

LFC Requester:**Allegra Hernandez****AGENCY BILL ANALYSIS - 2025 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov****(Analysis must be uploaded as a PDF)****SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}***Date Prepared:** 1/22/25*Check all that apply:***Bill Number:** HB 120Original Correction Amendment Substitute **Sponsor:** Tara L. Lujan/Kathleen Cates**Agency Name and Code** Department of Information Technology**Number:** 361**Short****Person Writing** Jason L. Clack**Title:** Accessibility of State Agencies**Phone:** 505-500-9291 **Email** Jason.clack@doit.nm.**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
	\$200 (To Office of Accessibility)	Recurring	

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	0	\$545			\$350 Nonrecurring;	

					\$145 Recurring	
--	--	--	--	--	--------------------	--

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 120 (“the Bill”) would create the Accessibility Act (“the Act”).

Section 2 of the Bill would create definitions under the Act, for the terms “commission,” to mean the Governor’s Commission on Disability, “digital accessibility standards,” “director,” “disability,” “office,” “physical accessibility standards,” and “state agency.”

Section 3 of the Bill will require state agencies’ websites and mobile applications to comply with digital accessibility standards by April 1, 2026. Agencies will also be required to post a website accessibility statement on the front page of their websites, by April 1, 2026. The Act will provide requirements for these statements. The Act will also require agencies to comply with physical accessibility standards.

Section 4 of the Bill would create the Office of Accessibility within the Commission on Disability. The Act would require the Commission to appoint a Director of this Office, and the Act sets out duties of the Director, to include enforcement of digital and physical accessibility standards, creating standard forms for accessibility assessments, providing training to agencies, assisting agencies with accessibility requirements, and promulgating rules necessary to implement and administer the Act.

Section 5 of the Bill would establish reporting requirements under the Act, requiring the office to submit a written report to the governor that documents the compliance of websites, mobile applications and physical facilities operated by state agencies. The Act would set out requirements for the report and require it to be made available to the public on the websites of the legislature, the commission, the New Mexico technology assistance program and the department of information technology.

Section 6 of the Bill would create a private right of action for individuals with a disability who are unable to access the digital content, services or platforms or physical facilities of a state agency due to noncompliance with the digital or physical accessibility standards pursuant to the Act, to seek an injunction compelling compliance with the standards and allowing for attorney fees and court costs to the prevailing party.

Section 7 of the Bill would appropriate two hundred thousand dollars (\$200,000) from the general fund to the commission for expenditure in fiscal year 2026 to operate the office of accessibility. Any unexpended or unencumbered amounts would revert to the general fund.

FISCAL IMPLICATIONS

If enacted, this bill will have two direct fiscal impacts on DoIT, one of which will be shared by all agencies that have websites.

One fiscal impact will result from direct compliance. DoIT maintains six public facing websites (DoIT, Gov's Office, Lut Gov's, Business Portal, Sunshine Portal, & NM.gov). DoIT contracts with third parties for web design and hosting of these sites. DoIT estimates that it will incur \$350,000 in FY26 for contractual services required to bring all six websites into compliance with HB120 mandates. Starting in FY27, DoIT will annually incur \$145,000 for continued compliance reviews, updates and reporting.

The second fiscal impact will be associated with DoIT's IT procurement oversight responsibilities. DoIT is statutorily obligated to review and monitor IT procurement by state agencies. DoIT estimates that at least 50 agencies will seek to procure contract services for web design and hosting services required to comply with HB120. This will result in DoIT reviewing up to an additional 50 IT contracts annually for compliance with the DoIT Act. At least one additional FTE project manager assigned to the Enterprise Project Management Office (EPMO) will be needed to complete these reviews.

SIGNIFICANT ISSUES

On April 24, 2024, the Federal Register published the US 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.

Most agencies rely on contracted vendors to design and host their website. There is a limited number of such vendors on price agreement. Because of the proposed compliance deadline, the demand for vendor services will likely exceed supply, which will cause agencies to miss the deadline, or to engage in a time consuming, and potentially costly, competitive procurement to secure a vendor that is not on price agreement.

PERFORMANCE IMPLICATIONS

Given its current oversight obligations, DoIT's review of IT procurements for other agencies may be delayed and cause an agency to miss the compliance deadline.

Assessing whether a website meets accessibility expectations requires time and expertise. It is unlikely the \$200K appropriation to the Office of Accessibility will fund sufficient staff and contract labor required to conduct the required compliance reviews and fulfill reporting obligations.

ADMINISTRATIVE IMPLICATIONS

There is the potential need for a RFP to be issued to secure price agreements with vendors qualified to perform accessibility services to include, but not limited to: Accessibility Assessment,

Implementation, and Maintenance. IT services price agreements routinely require more than a year to complete, including pre-RFP work on scoping qualifications and pricing model. This may lead to a multitude of potentially redundant RFPs offered by individual agencies.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

Given the timeline provided for compliance, there will be a significant strain on state agency budgets and resources. Most agencies will require additional funding to cover the cost required to reconfigure the numerous state websites to the state accessibility standard (WCAG 2.1 AA). Given the FY26 C2 request cycle is now closed, agencies do not have the opportunity to request project funding for website accessibility enhancement, which will leave numerous agencies without budget for compliance. If possible, consideration may be made by the legislature for a designated digital accessibility fund that can be tapped by agencies in FY26 who present fully developed plans, including scope, schedule and cost elements for the purpose of assessment, gap analysis, planning, and implementation of digital accessibility websites and web applications. Further, accessibility is not limited to website. All public facing applications would also have to be modified to ensure compliance with accessibility standards. This endeavor will take years to become fully compliant and C1 operating budgets will experience an increase to provide proper maintenance in order to maintain compliance.

To further reinforce this initiative, the State-Wide IT Strategic Plan should identify Digital Accessibility as a Goal with the objective to attain compliance and sustainability. Agencies will leverage the State-Wide plan in to mirror similar objectives in their own annual Agency IT Strategic Plans. This will serve as the basis for future agency C2 funding requests for the purpose of digital accessibility.

Initial efforts to qualify and establish State-Wide price agreements will demand resources from the General Services Department, State Purchasing Division.

ALTERNATIVES

Extend compliance deadlines to align with budget, appropriation and IT procurement oversight processes.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

State agencies will still be required to comply with the US Department of Justice's WCAG 2.1 by the deadline of April 24, 2026.

AMENDMENTS