

LFC Requester:

Hernandez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://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:** 03/07/25 *Check all that apply:***Bill Number:** HB 120
Original _____ Correction _____
Amendment _____ Substitute x

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SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0	0		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0	0	0		

(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		\$350	\$145	\$640	Recurring	General

(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.”

The House Judiciary Committee (HJC) substitute for the Bill updates the definition of “digital accessibility standards” to mean “requirements set by the web content accessibility guidelines 2.1 level AA, or any successor standards, for web and mobile accessibility adopted by the department of information technology.”

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.

The HJC substitute adds a provision requiring DoIT to “promulgate rules to establish, adopt and update the digital 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 establishes an effective date of July 1, 2025 for Sections 1 through 3 and 5 of the Bill, and an effective date of July 1, 2026 for Section 4 of the Bill.

FISCAL IMPLICATIONS

One fiscal impact will result from direct compliance. DoIT maintains six public facing websites (DoIT, Gov's Office, Lieut. 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 agencies that maintain their own websites will incur similar implementation costs to bring their websites into compliance with these requirements. DoIT can help to ameliorate these costs by consolidating the procurement of these services for all executive branch agencies and coordinating the compliance requirements with the successful vendor across the executive branch domain.

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. DoIT can help to reduce that risk by consolidating the procurement of these services for state agencies on the executive branch network.

Federal ADA web accessibility requirements apply to both state and local governments. In contrast, HB120 applies only to a "state agency" which the bill defines as "a department, an institution, a board, a bureau, a commission, a district or a committee of government of the state." This definition appears to be intended to exclude local governments. However, this definitional language suggests that the bill applies to operational sub-units of state agencies. This conclusion follows because a "bureau", "institutions" or a "district" are not entities within the executive branch of government. *See* Section 9-1-4 NMSA 1978. By including what are ordinarily considered only operational units of governmental entities or agencies, HB120 suggests it applies beyond the executive branch, or imposes obligations on government functionaries below the level of an agency head. Because nothing in HB120 clarifies the reach of these terms, the bill is ambiguous and could face implementation or enforcement challenges. To resolve uncertainty as to its scope, HB120 should be amended to omit or clarify the ambiguous terminology.

PERFORMANCE IMPLICATIONS

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. To reduce the risk of a multitude of potentially redundant RFPs offered by individual agencies, DoIT can consolidate the procurement of these services for agencies on the executive branch domain.

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 websites. 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.

DoIT's rulemaking authority under the HJC substitute would help to further reinforce this initiative.

ALTERNATIVES

Extend compliance deadlines under state standards, 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, unless those standards are amended or revoked prior to that deadline.

AMENDMENTS