For An Act To Be Entitled

"AN ACT TO SECURE THE BENEFITS OF ACCESS TO
INFORMATION TECHNOLOGY FOR INDIVIDUALS WHO ARE BLIND
OR VISUALLY IMPAIRED THROUGH THE PROCUREMENT OF SUCH
TECHNOLOGY IN ACCORDANCE WITH STANDARDS FOR EQUIVALENT
ACCESS BY BOTH VISUAL AND NONVISUAL MEANS; AND FOR
OTHER PURPOSES."

Subtitle

"TO SECURE BENEFITS OF ACCESS TO
INFORMATION TECHNOLOGY FOR INDIVIDUALS
WHO ARE BLIND OR VISUALLY IMPAIRED
THROUGH PROCUREMENT OF SUCH TECHNOLOGY
WITH STANDARDS FOR EQUIVALENT ACCESS BY
BOTH VISUAL AND NONVISUAL MEANS."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Findings and policy.

(a) The Legislature finds that:

(1) The advent of the information age throughout the United
States and around the world has resulted in lasting changes in information
technology;

(2) Use of interactive visual display terminals by state and
state-assisted organizations is becoming a widespread means of access for
employees and the public to obtain information available electronically, but
nonvisual access, whether by speech, Braille, or other appropriate means has
been overlooked in purchasing and deploying the latest information technology;
Presentation of electronic data solely in a visual format is a barrier to access by individuals who are blind or visually impaired, preventing them from participating on equal terms in crucial areas of life, such as education and employment;

Alternatives, including both software and hardware adaptations, have been created so that interactive control of computers and use of the information presented is possible by both visual and nonvisual means; and

The goals of the state in obtaining and deploying the most advanced forms of information technology properly include universal access so that segments of society with particular needs, including but not limited to individuals unable to use visual displays, will not be left out of the information age.

It is the policy of the State of Arkansas that all programs and activities which are supported in whole or in part by public funds shall be conducted in accordance with the following principles:

Individuals who are blind or visually impaired have the right to full participation in the life of the state, including the use of advanced technology which is provided by the state or state-assisted organizations for use by employees, program participants, and members of the general public; and

Technology purchased in whole or in part with funds provided by the state to be used for the creation, storage, retrieval, or dissemination of information and intended for use by employees, program participants, and members of the general public shall be accessible to and usable by individuals who are blind or visually impaired.

SECTION 2. Definitions.
For purposes of this act:

"Access" means the ability to receive, use, and manipulate data and operate controls included in information technology;

"Blind or visually impaired individual" means an individual who:

(A) Has a visual acuity of twenty/two hundred (20/200) or less in the better eye with correcting lenses or has a limited field of vision so that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees;

(B) Has a medically indicated expectation of visual
(C) Has a medically diagnosed limitation in visual functioning that restricts the individual’s ability to read and write standard print at levels expected of individuals of comparable ability;

(3) "Covered entity" means the state or any state-assisted organization;

(4) "Information technology" means all electronic information processing hardware and software, including telecommunications;

(5) "Nonvisual" means synthesized speech, Braille, and other output methods not requiring sight;

(6) "State" means the state or any of its departments, agencies, public bodies, or other instrumentalities;

(7) "State-assisted organization" means a college, nonprofit organization, person, political subdivision, school system, or other entity supported in whole or in part by state funds;

(8) "Telecommunications" means the transmission of information, images, pictures, voice or data by radio, video, or other electronic or impulse means.

SECTION 3. Assurance of nonvisual access.

(a) In general, the head of each covered entity shall ensure that information technology equipment and software used by employees, program participants, or members of the general public:

(1) Provides blind or visually impaired individuals with access, including but not limited to interactive use of the equipment and services which is equivalent to that provided to individuals who are not blind or visually impaired;

(2) Is designed to present information including but not limited to prompts used for interactive communications in formats intended for both visual and nonvisual use; and

(3) Has been purchased under a contract which includes the technology access clause required pursuant to Section 4 of this act.

SECTION 4. Procurement requirements.

(a) The technology access clause specified in Section 3 of this act shall be developed by the Department of Information Systems and shall require compliance with nonvisual access standards established by the state. The clause shall be included in all contracts for the procurement of information
technology by, or for the use of, entities covered by this act on or after the
effective date of this act.

(b) The nonvisual access standards established by the state pursuant to
subsection (a) of this section shall include such specifications as are
necessary to fulfill the assurances in Section 3 of this act and shall include
the following minimum specifications:

(1) That effective, interactive control and use of the technology
including but not limited to the operating system applications programs, and
format of the data presented, is readily achievable by nonvisual means;

(2) That the technology equipped for nonvisual access must be
compatible with information technology used by other individuals with whom the
blind or visually impaired individual must interact;

(3) That nonvisual access technology must be integrated into
networks used to share communications among employees, program participants,
and the public; and

(4) That the technology for nonvisual access must have the
capability of providing equivalent access by nonvisual means to
telecommunications or other interconnected network services used by persons
who are not blind or visually impaired.

SECTION 5. Implementation.

(a) For the purpose of assuring the effective phasing in of nonvisual
access technology procurement, the head of any covered entity:

(1) May not approve exclusion of the technology access clause
from any contract with respect to the compatibility of standard operating
systems and software with nonvisual access software and peripheral devices or
with respect to the initial design, development, and installation of
information systems, including the design and procurement of interactive
equipment and software; or

(2) May, with respect to nonvisual access software or peripheral
devices obtained during the three (3) year period, beginning upon the date of
enactment of this act, approve exclusion of such clause to the extent that the
cost of such software or devices for the covered entity exceeds:

(A) Fifty thousand dollars ($50,000) for the first year;

(B) One hundred thousand dollars ($100,000) for the second
year; and
(C) Two hundred and fifty thousand dollars ($250,000) for the third year.

(b) Nothing in this section requires the installation of software or peripheral devices used for nonvisual access when the information technology is being used by individuals who are not blind or visually impaired.

(c) Notwithstanding the provisions of paragraph (b) of this section, the applications programs and underlying operating systems including but not limited to the format of the data used for the manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.

(d) Compliance with this act in regard to information technology purchased prior to the effective date of this act shall be achieved at the time of procurement of an upgrade or replacement of the existing equipment or software.

SECTION 6. Action for injunction.

(a) A person injured by a violation of this act may maintain an action for injunctive relief to enforce the terms of this act.

(b) Limitation period for civil action:

(1) Any such action shall be commenced within four (4) years after the cause of action accrues; and

(2) For the purposes of this subsection, a cause of action for a continuing violation accrues at the time of the latest violation.

SECTION 7. This act shall take effect and be in force from the date of enactment of this act.

SECTION 8. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.
SECTION 10. All laws and parts of laws in conflict with this act are hereby repealed.

APPROVED: 4/8/1999