requires that each state agency comply with the physical accessibility standards. However, based on the U.S. Department of Justice’s final rule, it is unclear what, if any, new standards are required in terms of physical accessibility standards.

The Governor’s Commission on Disability states their “statutory responsibility is to remove barriers to the full integration of individuals with disabilities into the mainstream of New Mexico life, increase the quality of life of New Mexicans with disabilities, and to meet all the responsibilities and exercise all the authorities granted by law ... [and the agency] stands ready to assist other state agencies to meet their responsibilities with support, guidance, training and resources.” However, it is unclear why a new office is needed within the Governor’s Commission on Disability to accomplish this goal because its statutory responsibility already encompasses some of the desired work.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

New Mexico will still be subject to meeting standards outlined in the U.S. Department of Justice’s final rule regardless of whether HB120 is enacted. New Mexico must be in compliance with the final rule by April 24, 2026, to meet federal guidelines.

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