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1ST SESSION

S. 2984

To establish uniform accessibility standards for websites and applications of employers, employment agencies, labor organizations, joint labor-management committees, public entities, public accommodations, testing entities, and commercial providers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28 (legislative day, SEPTEMBER 22), 2023

Ms. DUCKWORTH (for herself, Ms. WARREN, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To establish uniform accessibility standards for websites and applications of employers, employment agencies, labor organizations, joint labor-management committees, public entities, public accommodations, testing entities, and commercial providers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Websites and Software
5 Applications Accessibility Act of 2023”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) Section 2(b)(1) of the Americans with Dis-
2 abilities Act of 1990 states that the Act provides “a
3 clear and comprehensive national mandate for the
4 elimination of discrimination against individuals with
5 disabilities” (42 U.S.C. 12101(b)(1)).

6 (2) In 1990, websites and applications were es-
7 sentially nonexistent, but Congress made clear that
8 the ADA “should keep pace with the rapidly chang-
9 ing technology of the times” (H.R. Rep. No. 101–
10 485, pt. 2, at 381 (1990)), as reprinted in 1990
11 U.S.C.C.A.N. 303, 391).

12 (3) Section 102 of the ADA (42 U.S.C. 12112),
13 section 202 of the ADA (42 U.S.C. 12132), and sec-
14 tion 302 of the ADA (42 U.S.C. 12182) broadly
15 prohibit discrimination on the basis of disability in
16 regard to employment, services, programs, or activi-
17 ties of public entities, and of goods, services, facili-
18 ties, privileges, advantages, and accommodations of
19 any place of public accommodation, respectively.

20 (4) The Department of Justice has promulgated
21 regulations to address the intersection of the ADA
22 and emerging technologies, including the obligation
23 to ensure effective communication with and by indi-
24 viduals with disabilities by using technologies such
25 as video remote interpreting, real-time computer-

1 aided transcription, open and closed captioning,
2 audio description, videophones, captioned telephones,
3 screen reader software, optical readers, and tele-
4 phone systems that interact properly with internet-
5 based relay systems.

6 (5) The activities of a vast number of ADA-cov-
7 ered entities now occur in whole or in part through
8 websites and applications, a shift that has been ac-
9 celerated by a global pandemic. The digital economy
10 accounts for nearly 10 percent of the United States
11 gross domestic product, and 85 percent of United
12 States adults visit the internet at least once per day.

13 (6) Many entities, including those covered by
14 the ADA, rely on third-party technology providers to
15 deliver goods and services via websites and applica-
16 tions, yet these websites and applications are often
17 created and developed in a manner that is inacces-
18 sible to individuals with disabilities.

19 (7) Despite the ADA's clear language covering
20 all services, programs, and activities of public enti-
21 ties, all goods, services, facilities, privileges, advan-
22 tages, and accommodations of public accommoda-
23 tions, and all terms, conditions, and privileges of em-
24 ployment and certain actions of employers, including
25 when conducted through websites and applications,

1 most websites and applications contain significant
2 barriers for individuals with disabilities.

3 (8) When Congress enacted the ADA in 1990,
4 Congress intended for the ADA to keep pace with
5 rapidly changing technology. The Department of
6 Justice has rightly acknowledged that the ADA re-
7 quires covered entities to ensure that their websites
8 are accessible to individuals with disabilities.

9 (9) Some courts have misconstrued the ADA,
10 saying the ADA does not cover websites despite the
11 clear language of the ADA's provisions.

12 (10) Without equal access to websites and ap-
13 plications, many individuals with disabilities are
14 treated as second-class citizens and are excluded
15 from equal participation in and equal access to all
16 aspects of society.

17 (b) PURPOSE.—It is the purpose of this Act—

18 (1) to affirm that the ADA and this Act require
19 that websites and applications used by any covered
20 entity to communicate or interact with applicants,
21 employees, participants, customers, or other mem-
22 bers of the public be readily accessible to and use-
23 able by individuals with disabilities, whether the en-
24 tity has a physical location or is digital only;

1 (2) to require the Department of Justice and
2 the Equal Employment Opportunity Commission to
3 set and enforce standards for websites and applica-
4 tions and to periodically update such standards;

5 (3) to address and remedy the systemic nation-
6 wide problem of inaccessible websites and applica-
7 tions that exclude individuals with disabilities from
8 equal participation in and equal access to all aspects
9 of society; and

10 (4) to create effective mechanisms to respond to
11 emerging technologies and to ensure that such tech-
12 nologies do not impair the rights and abilities of in-
13 dividuals with disabilities to participate in all aspects
14 of society.

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

17 (1) **ACCESSIBLE.**—The term “accessible” or
18 “accessibility”, used with respect to a website or ap-
19 plication, means a perceivable, operable, understand-
20 able, and robust website or application that enables
21 individuals with disabilities to access the same infor-
22 mation as, to engage in the same interactions as, to
23 communicate and to be understood as effectively as,
24 and to enjoy the same services as are offered to,
25 other individuals with the same privacy, same inde-

1 pendence, and same ease of use as, individuals with-
2 out disabilities.

3 (2) ACCESSIBILITY REGULATIONS.—The term
4 “accessibility regulations” means the regulations
5 issued under section 5 in accordance with this Act.

6 (3) ADA.—The term “ADA” means the Ameri-
7 cans with Disabilities Act of 1990 (42 U.S.C. 12101
8 et seq.).

9 (4) APPLICATION.—The term “application”
10 means software that is designed to run on a device,
11 including a smartphone, tablet, self-service kiosk,
12 wearable technology item, or laptop or desktop com-
13 puter or another device, including a device devised
14 after the date of enactment of this Act, and that is
15 designed to perform, or to help the user perform, a
16 specific task.

17 (5) COMMERCIAL PROVIDER.—The term “com-
18 mercial provider” means any entity, including a pub-
19 lic or private entity—

20 (A) whose operations affect commerce; and

21 (B) that designs, develops, constructs, al-
22 ters, modifies, or adds an application or website
23 for a covered entity (including a covered entity
24 described in subparagraph (A) that takes such

1 an action for the covered entity’s product) for
2 covered use.

3 (6) COMMISSION.—The term “Commission”
4 means the Equal Employment Opportunity Commis-
5 sion.

6 (7) COVERED ENTITY.—The term “covered en-
7 tity” means an employment entity, public entity,
8 public accommodation, or testing entity.

9 (8) COVERED USE.—The term “covered use”
10 means—

11 (A) use by a public entity to provide a
12 service, program, or activity, or information re-
13 lated to such service, program, or activity, cov-
14 ered under title II of the ADA (42 U.S.C.
15 12131 et seq.), section 504 of the Rehabilita-
16 tion Act of 1973 (29 U.S.C. 794), or section
17 1557 of the Patient Protection and Affordable
18 Care Act (42 U.S.C. 1811), to an applicant,
19 participant, or other member of the public;

20 (B) use by a public accommodation or test-
21 ing entity to provide a good, service, facility,
22 privilege, advantage, or accommodation, or in-
23 formation related to such good, service, facility,
24 privilege, advantage, or accommodation, to cus-
25 tomers or other members of the public, regard-

1 less of whether the public accommodation or
2 testing entity owns, operates, or utilizes a phys-
3 ical location for covered use; or

4 (C) use by an employment entity in deter-
5 mining or conducting job application proce-
6 dures, hiring, advancement, or discharge of em-
7 ployees, employee compensation, job training, or
8 other term, condition, or privilege of employ-
9 ment, for employees or applicants to become
10 employees.

11 (9) DEPARTMENT.—The term “Department”
12 means the Department of Justice.

13 (10) DISABILITY.—The term “disability” has
14 the meaning given the term in section 3 of the ADA
15 (42 U.S.C. 12102).

16 (11) EMPLOYEE.—The term “employee” has
17 the meaning given the term in section 101 of the
18 ADA (42 U.S.C. 12111).

19 (12) EMPLOYER.—The term “employer” has
20 the meaning given the term in section 101 of the
21 ADA (42 U.S.C. 12111).

22 (13) EMPLOYMENT AGENCY.—The term “em-
23 ployment agency” has the meaning given the term in
24 section 701 of the Civil Rights Act of 1964 (42
25 U.S.C. 2000e).

1 (14) EMPLOYMENT ENTITY.—The term “em-
2 ployment entity” means an employer, employment
3 agency, labor organization, or joint labor-manage-
4 ment committee.

5 (15) INFORMATION AND COMMUNICATION
6 TECHNOLOGY.—The term “information and commu-
7 nication technology”—

8 (A) means—

9 (i) any equipment or interconnected
10 system or subsystem of equipment, used in
11 the automatic acquisition, storage, anal-
12 ysis, evaluation, manipulation, manage-
13 ment, movement, control, display, switch-
14 ing, interchange, transmission, or reception
15 of data or information; and

16 (ii) other equipment or technology, or
17 another system or process, for which the
18 principal function is the creation, manipu-
19 lation, storage, display, receipt, or trans-
20 mission of electronic data and information,
21 as well as any associated content; and

22 (B) includes computers and peripheral
23 equipment, information kiosks and transaction
24 machines, telecommunications equipment, cus-
25 tomer premises equipment, multifunction office

1 machines, software, applications, websites, vid-
2 eos, and electronic documents.

3 (16) JOINT LABOR-MANAGEMENT COM-
4 MITTEE.—The term “joint labor-management com-
5 mittee” means a labor management committee es-
6 tablished pursuant to section 205A of the Labor
7 Management Relations Act, 1947 (29 U.S.C. 175a)
8 and engaged in commerce.

9 (17) LABOR ORGANIZATION.—The term “labor
10 organization” has the meaning given the term in
11 section 701 of the Civil Rights Act of 1964 (42
12 U.S.C. 2000e).

13 (18) OPERABLE.—The term “operable”, used
14 with respect to a website or application, means that
15 user interface components and navigation for the
16 website or application can be operated by individuals
17 with disabilities.

18 (19) PERCEIVABLE.—The term “perceivable”,
19 used with respect to a website or application, means
20 that information and user interface components for
21 the website or application are presentable in ways
22 that individuals with disabilities can perceive.

23 (20) PUBLIC ACCOMMODATION.—The term
24 “public accommodation” means a private entity de-
25 scribed in paragraph (7) of section 301 of the ADA

1 (42 U.S.C. 12181) who owns, operates, or utilizes a
2 website or application for covered use.

3 (21) PUBLIC ENTITY.—The term “public enti-
4 ty” has the meaning given the term “public entity”
5 in section 201 of the ADA (42 U.S.C. 12131).

6 (22) QUALIFIED INDIVIDUAL.—The term
7 “qualified individual”, used with respect to an em-
8 ployee or an applicant to become an employee, has
9 the meaning given the term in section 101 of the
10 ADA (42 U.S.C. 12111).

11 (23) ROBUST.—The term “robust”, used with
12 respect to a website or application, means a website
13 or application for which the content can be inter-
14 preted by and the interface can be accessed by a
15 wide variety of tools, including assistive technology,
16 used by individuals with disabilities.

17 (24) SMALL ENTITY.—The term “small entity”
18 means an entity or provider defined as a small entity
19 in the regulations issued under subsection (a) or (b)
20 of section 5.

21 (25) SOFTWARE DEFINITIONS.—

22 (A) PLATFORM SOFTWARE.—

23 (i) IN GENERAL.—The term “platform
24 software” means software—

1 (I) that interacts with hardware
2 or provides services for other soft-
3 ware;

4 (II) that may run or host other
5 software, and may isolate the other
6 software from underlying software or
7 hardware layers; and

8 (III) a single component of which
9 may have both platform and non-plat-
10 form aspects.

11 (ii) PLATFORM.—For purposes of
12 clause (i), the term “platform” includes—

13 (I) a desktop operating system;

14 (II) an embedded operating sys-
15 tem, including a mobile system;

16 (III) a web browser;

17 (IV) a plugin to a web browser
18 that renders a particular media or
19 format; and

20 (V) a set of components that al-
21 lows another application to execute,
22 such as an application which supports
23 macros or scripting.

24 (B) SOFTWARE.—In subparagraphs (A)
25 and (C), the term “software”—

1 (i) means a program, a procedure,
2 and a rule (any of which may include re-
3 lated data or documentation), that directs
4 the use and operation of information and
5 communication technology to perform a
6 given task or function; and

7 (ii) includes applications, non-web
8 software, platform software, and software
9 tools.

10 (C) SOFTWARE TOOL.—

11 (i) IN GENERAL.—The term “software
12 tool” means software—

13 (I) for which the primary func-
14 tion is the development of other soft-
15 ware; and

16 (II) that usually comes in the
17 form of an Integrated Development
18 Environment and is a suite of related
19 products and utilities.

20 (ii) INTEGRATED DEVELOPMENT EN-
21 VIRONMENT.—In clause (i), the term “In-
22 tegrated Development Environment”
23 means an application such as—

24 (I) Microsoft® Visual Studio®;

25 (II) Apple® Xcode®; and

(III) Eclipse Foundation

Eclipse®.

1
2
3 (26) STATE.—The term “State” means each of
4 the several States, the District of Columbia, and any
5 territory or possession of the United States.

6 (27) TESTING ENTITY.—The term “testing en-
7 tity” means any person whose operations affect com-
8 merce, as defined in section 301 of the ADA (42
9 U.S.C. 12181) and that offers examinations or
10 courses related to, applying, licensing, certification,
11 or credentialing for secondary or postsecondary edu-
12 cation, professional, or trade purposes.

13 (28) UNDERSTANDABLE.—The term “under-
14 standable”, used with respect to a website or appli-
15 cation, means that the components of the user inter-
16 face for the website or application, including any
17 input fields, error messages, and correction opportu-
18 nities, are predictable and can be understood and
19 used by individuals with disabilities.

20 (29) WEBSITE.—The term “website” means
21 any collection of related web pages, images, videos,
22 or other digital assets placed in one or more com-
23 puter server-based file archives so that the collection
24 can be accessed by applicants, employees, partici-
25 pants, customers, or other members of the public

1 over the internet or through a private computer net-
2 work.

3 **SEC. 4. ACCESS TO WEBSITES AND APPLICATIONS.**

4 (a) GENERAL RULES FOR COVERED ENTITIES.—

5 (1) EMPLOYMENT ENTITY.—No employment
6 entity shall subject to discrimination, related to a
7 website or application owned, operated, or utilized
8 for covered use by the employment entity, an indi-
9 vidual with a disability in regard to an activity de-
10 scribed in section 102 of the ADA (42 U.S.C.
11 12112).

12 (2) PUBLIC ENTITY.—No individual with a dis-
13 ability shall, by reason of such disability—

14 (A) be excluded from participation in or be
15 denied the benefits of the services, programs, or
16 activities, or information related to such serv-
17 ices, programs, or activities, offered through a
18 website or application owned, operated, or uti-
19 lized, for a covered use, by a public entity; or

20 (B) be otherwise subjected to discrimina-
21 tion related to a website or application owned,
22 operated, or utilized for covered use by a public
23 entity.

24 (3) PUBLIC ACCOMMODATION AND TESTING EN-
25 TITY.—No individual shall be discriminated against

1 on the basis of disability in the full and equal enjoy-
2 ment of the goods, services, facilities, privileges, ad-
3 vantages, or accommodations, or information related
4 to such goods, services, facilities, privileges, advan-
5 tages, or accommodations, offered through a website
6 or application owned, operated, or utilized for cov-
7 ered use by a public accommodation or testing enti-
8 ty.

9 (b) COVERED ENTITIES.—In order to comply with
10 subsection (a), a covered entity shall meet the following
11 requirements:

12 (1) ACCESSIBILITY.—A covered entity that en-
13 gages in an activity described in section 102 of the
14 ADA (42 U.S.C. 12112), or that provides goods,
15 services, facilities, privileges, advantages, accom-
16 modations, programs, activities, or information re-
17 lated to such goods, services, facilities, privileges, ad-
18 vantages, accommodations, programs, or activities,
19 through a website or application shall ensure that
20 such website or application is accessible.

21 (2) EFFECTIVE COMMUNICATIONS.—A covered
22 entity shall ensure that covered uses through
23 websites and applications with applicants, employees,
24 participants, customers, and other members of the
25 public with disabilities are as effective as commu-

1 nications and interactions with individuals without
2 disabilities.

3 (c) COMMERCIAL PROVIDERS.—No commercial pro-
4 vider shall design, develop, construct, alter, modify, or add
5 to a website or application for a covered entity for covered
6 use in a manner that results in the website or application
7 that is not accessible, or otherwise provide a website or
8 application to a covered entity for covered use that is not
9 accessible.

10 (d) DEFENSES AND EXEMPTIONS.—

11 (1) EMPLOYMENT ENTITIES.—With respect to
12 a claim that an employment entity violated this sec-
13 tion, the entity shall not be considered to have vio-
14 lated this section if compliance with this section—

15 (A) would impose an undue burden on the
16 entity; or

17 (B) would fundamentally alter the nature
18 of the employment provided by the entity.

19 (2) PUBLIC ENTITIES.—With respect to a claim
20 that a public entity violated this section, the entity
21 shall not be considered to have violated this section
22 if compliance with this section—

23 (A) would impose an undue burden on the
24 entity; or

1 (B) would fundamentally alter the nature
2 of the services, programs, activities, or informa-
3 tion provided by the entity.

4 (3) PUBLIC ACCOMMODATIONS OR TESTING EN-
5 TITIES.—With respect to a claim that a public ac-
6 commodation or testing entity violated this section,
7 the accommodation or entity shall not be considered
8 to have violated this section if compliance with this
9 section—

10 (A) would impose an undue burden on the
11 accommodation or entity; or

12 (B) would fundamentally alter the nature
13 of the goods, services, facilities, privileges, ad-
14 vantages, accommodations, or information pro-
15 vided by the accommodation or entity.

16 (4) COMMERCIAL PROVIDERS.—With respect to
17 a claim that a commercial provider violated this sec-
18 tion, the commercial provider shall not be considered
19 to have violated this section if compliance with this
20 section—

21 (A) would impose an undue burden on the
22 commercial provider; or

23 (B) would fundamentally alter the nature
24 of the goods, services, facilities, privileges, ad-
25 vantages, accommodations, programs, activities,

1 or information provided by the covered entity
2 served.

3 **SEC. 5. RULEMAKING.**

4 (a) PUBLIC ENTITIES, PUBLIC ACCOMMODATIONS,
5 AND TESTING ENTITIES.—

6 (1) NOTICE OF PROPOSED RULEMAKING.—

7 (A) ACCESSIBILITY.—Not later than 12
8 months after the date of enactment of this Act,
9 the Attorney General shall issue, for purposes
10 of section 4, a notice of proposed rulemaking
11 regarding the accessibility of websites and ap-
12 plications applicable to covered entities that are
13 public entities or public accommodations or
14 testing entities, and the commercial providers
15 for the three types of covered entities, for cov-
16 ered use. Such notice shall propose regulations
17 to implement the accessibility obligations of this
18 Act, and include standards for accessible
19 websites and applications that offer equally ef-
20 fective experiences for users with disabilities
21 and users without disabilities.

22 (B) SMALL ENTITIES.—In proposing the
23 regulations, the Attorney General shall—

24 (i) define the smaller entities, and
25 providers, described in subparagraph (A)

1 as small entities for purposes of this Act;
2 and

3 (ii) propose regulations that take into
4 account the capabilities of small entities,
5 such as small businesses, to comply with
6 standards for accessible websites and appli-
7 cations.

8 (2) FINAL RULE.—

9 (A) IN GENERAL.—Not later than 24
10 months after the date of enactment of this Act,
11 the Attorney General shall issue, for purposes
12 of section 4, a final rule regarding the accessi-
13 bility of websites and applications applicable to
14 the covered entities, and the commercial pro-
15 viders, described in paragraph (1), for covered
16 use. Such final rule shall implement the accessi-
17 bility obligations of this Act, include standards
18 for accessible websites and applications that
19 offer equally effective experiences for users with
20 disabilities and users without disabilities, and
21 take into account the capabilities of small enti-
22 ties, as described in paragraph (1)(B)(ii).

23 (B) EFFECTIVE DATE.—The final rule
24 shall take effect—

1 (i) for small entities, 2 years after the
2 date of issuance of the final rule; and

3 (ii) for other entities, 30 days after
4 that date of issuance.

5 (3) PUBLIC POSTING OF ENFORCEMENT AC-
6 TIONS.—Not later than 6 months after such
7 issuance, the Attorney General shall, to the extent
8 permitted by law, post publicly on the Department
9 website any and all settlement documents and docu-
10 ments specifying other resolutions, resulting from
11 the initiation of enforcement actions, or filing of ad-
12 ministrative or civil actions, by the Attorney General
13 pursuant to this Act concerning the covered entities,
14 and the commercial providers, described in para-
15 graph (1).

16 (b) EMPLOYMENT ENTITIES.—

17 (1) NOTICE OF PROPOSED RULEMAKING.—

18 (A) ACCESSIBILITY.—Not later than 12
19 months after the date of enactment of this Act,
20 the Commission shall issue, for purposes of sec-
21 tion 4, a notice of proposed rulemaking regard-
22 ing the accessibility of websites and applications
23 applicable to employment entities, and the com-
24 mercial providers for employment entities, for
25 covered use. Such notice shall propose regula-

1 tions to implement the accessibility obligations
2 of this Act, and include standards for accessible
3 websites and applications that offer equally ef-
4 fective experiences for users with disabilities
5 and users without disabilities.

6 (B) SMALL ENTITIES.—In proposing the
7 regulations, the Attorney General shall—

8 (i) define the smaller entities, and
9 providers, described in subparagraph (A)
10 as small entities for purposes of this Act;
11 and

12 (ii) propose regulations that take into
13 account the capabilities of small entities,
14 such as small businesses, to comply with
15 standards for accessible websites and appli-
16 cations.

17 (2) FINAL RULE.—

18 (A) IN GENERAL.—Not later than 24
19 months after the date of enactment of this Act,
20 the Commission shall issue, for purposes of sec-
21 tion 4, a final rule regarding the accessibility of
22 websites and applications applicable to the em-
23 ployment entities, and the commercial pro-
24 viders, described in paragraph (1), for covered
25 use. Such final rule shall implement the accessi-

1 bility obligations of this Act, include standards
2 for accessible websites and applications that
3 offer equally effective experiences for users with
4 disabilities and users without disabilities, and
5 take into account the capabilities of small enti-
6 ties, as described in paragraph (1)(B)(ii).

7 (B) EFFECTIVE DATE.—The final rule
8 shall take effect—

9 (i) for small entities, 2 years after the
10 date of issuance of the final rule; and

11 (ii) for other entities, 30 days after
12 that date of issuance.

13 (3) PUBLIC POSTING OF ENFORCEMENT AC-
14 TIONS.—Not later than 6 months after such
15 issuance, the Commission shall, to the extent per-
16 mitted by law, post publicly on the Commission
17 website any and all settlement documents, and docu-
18 ments specifying other resolutions, resulting from
19 the initiation of enforcement actions, or filing of ad-
20 ministrative or civil actions, by the Commission pur-
21 suant to this Act concerning the employment enti-
22 ties, and the commercial providers, described in
23 paragraph (1).

1 **SEC. 6. PERIODIC REVIEW.**

2 (a) REVIEW.—For each of the first 3 years after the
3 date of enactment of this Act, and every 2 years there-
4 after, each Federal agency receiving complaints or engag-
5 ing in enforcement (including compliance reviews and in-
6 vestigations), administrative (including administrative res-
7 olution of a claim of a violation), or civil actions under
8 this Act shall submit a report on the complaints and ac-
9 tivities to the Department and the Commission. The At-
10 torney General and the Commission shall, for each of the
11 first 3 years and every 2 years thereafter, review com-
12 plaints received and enforcement, administrative, or civil
13 actions taken under this Act, to determine whether the
14 purpose of this Act is being achieved. In conducting such
15 reviews, the Attorney General and the Commission may
16 award grants, contracts, or cooperative agreements to en-
17 tities that have documented experience and expertise in
18 collecting and analyzing data associated with imple-
19 menting reviews of complaints, and enforcement, adminis-
20 trative, and civil actions.

21 (b) REPORT.—The Attorney General and the Com-
22 mission shall prepare a report containing the results of
23 each such review of complaints and actions described in
24 subsection (a), and shall submit the report to the Com-
25 mittee on Health, Education, Labor, and Pensions and the
26 Committee on the Judiciary of the Senate and the Com-

1 mittee on Education and Labor and the Committee on the
2 Judiciary of the House of Representatives.

3 (c) UPDATED REGULATIONS.—The Attorney General
4 and the Commission shall issue, in accordance with this
5 Act, updated accessibility regulations every 3 years fol-
6 lowing the date of issuance of the initial accessibility regu-
7 lations issued under this Act.

8 **SEC. 7. ENFORCEMENT AND ADMINISTRATIVE ACTION, AND**
9 **PRIVATE RIGHT OF ACTION.**

10 (a) PUBLIC ENTITIES, PUBLIC ACCOMMODATIONS,
11 AND TESTING ENTITIES.—

12 (1) CIVIL ACTION BY ATTORNEY GENERAL.—

13 (A) IN GENERAL.—

14 (i) INVESTIGATION AFTER A COM-
15 PLAIN.—On receiving a complaint filed by
16 an individual with a disability, a class of
17 individuals with disabilities, or an entity
18 representing an individual with a disability
19 or such a class, of a violation of paragraph
20 (2) or (3) of subsection (a), as the case
21 may be, or a complaint filed by a covered
22 entity that is a public entity, public accom-
23 modation, or testing entity of a violation of
24 subsection (c), of section 4 (including a re-
25 lated provision of the final rule issued

1 under section 5(a)), the Attorney General
2 may conduct an investigation. The inves-
3 tigation shall consist of a review of the cor-
4 responding website or application owned,
5 operated, or utilized for covered use by
6 such a covered entity, or provided to such
7 a covered entity by a commercial provider,
8 to determine whether the covered entity or
9 commercial provider has violated the cor-
10 responding provision of section 4.

11 (ii) OTHER INVESTIGATION AND RE-
12 VIEW.—In addition, the Attorney General
13 shall, on the Attorney General’s own au-
14 thority, investigate practices that may be
15 violations of, and undertake periodic re-
16 views of compliance of such covered enti-
17 ties and commercial providers with, the
18 corresponding provision of section 4 (in-
19 cluding a related provision of the final rule
20 issued under section 5(a)).

21 (iii) DETERMINATION OF VIOLA-
22 TION.—If, after investigation or review
23 under this subparagraph, the Attorney
24 General determines that such a covered en-
25 tity or commercial provider has violated

1 the corresponding provision of section 4
2 (including a related provision of the final
3 rule issued under section 5(a)), the Attor-
4 ney General may take administrative ac-
5 tion (including administrative resolution of
6 a claim of such a violation) or bring a civil
7 action in a district court of the United
8 States.

9 (B) INTERVENTION.—If the Attorney Gen-
10 eral brings such a civil action based on a com-
11 plaint filed by an individual, class of individ-
12 uals, or entity, described in subparagraph (A),
13 including a covered entity described in subpara-
14 graph (A) alleging a violation by a commercial
15 provider, such individual, class, or entity shall
16 have the right to intervene in such civil action.

17 (2) CIVIL ACTION BY OTHERS.—An individual,
18 class, or entity, described in paragraph (1)(A), in-
19 cluding a covered entity described in paragraph
20 (1)(A) alleging a violation by a commercial provider,
21 may bring a civil action alleging a violation of para-
22 graph (2) or (3) of subsection (a), or subsection (c),
23 as the case may be, of section 4 (including a related
24 provision of the final rule issued under section 5(a))
25 in an appropriate State or Federal court without

1 first filing a complaint with the Department or ex-
2 hausting any other administrative remedies.

3 (b) EMPLOYMENT ENTITIES.—

4 (1) CIVIL ACTION BY COMMISSION AND ATTOR-
5 NEY GENERAL.—

6 (A) IN GENERAL.—

7 (i) INVESTIGATION AFTER A COM-
8 PLAINT.—On receiving a complaint filed by
9 a qualified individual, a class of qualified
10 individuals, or an entity representing a
11 qualified individual or such a class, of a
12 violation of subsection (a)(1), or a com-
13 plaint filed by an employment entity of a
14 violation of subsection (c), of section 4 (in-
15 cluding a related provision of the final rule
16 issued under section 5(b)), the Commission
17 may conduct an investigation. The inves-
18 tigation shall consist of a review of the cor-
19 responding website or application owned,
20 operated, or utilized for covered use by an
21 employment entity, or provided to an em-
22 ployment entity by a commercial provider,
23 to determine whether the employment enti-
24 ty or commercial provider has violated the
25 corresponding provision of section 4.

1 (ii) OTHER INVESTIGATION AND RE-
2 VIEW.—In addition, the Commission shall,
3 on the Commission’s own authority, inves-
4 tigate practices that may be violations of,
5 and undertake periodic reviews of compli-
6 ance of employment entities and commer-
7 cial providers with, the corresponding pro-
8 vision of section 4 (including a related pro-
9 vision of the final rule issued under section
10 5(b)).

11 (iii) DETERMINATION OF VIOLA-
12 TION.—If, after investigation or review de-
13 scribed in this subparagraph, the Commis-
14 sion determines that an employment entity
15 or commercial provider has violated the
16 corresponding provision of section 4 (in-
17 cluding a related provision of the final rule
18 issued under section 5(b)), the Commission
19 may take administrative action (including
20 administrative resolution of a claim of such
21 a violation) or bring a civil action in a dis-
22 trict court of the United States.

23 (B) INTERVENTION.—If the Commission
24 brings such a civil action based on a complaint
25 filed by a qualified individual, class of qualified

1 individuals, or entity, described in subpara-
2 graph (A), including an employment entity al-
3 leging a violation by a commercial provider,
4 such qualified individual, class, or entity shall
5 have the right to intervene in such civil action.

6 (2) CIVIL ACTION BY OTHERS.—A qualified in-
7 dividual, class, or entity, described in paragraph
8 (1)(A), including an employee or employment entity
9 alleging a violation by a commercial provider, may
10 bring a civil action alleging a violation of subsection
11 (a)(1) or subsection (c), as the case may be, of sec-
12 tion 4 (including a related provision of the final rule
13 issued under section 5(b)) in an appropriate State or
14 Federal court without first filing a complaint with
15 the Commission or exhausting any other administra-
16 tive remedies.

17 (3) FUNCTIONS OF THE ATTORNEY GEN-
18 ERAL.—The Attorney General shall carry out any
19 function of the Commission under this subsection
20 that the Attorney General carries out under section
21 107 of the ADA (42 U.S.C. 12117).

22 (c) RELIEF.—

23 (1) CIVIL ACTION BY ATTORNEY GENERAL OR
24 COMMISSIONER.—In a civil action brought under

1 subsection (a)(1) or (b)(1), the Attorney General or
2 Commissioner may seek—

3 (A) a civil penalty and all appropriate in-
4 junctive relief to bring the affected website or
5 application into compliance with section 4; and

6 (B) on behalf of affected individuals, all
7 economic and noneconomic damages including
8 compensatory and punitive damages.

9 (2) CIVIL ACTION BY OTHERS.—In a civil action
10 brought under subsection (a)(2) or (b)(2), the plain-
11 tiff may seek all appropriate injunctive relief de-
12 scribed in paragraph (1)(A) and the damages de-
13 scribed in paragraph (1)(B).

14 (3) ATTORNEY’S FEES.—The prevailing plain-
15 tiff (other than the United States) shall also be
16 awarded reasonable attorney’s fees and costs.

17 **SEC. 8. RECOMMENDATIONS.**

18 (a) ADVISORY COMMITTEE.—

19 (1) IN GENERAL.—The Attorney General and
20 the Commission shall establish a standing advisory
21 committee (referred to in this section as the “Com-
22 mittee”) on accessible websites and applications. The
23 Committee shall be operated and receive resources in
24 accordance with the provisions of chapter of title 5,
25 United States Code (commonly known as the “Fed-

1 eral Advisory Committee Act’), as an advisory com-
2 mittee under the authority of the Attorney General
3 and Commission.

4 (2) COMPOSITION.—In establishing the Com-
5 mittee, the Attorney General and the Commission—

6 (A) shall include on the Committee—

7 (i) individuals with disabilities (com-
8 prising a majority of the members of the
9 Committee) who are—

10 (I) individuals who are blind (in-
11 cluding who have low vision), deaf,
12 hard of hearing, or deafblind;

13 (II) individuals who have speech
14 disabilities;

15 (III) individuals with physical
16 disabilities including those with lim-
17 ited to no manual dexterity; and

18 (IV) individuals who have disabil-
19 ities not specified in any of subclauses

20 (I) through (III); and

21 (ii) experts regarding accessible
22 websites and applications for individuals
23 with disabilities; and

24 (B) may include on the Committee rep-
25 resentatives of—

- 1 (i) State and local government;
- 2 (ii) covered entities, including such
- 3 entities who are small entities;
- 4 (iii) commercial providers;
- 5 (iv) testing entities; and
- 6 (v) other entities determined to be ap-
- 7 propriate by the Attorney General and the
- 8 Commission.

9 (3) FUNCTIONS.—The Committee shall provide
10 responsive advice and guidance to the Attorney Gen-
11 eral and the Commission, for purposes of carrying
12 out this Act, by—

13 (A) conducting public meetings twice per
14 year, at a minimum;

15 (B) submitting reports and recommenda-
16 tions to the Attorney General and Commission,
17 and making the reports and recommendations
18 publicly available, every 2 years at a minimum;
19 and

20 (C) otherwise assisting the Attorney Gen-
21 eral and Commission in identifying and under-
22 standing the impact and implications of innova-
23 tions with regard to accessible websites and ap-
24 plications.

1 (b) CONFERRING.—The Attorney General and the
2 Commission, in carrying out this Act, may confer with the
3 National Council on Disability, the Architectural and
4 Transportation Barriers Compliance Board, or any other
5 Federal department or agency that may have relevant ex-
6 pertise or experience.

7 **SEC. 9. TECHNICAL ASSISTANCE.**

8 (a) PURPOSE.—It is the purpose of this section to
9 establish a technical assistance center to provide, to cov-
10 ered entities, commercial providers, individuals with dis-
11 abilities, and other members of the public, information,
12 resources, training, and technical assistance regarding—

13 (1) the design, development, construction, alter-
14 ation, modification, or addition of accessible websites
15 and applications in accordance with this Act; and

16 (2) the rights of individuals with disabilities,
17 covered entities, and commercial providers to access
18 websites and applications in accordance with the
19 ADA (42 U.S.C. 12101 et seq.) and this Act.

20 (b) SUPPORT FOR TRAINING AND TECHNICAL AS-
21 SISTANCE.—From amounts made available under section
22 13, the Attorney General, in coordination with the Com-
23 mission, the Secretary of Education, and other heads of
24 Federal agencies, as appropriate shall award, on a com-
25 petitive basis, at least 1 grant, contract, or cooperative

1 agreement to a qualified training and technical assistance
2 provider to support the development, establishment, and
3 procurement of accessible websites and applications.

4 (c) APPLICATION.—

5 (1) IN GENERAL.—To be eligible to receive a
6 grant, contract, or cooperative agreement under this
7 section, an entity shall submit an application to the
8 Attorney General at such time, in such manner, and
9 containing such information as the Attorney General
10 may require.

11 (2) INPUT.—In awarding a grant, contract, or
12 cooperative agreement under this section and in re-
13 viewing the activities proposed under the applica-
14 tions described in paragraph (1), the Attorney Gen-
15 eral, in coordination with the Commission, the Sec-
16 retary of Education, and other heads of Federal
17 agencies, as appropriate—

18 (A) shall consider the input of—

19 (i) individuals with disabilities who
20 are—

21 (I) individuals who are blind (in-
22 cluding individuals who have low vi-
23 sion), deaf, hard of hearing, or
24 deafblind;

1 (II) individuals who have speech
2 disabilities;

3 (III) individuals with physical
4 disabilities, including individuals with
5 limited to no manual dexterity; and

6 (IV) individuals who have disabil-
7 ities not specified in any of subclauses
8 (I) through (III); and

9 (ii) experts regarding accessible
10 websites and applications for use by indi-
11 viduals with disabilities; and

12 (B) may consider the input of—

13 (i) State and local government;

14 (ii) covered entities;

15 (iii) commercial providers;

16 (iv) testing entities; and

17 (v) other entities determined to be ap-
18 propriate by the Attorney General, in co-
19 ordination with the Commission, the Sec-
20 retary of Education, and other heads of
21 Federal agencies, as appropriate.

22 (d) AUTHORIZED ACTIVITIES.—

23 (1) USE OF FUNDS.—

24 (A) REQUESTS FOR INFORMATION.—An
25 entity receiving a grant, contract, or cooperative

1 agreement under this section shall support a
2 training and technical assistance program that
3 addresses information requests, concerning ac-
4 cessible websites and applications, from covered
5 entities and commercial providers, including re-
6 quests for information regarding—

7 (i) effective approaches for developing,
8 establishing, and procuring accessible
9 websites and applications;

10 (ii) state-of-the-art, or model, Federal,
11 State, and local laws, regulations, policies,
12 practices, procedures, and organizational
13 structures, that facilitate, and overcome
14 barriers to, receipt of funding for, and ac-
15 cess to, accessible websites and applica-
16 tions; and

17 (iii) examples of policies, practices,
18 procedures, regulations, or judicial deci-
19 sions that have enhanced or may enhance
20 access to and receipt of funding for acces-
21 sible websites and applications.

22 (B) COORDINATION.—An entity receiving a
23 grant, contract, or cooperative agreement under
24 this section may also provide technical assist-
25 ance and training, concerning accessible

1 websites and applications, for covered entities
2 and commercial providers by—

3 (i) facilitating onsite and electronic in-
4 formation sharing using state-of-the-art
5 internet technologies such as real-time on-
6 line discussions, multipoint video confer-
7 encing, and web-based audio or video
8 broadcasts, on emerging topics regarding
9 accessible websites and applications;

10 (ii) convening experts to discuss and
11 make recommendations with regard to na-
12 tional emerging issues regarding accessible
13 websites and applications;

14 (iii) sharing best practices and evi-
15 dence-based practices in developing, estab-
16 lishing, and procuring accessible websites
17 and applications;

18 (iv) supporting and coordinating ac-
19 tivities designed to reduce the financial
20 costs of purchasing technology needed to
21 access accessible websites and applications;
22 and

23 (v) carrying out such other activities
24 as the Attorney General, in coordination
25 with the Commission, the Secretary of

1 Education, and other heads of Federal
2 agencies, as appropriate may require.

3 (C) COLLABORATION.—In developing and
4 providing training and technical assistance
5 under this section, an entity receiving a grant,
6 contract, or cooperative agreement under this
7 section shall collaborate with—

8 (i) organizations representing individ-
9 uals with disabilities;

10 (ii) organizations or entities that pro-
11 vide services for individuals with disabil-
12 ities, such as centers for independent liv-
13 ing, as defined in section 702 of the Reha-
14 bilitation Act of 1973 (29 U.S.C. 796a);

15 (iii) entities, such as the World Wide
16 Web Consortium and the National Insti-
17 tute of Standards and Technology, that de-
18 velop international standards for accessible
19 websites and applications;

20 (iv) existing (existing as of the date of
21 the application for the award involved)
22 technical assistance entities, such as the
23 ADA National Network;

1 (v) Federal, State, and territorial
2 agencies that provide assistance to small
3 businesses;

4 (vi) organizations or entities rep-
5 resenting State or local government, and
6 educational website and technology profes-
7 sionals;

8 (vii) entities or individuals with exper-
9 tise and experience in enforcing disability
10 rights law; and

11 (viii) other entities and technical as-
12 sistance providers determined to be appro-
13 priate by the Attorney General, in coordi-
14 nation with the Commission, the Secretary
15 of Education, and other heads of Federal
16 agencies, as appropriate.

17 (D) GRANT ADMINISTRATION.—An entity
18 receiving a grant, contract, or cooperative
19 agreement under this section may use funds
20 made available under section 13 to administer
21 a program to make subgrants to small entities,
22 pursuant to section 11.

23 **SEC. 10. STUDY AND REPORT ON EMERGING TECH-**
24 **NOLOGIES.**

25 (a) STUDY AND REPORT.—

1 (1) IN GENERAL.—The National Council on
2 Disability (in this section referred to as the “Coun-
3 cil”) shall conduct a study and prepare a report
4 on—

5 (A) the effect that emerging technologies
6 have on the ability of individuals with disabil-
7 ities to participate in employment, education,
8 government, health care, commerce, culture,
9 and other aspects of society; and

10 (B) the effectiveness of this Act in achiev-
11 ing its purpose.

12 (2) CONSIDERATION OF EFFECT ON INDIVID-
13 UALS WITH PARTICULAR BARRIERS.—In conducting
14 the study and preparing the report, the Council shall
15 consider the effect of emerging technologies on indi-
16 viduals with disabilities who use those technologies
17 and have particular barriers to such participation
18 and communication, such as individuals with disabil-
19 ities using those technologies—

20 (A) who have limited language or limited
21 English language;

22 (B) who have significant or targeted dis-
23 abilities (including people who are blind, deaf,
24 or deafblind);

1 (C) who have disabilities limiting commu-
2 nication;

3 (D) whose household income is at or below
4 200 percent of the poverty line, as defined by
5 the Federal poverty guidelines of the Depart-
6 ment of Health and Human Services;

7 (E) who lack access to broadband services
8 and technology; or

9 (F) who are multiply marginalized due to
10 race, ethnicity, national origin, age, sex, sexual
11 orientation, gender identity, or socioeconomic
12 status.

13 (b) SUBMISSION OF REPORT.—Five years after the
14 date of enactment of this Act, the Council shall submit
15 the report required under subsection (a) to the appro-
16 priate committees of Congress, which shall at minimum
17 include the Committee on Health, Education, Labor, and
18 Pensions and the Committee on the Judiciary of the Sen-
19 ate and the Committee on Education and Labor and the
20 Committee on the Judiciary of the House of Representa-
21 tives.

22 **SEC. 11. GRANTS TO SMALL ENTITIES.**

23 (a) PURPOSE.—The purpose of this section is to
24 award grants to provide assistance to small entities to en-
25 able the entities to remediate existing (as of the date of

1 application for the award) websites and applications to en-
2 able the small entities to comply with the regulations es-
3 tablished under this Act.

4 (b) SUPPORT FOR REMEDIATION ACTIVITIES.—

5 (1) IN GENERAL.—From amounts made avail-
6 able under section 13, for each of the first 5 years
7 after the date of issuance, the recipient of the award
8 under section 9 (relating to a technical assistance
9 center), in coordination with the Attorney General
10 and the Commission, shall award grants, in amounts
11 not to exceed \$10,000, to small entities to support
12 auditing, testing, and remediating inaccessible
13 websites or applications or to support procurement
14 of accessible websites and applications to replace in-
15 accessible websites or applications, in accordance
16 with this Act.

17 (2) DATE OF ISSUANCE.—In this subsection,
18 the term “date of issuance” means the date that is
19 the earlier of the first day on which a final rule is
20 issued under section 5(a) and the first day on which
21 a final rule is issued under section 5(b).

22 (c) APPLICATION.—To be eligible to receive a grant
23 under this section, a small entity shall submit an applica-
24 tion to the Attorney General and the Commission (or the
25 recipient of the award under section 9) at such time, in

1 such manner, and containing such information as the At-
2 torney General and the Commission (or the recipient of
3 the award under section 9) may require. At a minimum,
4 the applicant shall demonstrate—

5 (1) that the entity is a small entity;

6 (2)(A) if the entity is a covered entity, that it
7 owns, operates, or utilizes an inaccessible website or
8 application that requires remediation or replacement
9 for the entity to comply with this Act; or

10 (B) if the entity is a commercial provider, that
11 it provides, to a covered entity, an inaccessible
12 website or application that requires remediation for
13 the provider to comply with this Act; and

14 (3) that the small entity has a plan to reme-
15 diate or replace, as appropriate, the inaccessible
16 website or application, so that the entity complies
17 with this Act.

18 (d) AUTHORIZED ACTIVITIES.—A small entity receiv-
19 ing a grant under this section—

20 (1) may use the grant funds, directly or
21 through a subgrant, to audit, test, or remediate the
22 inaccessible website or application or procure a new
23 accessible website or application to replace the inac-
24 cessible website or application;

1 (2) shall use the grant funds to demonstrate
2 that the resulting website or application is acces-
3 sible; and

4 (3) may not use the grant funds to design, de-
5 velop, or procure an inaccessible website or applica-
6 tion.

7 **SEC. 12. RULES OF CONSTRUCTION.**

8 (a) OTHER PROVISIONS OF LAW.—Nothing in this
9 Act shall be construed to affect the scope of obligations
10 imposed by any other provision of law, including—

11 (1) section 504 of the Rehabilitation Act of
12 1973 (29 U.S.C. 794), title II or III of the ADA (42
13 U.S.C. 12131 et seq.), and section 1557 of the Pa-
14 tient Protection and Affordable Care Act (42 U.S.C.
15 18116), that, consistent with this Act, prohibit an
16 exclusion, denial, or any other discrimination de-
17 scribed in section 4(a) by a covered entity, including
18 any public accommodation, whether or not the entity
19 has a physical location or is digital only, and wheth-
20 er or not such exclusion, denial, or discrimination
21 takes place in a physical or digital location; and

22 (2) section 508 of the Rehabilitation Act of
23 1973 (29 U.S.C. 794d) and section 255 of the Com-
24 munications Act of 1934 (47 U.S.C. 255).

1 (b) RELATIONSHIP TO OTHER LAWS.—Nothing in
2 this Act shall be construed to invalidate or limit the rem-
3 edies, rights, and procedures of any Federal law or law
4 of any State or political subdivision of any State or juris-
5 diction, that provides greater or equal protection for the
6 rights of individuals with disabilities than is afforded by
7 this Act.

8 (c) CONSISTENT REGULATIONS.—Regulations pro-
9 mulgated under this Act shall be consistent with, and shall
10 not contain a standard less protective of individuals with
11 disabilities than, the standards contained in—

12 (1) any regulations issued by the Attorney Gen-
13 eral or the Commission pursuant to—

14 (A) title I of the ADA (42 U.S.C. 12111
15 et seq.) for digital access to an item related to
16 an activity described in section 102 of the ADA
17 (42 U.S.C. 12112), by covered entities;

18 (B) title II of the ADA (42 U.S.C. 12131
19 et seq.) for digital access to services, programs,
20 or activities, or information related to such
21 services, programs, or activities of covered enti-
22 ties; or

23 (C) title III of the ADA (42 U.S.C. 12181
24 et seq.) for digital access to goods, services, fa-
25 cilities, privileges, advantages, accommodations,

1 or information related to such goods, services,
2 facilities, privileges, advantages, or accommoda-
3 tions of covered entities; and

4 (2) the regulations issued by the Federal Com-
5 munications Commission for video programming and
6 communications services provided via websites and
7 applications.

8 (d) PROHIBITION ON NOTIFICATION REQUIRE-
9 MENT.—The Attorney General and the Commission shall
10 not include, in the accessibility regulations, any require-
11 ment that an individual shall notify a covered entity of
12 an allegation of a violation of this Act prior to commencing
13 a civil action under this Act.

14 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

15 There are authorized to be appropriated \$35,150,000
16 for each of fiscal years 2024 through 2033 to carry out
17 this Act.

18 **SEC. 14. EFFECTIVE DATE.**

19 This Act shall take effect 6 months after the date
20 of enactment of this Act, except that section 4 shall apply
21 to covered entities or commercial providers 12 months
22 after that date of enactment.

○