PLANTING CARROTS FOR CHANGE: CULTIVATING COMPLIANCE WITH TITLE III OF THE ADA

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ABSTRACT

Title III of the Americans with Disabilities Act aims to ensure the full inclusion of individuals with disabilities in places of public accommodation. Recently, Title III cases, particularly those bringing website accessibility claims, have significantly increased in number. Some businesses defending these suits argue that private enforcement of Title III by tester plaintiffs is abusive. Reinvigorated attacks on this compliance mechanism demonstrate the very hostility and prejudice that Title III was designed to eradicate. This Note contends that while private and government enforcement should continue, tax reforms could expand an additional compliance incentive to pursue the valuable, inclusive goals of the Americans with Disabilities Act.

INTRODUCTION

After Senator Tom Harkin introduced the Americans with Disabilities Act (ADA) in 1989, supporters described it as a watershed piece of legislation that would "finally extend to all disabled Americans the rights that all of us should be [afforded]: [t]he right to be treated with respect and dignity, to be valued for our abilities and our merits, [and] not to be judged by the things we cannot do."[1] The law promised to unite the nation and integrate a substantial portion of the population that had historically been excluded.[2] To accomplish this goal, its provisions target the largest areas of exclusion: employment, government services, transportation, public accommodations, telecommunications, and education.[3] This widespread coverage touches schools, offices, shopping malls, restaurants, hotels, national parks, movie theaters, bars, arcades, courthouses, subways, airports, gyms, doctors' offices, salons, gas stations, grocery stores, and many other spaces where people enjoy life.[4]

Upon the ADA's first introduction in 1988,[5] the private businesses likely to be affected presented their financial concerns to

1. 135 CONG. REC. 19831 (1989).

2. *See* NANCY JONES, CONG. RSCH. SERV., 89-544 A, THE AMERICANS WITH DISABILITIES ACT (ADA): A COMPARISON AND ANALYSIS OF THE BILL AS INTRODUCED AND AS PASSED BY THE SENATE 4 (1989) (summarizing S. 933, 101st Cong. § 2 (as introduced, May 9, 1989)).

3. *See generally* Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101–12213.

4. *See id.* §§ 12112, 12132, 12182.

5. *See* S. 2345, 100th Cong. (1998). The bill died upon the adjournment of the 100th Congress on October 22, 1988. *See* Chai Feldblum, *Medical Examinations and Inquiries Under the Americans with Disabilities Act: A View from the Inside*, 64

congressional representatives and the Reagan Administration.[6] During debates on both bills, representatives conveyed unquantified fears of the costly impact of such radical change and asked whether businesses would be crushed by the obligation to comply.[7] Sympathetic parties urged Congress to "retain the bill's broad coverage . . . without penalizing small employers who barely get by as it is."[8] Legislators compromised where necessary, and the bill passed both chambers with resounding bipartisan support.[9]

Now, thirty-five years later, tester plaintiffs frequently utilize the Act's private enforcement mechanisms to ensure compliance, but affected business owners allege that the plaintiffs seek no more than personal financial gain.[10] Congress has unsuccessfully pursued reforms, but government representatives and private media outlets continue to provide platforms for affected business owners to villainize plaintiffs and frame the ADA as more harmful than beneficial.[11] Without swift action, the ADA's future enforceability may be at risk. Title III's supporters have offered numerous modifications to private plaintiffs' standing,[12] but another route may improve Title III's perception without completely scrapping its legislative aims.

Part I of this Note provides relevant background on the passage, design, and enforcement of Title III of the ADA. Part II discusses general principles of compliance incentives and explains how Title III's approach falls short. Counter to its intent, Title III's deficiencies

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TEMP. L. REV. 521, 525 (1991). Feldblum served as the lead attorney "for the disability and civil rights communities in Washington, D.C., during the three-year [ADA] negotiations." *Id.* at 549.

6. *See* Feldblum, *supra* note 5, at 525–27.

7. *See, e.g.*, 135 CONG. REC. 19836 (1989) (discussing the financial impact of cost of accommodations and fines for noncompliance).

8. *Id.*

9. *See* Feldblum, *supra* note 5, at 527–28, 530–31.

10. *See* discussion *infra* Part I, Section A. Although Title III does not allow personal damages, some plaintiffs settle with public accommodations in exchange for dropping their claim. *See infra* notes 27, 38–39.

11. *See infra* notes 48, 110–15; discussion *infra* Part I, Section A.

12. *See, e.g.*, Leslie Lee, Note, *Giving Disabled Testers Access to Federal Courts: Why Standing Doctrine Is Not the Right Solution to Abusive ADA Litigation*, 19 VA. J. SOC. POL'Y & L. 319, 346–52 (2011) (suggesting an ADA amendment to explicitly grant plaintiffs testing physical spaces with standing); Cecily Kemp, Comment, *Constitutional Standing for ADA Testers of Online Spaces*, 48 SETON HALL J. LEGIS. & PUB. POL'Y. 356, 378–85 (2024) (suggesting an ADA amendment to explicitly grant plaintiffs testing online spaces with standing); Ashlyn Dewberry, Note, *Testing the Limits of Virtual Compliance: Website Accessibility, "Tester" Plaintiffs, and Article III Standing Under the ADA*, 58 GA. L. REV. 935, 974–79 (2024) (suggesting an amendment similar to Kemp's in the form of a qui tam provision).

hinder its enforcement and threaten its continued existence. Finally, Part III explains how the Internal Revenue Code provides the best path forward for incentivizing voluntary Title III compliance. By combining tax and financial incentives for small businesses with an extensive information campaign, small businesses, the disability community, and society as a whole will benefit significantly.

I. BACKGROUND ON THE AMERICANS WITH DISABILITIES ACT

Congress enacted the ADA in 1990 to "invoke the sweep of congressional authority . . . in order to address the major areas of discrimination faced day-to-day by people with disabilities."[13] Title III of the ADA addresses one such area: discrimination in public accommodations—private entities with operations affecting commerce.[14] Under Title III, individuals shall not be "discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation."[15] This antidiscrimination mandate requires places of public accommodation to ensure new or altered construction is accessible, to remove architectural and communication barriers where readily achievable, and to make reasonable modifications to policies and procedures.[16]

The ADA requires detailed regulations for implementation and enforcement of its broad mandates.[17] Congress directed the Secretary of Transportation to issue regulations guiding enforcement of the transportation-related provisions of Title III and the Attorney General to issue regulations for the remaining provisions of Title III.[18] In the increasingly digital world, the ADA's application to the internet presents a pivotal area of litigation, but circuit courts remain split on whether purely online services can be public accommodations.[19]

13. 42 U.S.C. § 12101(b)(4); *see generally* Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. §§ 12101–12213.

14. *See id.* § 12181(7).

15. *Id.* § 12182(a).

16. *See id.* § 12182(b)(2).

17. *See, e.g.*, *id.* §§ 12116, 12134.

18. *See* 42 U.S.C. § 12186(a)(1), (b).

19. The Third, Sixth, and Ninth Circuits require a sufficient nexus to a physical place for Title III to apply; the First and Seventh Circuits do not require a nexus and extend Title III to remote businesses. *See* Sookul v. Fresh Clean Threads, Inc., 754 F. Supp. 3d 395, 406–07 (S.D.N.Y. 2024) (citations omitted). The Eleventh Circuit briefly held that a sufficient nexus was required. *See* Gil v. Winn Dixie Stores, Inc., 993 F.3d 1266, 1276–77, (11th Cir. 2021), *vacated as moot*, 21 F.4th 775 (11th Cir. 2021).

Courts answering affirmatively generally point to the legislative history of the ADA, "which indicates that Congress intended the ADA to adapt to changes in technology."[20] Others note that Congress held hearings "'as early as 2000' regarding the importance of online commerce for the ADA," yet specifically did not address the web accessibility issue when it amended the Act in 2008.[21] Department of Justice (DOJ) guidance and regulations state that Title II does apply to the internet;[22] however, there is no corresponding enforceable standard under Title III.

A. Design & Construction of Title III Enforcement

The current quagmire of Title III enforcement is a predictable result of its design and construction. The Attorney General may enforce Title III only where there is a pattern or practice of discrimination, or the alleged discrimination raises an issue of public importance.[23] However, Title III also allows private enforcement by any individual subject to disability discrimination.[24] While the Attorney General may obtain limited damages or assess civil penalties,[25] only injunctive relief and attorney's fees are available to private plaintiffs.[26] This limitation on the remedies available to private plaintiffs was a compromise between the ADA's drafters and representatives of the business community.[27] In exchange for Title III's broad coverage, private plaintiffs were restricted to the remedies available under Title II of the Civil Rights Act of 1964 (CRA).[28] The Bush Administration supported the use of existing enforcement mechanisms as they believed it "should ease enforcement and eliminate inconsistencies and confusion among those who have to comply."[29] Although private plaintiffs may not

20. Gil v. Winn Dixie Stores, Inc., 242 F. Supp. 3d 1315, 1319 (S.D. Fla. 2017).

21. *Sookul*, 754 F. Supp. 3d at 411 (citing Martinez v. Cot'n Wash, Inc., 297 Cal. Rptr. 3d 712, 730 (Ct. App. 2022)).

22. *See* 28 C.F.R. § 35.200 (2025); U.S. DEP'T OF JUST., C.R. DIV., *Guidance on Web Accessibility and the ADA*, https://www.ada.gov/assets/pdfs/web-guidance.pdf (on file with the Syracuse Law Review) (last visited Nov. 17, 2024).

23. *See* 42 U.S.C. § 12188(b).

24. *See id.* § 12188(a)(1).

25. *See id.* § 12188(b)(2).

26. *See id.* §§ 12205, 12188(a)(1), 2000a-3(a).

27. *See* 135 CONG. REC. 19811 (1989).

28. *See id.*

29. Americans with Disabilities Act of 1989: Hearings on S. 933 Before the Subcomm. on the Handicapped of the S. Comm. on Lab. and Hum. Res., 101st Cong. 818 (1989) [hereinafter Lab. & Hum. Res. Comm. Hearings] (statement of Richard Thornburg, Att'y Gen. of the U.S.).

recover damages under federal law, claims brought pursuant to certain state laws allow such recovery.[30]

Like Title II of the CRA, private action is the primary method of Title III enforcement.[31] In addition to the statutory restrictions on public enforcement, the federal government's limited enforcement resources "may be subject to pressures not directed toward maximizing economic and social welfare."[32] The DOJ admittedly does not investigate every complaint, and the President's managerial discretion may divest resources from enforcement of civil rights legislation.[33] In fact, shortly after retaking office, President Trump's DOJ leadership ordered a freeze on all civil rights litigation, pausing any governmental ADA enforcement.[34]

Courts have long recognized the importance of private plaintiffs acting as "'private attorney[s] general,' vindicating a policy that Congress considered of the highest priority."[35] Plaintiffs increasingly partner with a willing attorney to file as many lawsuits against noncompliant businesses as possible.[36] While many plaintiffs, such as the National Federation of the Blind, agree to drop the suit once defendants agree to changes, a select few file with the sole intent to elicit a settlement from defendants.[37] Such settlements can cripple a small business, and some plaintiffs do not even require defendants to alter their noncompliant practices.[38] Even when businesses hire ADA

30. *See, e.g.*, CAL. CIV. CODE § 54.3 (West 2025); FLA. STAT. §§ 760.07, 760.11(5) (West 2025); N.Y. EXEC. LAW § 297(9) (McKinney 2025).

31. *See* Doran v. 7-Eleven, Inc., 524 F.3d 1034, 1039–40 (9th Cir. 2008) (quoting Trafficante v. Metro. Life Ins. Co., 409 U.S. 205, 209 (1972)).

32. Robert V. Percival & Geoffrey P. Miller, *The Role of Attorney Fee Shifting in Public Interest Litigation*, 47 L. & CONTEMP. PROBS. 233, 236 (1984).

33. *See File a Complaint*, C.R. DIV., U.S. DEP'T OF JUST., https://www.ada.gov/file-a-complaint/#filing-a-complaint-with-the-department-of-justice-civil-rights-division (on file with the Syracuse Law Review) (last visited Oct. 14, 2025); U.S. CONST. art. II, §§ 2–3.

34. *See* Sarah N. Lynch, *US Justice Department Freezes Its Civil Rights Litigation*, REUTERS, https://www.reuters.com/world/us/us-justice-dept-asks-civil-rights-division-halt-biden-era-litigation-washington-2025-01-22/ (on file with the Syracuse Law Review) (last visited Oct. 14, 2025).

35. Newman v. Piggie Park Enterprises, Inc., 390 U.S. 400, 402 (1968) (discussing Title II of the CRA).

36. *See generally* The Journal, *Who is Filing Thousands of Disability Lawsuits Against Businesses?*, WALL STREET J. (Aug. 5, 2024) (downloaded using Spotify). Plaintiffs often view this as their only option as evidence demonstrates Title III's underenforcement. *See, e.g.*, Jessica L. Roberts, *Innovating Accessible Health Care*, 110 IOWA L. REV. 225, 256 nn.198–99 (2024).

37. *See* The Journal, *supra* note 36.

38. *See id.*

inspectors to evaluate compliance after a plaintiff files a suit, lawyers may recommend settling to save time and money, rather than pursue a defense.[39] Although some consider this morass of litigation unjust or distasteful, noncompliant behavior would likely go otherwise unenforced.

B. Current Attitudes Surrounding Title III Enforcement

Civil rights advocates often grapple with a "vicious cycle: [c]oncern with abusive litigation motivates the adoption of limitations on remedies; those limitations lead plaintiffs' lawyers to engage in litigation conduct that appears even more abusive; the newly energized perception of abuse motivates adoption of even more limitations; and so on."[40] Business owners have long expressed concern over the costs that Title III's reasonable accommodation mandate imposes on their enterprises, including the cost of "abusive" litigation.[41] These concerns persist as the number of Title III suits has generally grown annually, peaking in 2021, with plaintiffs filing more than 11,450 cases in federal courts.[42] Although the number of cases decreased slightly in 2022 and 2023, 2024 filings exceeded the prior two years.[43] Plaintiffs bring an overwhelming majority of public accommodation claims in California, Florida, and New York, all of which allow plaintiffs to recover damages under their respective state laws.[44]

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39. *See, e.g.*, Lauren Markham, *The Man Who Filed More Than 180 Disability Lawsuits*, N.Y. TIMES (June 15, 2023), https://www.nytimes.com/2021/07/21/magazine/americans-with-disabilities-act.html (on file with the Syracuse Law Review).

40. Samuel R. Bagenstos, *The Perversity of Limited Civil Rights Remedies: The Case of "Abusive" ADA Litigation*, 54 UCLA L. REV. 1, 3 (2006).

41. *See* Feldblum, *supra* note 5, at 525–27; Bagenstos, *supra* note 40, at 2, 7–8.

42. *See* Kristina M. Launey, Minh N. Vu & Susan Ryan, *Plaintiffs Filed More than 8,200 ADA Title III Federal Lawsuits in 2023*, SEYFARTH SHAW LLP: ADA TITLE III NEWS & INSIGHTS BLOG (Jan. 29, 2024), https://www.adatitleiii.com/2024/01 /plaintiffs-filed-more-than-8200-ada-title-iii-federal-lawsuits-in-2023/ (on file with the Syracuse Law Review); *however*, "publicly available ADA complaint data is mainly limited to reports of the number of lawsuits filed each year, as tracked by third parties[,] . . . [and] most complainants do not file lawsuits." Letter from Consortium for Constituents with Disabilities to Kristen Clarke, Assistant Att'y Gen., C.R. Div., U.S. Dep't of Just. (Mar. 28, 2024), https://www.c-c-d.org/fichiers/CCD-Rights-TF-DOJ-Data-Report-Letter-3-28-2024.pdf (on file with the Syracuse Law Review).

43. *See* Minh N. Vu, Kristina Launey & Susan Ryan, *ADA Title III Federal Lawsuit Numbers Rebound to 8,800 in 2024*, SEYFARTH SHAW LLP: ADA TITLE III NEWS & INSIGHTS BLOG (Mar. 6, 2025), https://www.adatitleiii.com/2025/03/ada-title-iii-federal-lawsuit-numbers-rebound-to-8800-in-2024/ (on file with the Syracuse Law Review).

44. *See id.*

One common argument against private enforcement of Title III is that "legitimate ADA advocates [should] warn the defendant and get the problem fixed without having to file a needless, frequently extortionate, lawsuit."[45] Although Congress considered a notice provision when drafting the ADA, it was not included in the final text.[46] Despite this decision, sympathetic representatives have frequently attempted to enact a notice provision, with the 118th Congress introducing the most recent proposals.[47] Those who favor a notice requirement reason that if provided notice of noncompliant behavior, businesses will voluntarily remedy any deficiency.[48] In reality, studies show that once notified of access barriers, business owners often do not voluntarily rectify their deficiencies.[49]

A second common attack of private enforcement portrays plaintiffs as money-hungry, otherwise disinterested individuals.[50] By framing Title III plaintiffs as outside agitators, or even as "crybabies,"[51] business advocates generate support for alterations to the ADA.[52] Because a cause of action is available to "any person who is being subjected to [disability] discrimination," plaintiffs can come from anywhere in the country.[53] Questioning at oral argument and Justice Thomas's dissenting opinion in *Acheson Hotels, LLC v. Laufer* reflect this concern and may indicate the desire of certain Justices to eliminate standing for such plaintiffs.[54] Despite the fact that Deborah Laufer

45. Doran v. Del Taco, Inc., 373 F. Supp. 2d 1028, 1033–34 (C.D. Cal. 2005).

46. *See* 135 CONG. REC. 19859 (1989).

47. *See, e.g.*, ADA 30 Days to Comply Act, H.R. 7668, 118th Cong. (2024); ADA Compliance for Customer Entry to Stores and Services Act, H.R. 241, 118th Cong. (2023).

48. *See Doran*, 373 F. Supp. 2d at 1033–34.

49. *See, e.g.*, Brief of Amicus Curiae National Federation of the Blind in Support of Plaintiff-Appellant and Reversal at 20–22, Daniels v. Arcade, L.P., 477 Fed. Appx. 125 (4th Cir. 2012) (No. 11-1191) (detailing studies performed in San Francisco, Massachusetts, and Chicago in different years with the same result).

50. *See, e.g.*, Markham, *supra* note 39 ("They are not customers[.] They go around looking for something and sue."); Sarah E. Zehentner, *The Rise of ADA Title III: How Congress. and the Department of Justice Can Solve Predatory Litig.*, 86 BROOK. L. REV. 701, 705 (2021).

51. Alex MacInnis, *Crybabies: The Squeaky Wheelchair Gets the Grease*, THIS AM. LIFE (Sept. 24, 2010), https://www.thisamericanlife.org/415/crybabies/act-three-0 (on file with the Syracuse Law Review).

52. *See* Bagenstos, *supra* note 41, at 25.

53. 42 U.S.C. § 12188(a)(1) (1990); *see also* Acheson Hotels, LLC v. Laufer, 601 U.S. 1, 12–13 (2023) (Thomas, J., concurring in judgment).

54. *See Acheson Hotels*, 601 U.S. at 10–14 (Thomas, J., concurring in judgment); *see also* Transcript of Oral Argument at 83, Acheson Hotels, LLC v. Laufer, 601 U.S. 1 (2023) (No. 22-429) (Justice Gorsuch); *id.* at 90–92 (Justice Kavanaugh).

satisfied Title III's statutory requirements, Justice Thomas believed that her suit violated separation of powers principles by exercising, "'the sort of proactive enforcement discretion properly reserved to the Executive Branch,' with none of the corresponding accountability."[55]

As the Supreme Court recently reaffirmed, "[i]nvestigative and prosecutorial decisionmaking is 'the special province of the Executive Branch,'" which is entirely vested in the President.[56] Donald Trump's actions since retaking office raise concerns within the disability community about the future of legislation and governmental programs benefitting individuals with disabilities.[57] As a staunch opponent of inclusivity initiatives, Trump is likely to continue to prioritize policies favorable to employers and business owners rather than marginalized groups.[58]

During the first Trump Administration, the DOJ rarely enforced Title III against business owners.[59] Although "[t]he vast majority of businesspeople want to keep the law," there is no incentive to invest in compliance where rivaling businesses have "an unfair competitive advantage by [not similarly investing, yet] getting away with a discriminatory practice."[60] The disability community consistently

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55. *Acheson Hotels*, 601 U.S. at 13 (Thomas, J., concurring in judgment) (quoting Laufer v. Arpan, LLC, 29 F.4th 1268, 1291 (11th Cir. 2022)).

56. Trump v. United States, 603 U.S. 593, 620 (2024) (quoting Heckler v. Chaney, 470 U.S. 821, 832 (1985)).

57. *See* Michelle Diament, *As Nation Marks 35th Anniversary Of The ADA, Advocates Warn of Backslide*, DISABILITY SCOOP (July 24, 2025), https://www.disabilityscoop.com/2025/07/24/as-nation-marks-35th-anniversary-of-the-ada-advocates-warn-of-backslide/31553/ (on file with the Syracuse Law Review); *see also Consortium for Constituents with Disabilities (CCD) Task Force Co-Chairs Statement on Project 2025*, CONSORTIUM FOR CONSTITUENTS WITH DISABILITIES (Oct. 22, 2024), https://www.c-c-d.org/fichiers/CCD-CoChairs-Statement-of-Project-2025-Signed.pdf (on file with the Syracuse Law Review).

58. In May 2025, the Department of Energy issued a direct final rule planning to rescind new construction accessibility regulations, deeming them "unnecessary and unduly burdensome." Rescinding New Construction Requirements Related to Nondiscrimination in Federally Assisted Programs or Activities, 90 Fed. Reg. 20783 (proposed May 16, 2025) (to be codified at 10 C.F.R. pt. 1040) ("It is DOE's policy to give private entities flexibility to comply with the law in the manner they deem most efficient. One-size-fits-all rules are rarely the best option.") (effective date extended to September 12, 2025); *see* Rescinding Regulations Related to Nondiscrimination in Federally Assisted Programs or Activities (General Provisions), 90 Fed. Reg. 31140 (July 14, 2025) (to be codified at 10 C.F.R. pt. 1040)).

59. *See* Minh N. Vu & Kristina M. Launey, *How Will DOJ Enforce Title III of the ADA in a Biden Administration?*, SEYFARTH SHAW LLP (Nov. 17, 2020), https://www.adatitleiii.com/2020/11/how-will-doj-enforce-title-iii-of-the-ada-in-a-biden-administration/ (on file with the Syracuse Law Review).

60. *Lab. & Hum. Res. Comm. Hearings*, *supra* note 29, at 80 (statement of Neil F. Hartigan, Att'y Gen. of Illinois).

expresses empathy for these small business owners and concerns about the impact that continued unchecked litigation may have on their ability to pursue meritorious claims in the future.[61] Given the significant threats from the federal government, immediate reform is necessary to ensure that private and public enforcement remain viable options, while also incentivizing voluntary compliance with Title III's accessibility mandate.

II. COMPLIANCE INCENTIVES

Where intrinsic motivators alone are insufficient, legislators may need to incorporate extrinsic encouragement such as economic incentives to realize policy goals. This choice will influence both its success rate and public attitudes toward the process itself.[62] For example, taxpayers are more compliant and less resentful when tax revenues are allocated toward legitimate goals, rather than when compliance is driven by the fear of sanctions.[63] Over time, economic incentives can generate new internal motivators by gradually shifting society's perceptions of morality and justice.[64] Any law's compliance structure should be carefully crafted by the federal government to balance policy goals and compliance's effect on the American public.

A. Carrots & Sticks in General

The terms "carrots" and "sticks" are often used as metaphors for two forms of economic incentives to induce compliance with a rule. Carrots are payments to citizens from the government upon achieving compliance or satisfaction of a period of compliance.[65] Sticks are payments by citizens to the government required when found to have violated the rule.[66] Economists sometimes frame carrots and sticks as

61. *See, e.g.*, The Journal, *supra* note 36, at 15:55 (Chris Danielson, Director of Public Relations for the National Federation of the Blind, describing the cottage industry of such Title III litigation as "problematic" and threatening to future cases); Markham, *supra* note 39. ("Dytch doesn't want businesses to suffer, but he also wants to fight for proper access.").

62. *See generally,* Amitai Etzioni, *Social Norms: Internalization, Persuasion, and History*, 34 L. & SOC'Y REV. 157, 164 (2000) (introducing considerations of societal norms into law is likely to make people more motivated to abide).

63. *See id.*

64. *See, e.g.*, Shaun Larcom, Luca A. Panzone & Timothy Swanson, *Follow the Leader? Testing for the Internalization of Law*, 48 J. LEGAL. STUD. 217, 241 (2019) (studying the effect of a $.05 tax for plastic bags on intrinsic motivation).

65. *See* Gerrit De Geest & Giuseppe Dari-Mattiacci, *The Rise of Carrots and the Decline of Sticks*, 80 U. CHI. L. REV. 341, 354 (2013).

66. *See id.* at 354–55.

two sides of the same coin, with the key difference being the direction of cash flow: carrots transfer funds from the government to recipients, while sticks do the opposite.[67] Depending on their target population and the effort required, either can be effective tools to accomplish legislative aims.

Carrots must be sufficiently large to incentivize individuals to exert effort.[68] If a carrot's value is merely sufficient to reimburse an individual for the cost of materials, the lawmaker still relies on intrinsic incentives to cover the cost of the individual's exerted effort.[69] As intrinsic motivators are rarely sufficient, there are less administrative costs to compensate the few who willingly generate positive externalities than there are to punish the many who continue in their noncompliance.[70] Where the required cost of compliance can vary among individuals, carrots are superior to sticks because they can be individualized to provide a greater incentive for those who will incur a greater cost.[71] Finally, the burden of issuing a carrot can be broadly distributed across society, ideally in a manner that aligns with society's sense of fairness.[72]

Sticks are ineffective deterrents when directed at individuals who lack the resources to pay their debt to society.[73] They often generate fear and resentment by imposing social and financial costs to enforce laws.[74] In systems where compensation for injury is paid directly to the victim rather than the government, any incentive to avoid losses is undermined.[75] Additionally, sticks increase the total amount of harm, as the government responds to a societal injury by penalizing a noncompliant individual. Sticks also have a greater potential to "distort

67. *See id.*; Brian Galle, *The Tragedy of the Carrots: Economics. and Politics. in the Choice of Price Instruments*, 64 STAN. L. REV. 797, 801 (2012).

68. *See* De Geest & Dari-Mattiacci, *supra* note 65, at 363, 365.

69. *See id.* at 363.

70. *See* Galle, *supra* note 67, at 833; Donald Wittman, *Liability for Harm or Restitution for Benefit*, 13 J.L. STUD. 57, 71, 79–80 (1984).

71. *See* De Geest & Dari-Mattiacci, *supra* note 65, at 390–91.

72. *See* Etzioni, *supra* note 62.

73. *See* Galle, *supra* note 67, at 819.

74. *See* Etzioni, *supra* note 62. Some behavioral economists even argue that sticks are not, in fact, compliance tools, because compliance requires an individual to perform their "obligations [voluntarily], without the need for . . . the threat or application of . . . sanctions." SIMON JAMES, *Taxation and the Contribution of Behavioral Economics*, *in* HANDBOOK OF CONTEMPORARY BEHAVIORAL ECONOMICS: FOUNDATIONS AND DEVELOPMENTS 589, 595 (Morris Altman ed., Routledge 2015) (2006).

75. *See* Galle, *supra* note 67, at 825.

existing distributions of wealth."[76] For example, if the government fines both a small business and a large business $5,000 for a violation, the impact on the small business will be much more severe. Depending on their form, sticks may produce the inverse effect of their intended goals—promoting justice and ensuring voluntary compliance—and should be used wisely.

B. Sticks as the Chosen Methods of Title III Enforcement

The drafters of the ADA recognized that intrinsic motivators were insufficient for integration of disabled individuals; therefore, they provided extrinsic tools. The ADA's initial supporters also acknowledged that legislation cannot mandate attitudinal changes; rather, legislation must take gradual steps to reshape outdated thinking.[77] By design, the only extrinsic motivators within the text of Title III are sticks.[78] Given the DOJ's historical reluctance and current inability to pursue civil rights litigation, private enforcement is the only remaining stick. However, this is not always an effective means of ensuring compliance, as a plaintiff may settle a case without the public accommodation making the necessary renovations, leaving it vulnerable to future litigation. This method of private enforcement reduces the resources defendants could spend on accommodations and encourages some plaintiffs to seek injury, allowing business advocates to frame them as outside agitators. Additionally, the articulated desire of Congress and the courts to limit standing of private plaintiffs, paired with the DOJ freeze on civil rights litigation, may soon leave Title III with no compliance mechanism.

Many individuals suggest reforms for Title III enforcement based on standing; however, repackaging a stick as a newer, smaller stick ultimately ignores the underlying disdain with this type of compliance. While legislation may gradually shift attitudes, continued "abusive" litigation makes such changes more challenging. Those in favor of maintaining Title III's sticks likely appreciate the sense of justice they provide and would highlight that the ADA's passage thirty-five years ago provided public accommodations with notice of their duty to comply. Additionally, sticks can ensure that noncompliance does not result in a competitive advantage. For businesses readily able to comply but

76. De Geest & Dari-Mattiacci, *supra* note 65, at 368.

77. *See Lab. & Hum. Res. Comm. Hearings*, *supra* note 29, at 819.

78. *See* discussion *supra* Part I, Section A, regarding methods of enforcement; *see also* 135 CONG. REC. 19804 (1989).

willfully avoid their obligation, sticks likely remain a fair and just compliance method.

Small businesses, especially those that desire to comply but lack the resources to do so, require a more personalized solution. Because sticks seem especially unjust when distorting existing wealth disparities, their use against small businesses should be avoided when possible. Replacing litigation as the primary method of compliance would conserve judicial resources, save parties on litigation costs, and alleviate the punitive perceptions of Title III. If carrots are sufficient compliance incentives, the demand for sticks disappears; thus, to realize the goals Congress set thirty-five years ago, reform efforts should refocus to refine carrots. By reshaping existing economic incentives, Congress can inspire new intrinsic motivators and change society's perception of Title III compliance.

III. REFORMING DISABILITY TAX PROVISIONS

Economic incentive programs are a long-standing American practice, dating back to the nation's earliest days.[79] Two common forms of these incentives are tax deductions and credits. While not direct payments from the government to businesses, income tax deductions and credits act as carrots by reducing a taxpayer's income tax obligation. The Internal Revenue Code already offers limited carrots to eligible public accommodations, providing a promising path forward for expanding Title III compliance; however, neither of the existing incentives have been updated since 1990. Both provisions require alterations, with conditional funding and innovative informational campaigns supporting the changes.

A. Existing Tax Incentives

1. The Barrier Removal Deduction

Following the passage of the Rehabilitation Act of 1973, Congress crafted a new tax deduction for expenses incurred in the removal of architectural and transportation barriers to improve accessibility for disabled individuals and the elderly.[80] When introduced, Congress

79. *See, e.g.*, PETER K. EISINGER, THE RISE OF THE ENTREPRENEURIAL STATE: STATE AND LOCAL DEVELOPMENT POLICY 15 (1988) (explaining that in 1791, New Jersey provided a private company with a state tax exemption as part of an effort to foster industrial activity in the state).

80. *See* Tax Reform Act of 1976, Pub. L. No. 94-455, § 2122(a), 90 Stat. 1520, 1914–15 (codified in scattered sections of 26 U.S.C.).

capped the maximum deduction amount at $25,000.[81] Although it was briefly raised,[82] they later lowered the cap to $15,000, where it has remained, unadjusted for inflation, for thirty-five years.[83]

Because Congress authorized the deduction nearly fifty years ago, it could not anticipate the new barriers created by the emergence of the internet. The deduction's most significant shortcoming is that businesses cannot claim it for the removal of communicative or electronic barriers. As a result, small business owners like Jason Craft, who invested more than $10,000 in improving the accessibility of his website, cannot utilize the barrier removal deduction,[84] despite the fact that the DOJ "has consistently taken the position that the ADA applies to web content" since 1996.[85]

2. The Disabled Access Credit

When the ADA reached the Senate floor, Senator Orrin Hatch proposed an amendment to provide a tax credit to help small businesses afford the cost of compliance.[86] While Hatch fully supported the ADA's goals, he believed that the federal government should bear some of the costs of compliance, which could otherwise impose "unreasonable, suffocating obligations" on small businesses.[87] Hatch's refundable tax credit would allow small businesses to claim up to $5,000 per year, adjusted for inflation.[88] Although jurisdictional concerns ultimately killed Hatch's amendment,[89] he outlined the structure of what later became the disabled access credit.

Five months after Congress passed the ADA, it enacted the disabled access credit to help eligible small businesses afford expenses incurred to comply with the new law.[90] Contrary to Hatch's proposed

81. *See id.*

82. *See* Deficit Reduction Act of 1984, Pub. L. No. 98-369, § 1062(b), 98 Stat. 494, 1047 (codified in scattered sections of 26 U.S.C.).

83. *See* Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, § 11611(c), 104 Stat. 1388, 1388-503 (codified in scattered sections of 26 U.S.C.).

84. *See* The Journal, *supra* note 36.

85. *See Guidance on Web Accessibility and the ADA*, *supra* note 22.

86. *See* 135 CONG. REC. 19805 (1989).

87. *Id.*

88. *See id.*

89. *See id.* at 19837, 19846. Although Senator Hatch had constitutional authority to propose an amendment affecting revenue, several senators feared that attaching any revenue measure would risk rejection of the entire landmark Act by the House. *See id.* at 19837–45; U.S. CONST. art. I, § 7, cl. 1.

90. *See* Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, § 11611(a)–(b), 104 Stat. 1388, 1388-501 to -503 (codified in scattered sections of 26 U.S.C.).

credit, the disabled access credit is nonrefundable and does not adjust for inflation.[91] Unlike the barrier removal deduction, it restricts eligibility to businesses with less than $1 million in gross receipts or fewer than thirty full-time employees.[92] While the § 190 deduction limits expenses to those for removing architectural and transportation barriers, qualifying expenses for the disabled access credit also include costs to hire interpreters, purchase or modify technology and equipment for individuals with disabilities, and other similar expenses.[93] The credit amount equals one-half of expenditures within a $250 to $10,250 range, meaning small business can claim no more than $5,000 per year.[94] Small business may claim both the disabled access credit and the barrier removal deduction if the expense qualifies under both provisions; however, any amount of credit claimed reduces the allowable deduction.[95]

3. Utilization

The effectiveness of the two provisions in stimulating increased investment in Title III accommodations is unclear. A 2002 report by the General Accounting Office (GAO) examined the utilization of the barrier removal deduction and the disabled access credit through IRS data and interviews with business representatives, disability organizations, federal and state government agencies, and others.[96] The report noted that no studies tracked the effectiveness of the two tax incentives.[97] In general, tax credits tend to be more desirable;[98] however,

91. *See* 135 CONG. REC. 19805 (1989).

92. *See* 26 U.S.C. § 44(b).

93. *See id.* § 44(c)(2).

94. *See id.* § 44(a).

95. *See id.* § 44(d)(7)(A).

96. *See generally* U.S. Gen. Acct. Off., GAO-03-39, Business Tax Incentives: Incentives to Employ Workers with Disabilities Receive Limited Use and Have an Uncertain Impact 3–4, 6 (2002). The General Accounting Office is now known as the Government Accountability Office.

97. *See id.* at 19.

98. Tax credits are more impactful than deductions because they are applied after the amount owed to the government is calculated; therefore, they are a dollar-for-dollar reduction in liability. Tax deductions are used in calculating the total amount of taxable income, which is then multiplied by the taxpayer's applicable rate to determine the amount owed to the government. Thus, deductions only save the taxpayer at whatever percentage their tax rate is. To illustrate, imagine a small business owner made $100,000 in a given year, had a 25% tax rate, and spent $10,000 on eligible accessibility improvements. If the owner claimed the § 44 tax credit, the amount owed in taxes would first be calculated as $25,000. The credit amount would then be applied (50% of 10,000), bringing the amount owed to $20,000. Under

business representatives theorized that businesses likely use the deduction more often than the credit because it does not limit eligibility based on business size, and larger businesses are more likely to be aware of and actually claim tax incentives.[99] The GAO report indicated that two major obstacles for small businesses are the lack of awareness of the available incentives and misconceptions regarding their requirements.[100] Even where small businesses have the capital to invest in accommodations and barrier removal, they mistakenly believe that qualification is overly burdensome or requires a tax expert.[101]

As of 2023, there are no similar reports or studies.[102] However, underutilization remains a reasonable conclusion, given that the current provisions are insufficient to fully reimburse an individual for the cost of improvements (covering only fifty percent of expenses under the credit, or a fraction of expenses based on the individual's tax rate under the deduction). As a result, the federal government relies on intrinsic motivators to justify the unreimbursed portion of the accommodation's cost and the full cost of the business's exerted effort. Additionally, the simple fact that plaintiffs continue to file Title III claims may indicate that businesses are improperly incentivized to comply. Although exact figures measuring the effectiveness of the two provisions are unclear, refinements making the provisions more advantageous will increase utilization.

B. Previous Tax Reform Attempts

Recent attempts to modernize the disabled access credit and barrier removal deduction indicate that certain members of Congress recognize the remaining potential for these incentives to aid in Title III compliance. Legislators have repeatedly introduced the Disability Employment Incentive Act (DEIA) in both the Senate and House, but it has never gained traction.[103] The bill aimed to update the barrier

§ 190, a $10,000 deduction would reduce taxable income to $90,000, and the business owner would owe $22,500 in taxes.

99. *See* U.S. GEN. ACCT. OFF., GAO-03-39, at 19.

100. *See id.* at 21.

101. *See id.* at 22.

102. *See* GARY GUENTHER, CONG. RSCH. SERV., RL32254, SMALL BUSINESS TAX BENEFITS: CURRENT LAW 18 (2023).

103. *See, e.g.*, Disability Employment Incentive Act, S. 3076, 118th Cong. (2023); Disability Employment Incentive Act, S. 630, 117th Cong. (2021); Disability Employment Incentive Act, S. 255, 116th Cong. (2019); Disability Employment Incentive Act, H.R. 3765, 117th Cong. (2021); Disability Employment Incentive Act, H.R. 3992, 116th Cong. (2019).

removal deduction to include expenses incurred for the removal of internet and telecommunication barriers,[104] as well as increase the deduction limitation amount to $30,000.[105]

The DEIA also proposed expansions to the disabled access credit. The bill suggested an increase in the upper limit of the credit's expenditure range to $20,250, thus making the maximum possible credit amount $10,000.[106] Additionally, it aimed to expand eligibility to businesses with gross receipts of less than $3.0 million or fewer than sixty full-time employees.[107] In March 2024, Representative Marcus Molinaro introduced the Think DIFFERENTLY Small Business Accessibility Act (TDSBAA), which proposed a similar business eligibility expansion without increasing the maximum credit amount.[108] While attempts thus far have not succeeded, these provisions remain impactful tools to achieve Title III compliance.

C. Suggested Changes to Title III & Related Tax Provisions

The combination of several reforms may improve the usage and impact of the existing tax incentives, in turn improving Title III compliance. First, Congress must amend the ADA to explicitly state that it applies to the internet, providing a definitive resolution to the current circuit split and eliminating any uncertainty regarding the impact of agency regulations. Additionally, the tax provisions themselves should be expanded, efforts to inform small businesses of the provisions' availability and requirements should increase, and, at times, grants may be appropriate to provide fledgling businesses with the requisite funding for compliance.

1. Expansion of Tax Benefits

Several changes should be made to improve the barrier removal deduction. First, Congress must update the section title and text to replace the outdated term "handicapped" with "disabled."[109] The legislature should also amend the deduction to include expenses incurred

104. *See* Disability Employment Incentive Act, S. 3076, 118th Cong. § 5(a) (2023).

105. *See id.* § 5(b).

106. *See id.* § 4(a).

107. *See id.* § 4(b).

108. *See* Think DIFFERENTLY Small Business Accessibility Act, H.R. 7705, 118th Cong. (2024). The bill suggested an expansion to include businesses with gross receipts of less than $3.5 million or fewer than 100 full-time employees. *See id.* § 2.

109. *See* 26 U.S.C. § 190(b)(1), (3).

for the removal of internet and telecommunication barriers as proposed by bills such as the DEIA. Language should specifically include businesses that may not have a sufficient nexus to a physical location.[110] If policymakers properly incentivize investment in online accessibility, it should lead to a reduction in web accessibility suits, benefitting small business owners and alleviating any burden on court dockets. If the Executive Branch lifted the DOJ freeze on civil rights litigation, government attorneys would no longer need to expend resources on pursuing these cases and could redirect their efforts toward other pressing issues. Additionally, Congress should make the barrier removal deduction an "above-the-line" deduction, allowing it to be claimed by taxpayers who choose the standard deduction amount instead of itemizing deductions.[111] Further, the deduction limit should return to its 1984 value of $35,000, which should adjust yearly for inflation.[112] Finally, the Treasury should update implementing regulations to remove outdated language and accurately reflect the amendments made in 1984 and 1990.[113]

Congress should also amend the disabled access credit. The upper limit of the credit's eligible expenditure range should increase to $30,250, thus making the maximum possible credit amount $15,000. This amount should also adjust for inflation as initially proposed by Senator Hatch.[114] Additionally, Congress should adopt the TDSBAA's eligible business expansion. Although an expansion, this provision would still limit eligibility to small businesses that would truly benefit, rather than providing tax cuts to larger businesses capable of bearing the cost of accommodations without government assistance. The credit should include clear language allowing for remote businesses to benefit from accessibility improvements. Finally, the Treasury should issue regulations pursuant to its statutory authority

110. In May 2025, Representative Pete Sessions introduced the bipartisan Websites and Software Applications Accessibility Act of 2025, which aims to resolve the sufficient nexus dispute by mandating Title III compliance for digital entities. *See* H.R. 3417, 119th Cong. § (2)(b)(1) (2025).

111. Because the deduction is a "below-the-line deduction," it is only available to those who itemize their deductions, who are much more likely to be high-income taxpayers. *See* STAT. INFO. SERV., INTERNAL REVENUE SERV., INDIVIDUAL COMPLETE REP., tbl.1.2 (2022).

112. *See* Deficit Reduction Act of 1984, Pub. L. No. 98-369, § 1062(b), 98 Stat. 494, 1047 (codified in scattered sections of 26 U.S.C.).

113. *See id.*; Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, §§ 11611(c), 11801(a)(14), 104 Stat. 1388-504, 1388-520 (codified in scattered sections of 26 U.S.C.).

114. *See* 135 CONG. REC. 19805 (1989).

that provide clarity necessary to comprehend and implement the credit.[115]

While some may argue these reforms are concessions to bad behavior, reforms would instead assist businesses that were previously unable to comply, rather than simply penalizing every public accommodation that does not. Further, providing exemptions for certain categories of public accommodations or those who are unable to afford their Title III obligations should be reserved for rare circumstances, as it undermines the foundational goal of broad coverage.[116] Expanding these tax provisions would address the needs of society as a whole and foster positive cooperation, rather than increasing hostility.

2. Grants

One obvious limitation of tax credits and deductions is that both require an initial investment. Because many small businesses have limited financial resources, one solution could be to establish a grant program providing businesses with upfront funds to help cover the cost of accessibility improvements. For example, American Express and Main Street America's Backing Small Businesses grant program provides locally significant small businesses with vital resources to impact their communities, such as funding for accessibility upgrades.[117] One recipient used her grant to make her craft brewery more accessible to individuals with visual impairments, also noting an immediate positive impact on business.[118] However, financial support should not be limited to the generosity of larger private enterprises.

Such grants should be restricted to the neediest small businesses or those already participating in Small Business Administration programs, such as the State Trade Expansion Program.[119] Approval of funding should require detailed proposals that clearly outline how

115. *See* 26 U.S.C. § 44(e).

116. *See* 42 U.S.C. §§ 12182(b)(2)(A)(iii) (exemption where accommodations would cause fundamental alterations or undue burden), 12187 (exemptions for private clubs and religious organizations).

117. *See American Express® Backing Small Businesses*, MAIN ST. AM., https://mainstreet.org/about/partner-collaborations/backing-small-businesses (on file with the Syracuse Law Review) (last visited Nov. 8, 2025).

118. Main St. Bus. Insights, *Creating Accessible and Welcoming Spaces (Brewability)*, MAIN ST. AM. (Mar. 6, 2024), https://mainstreetbusinessinsights.podbean.com/e/creating-accessible-and-welcoming-spaces-with-tiffany-fixter-brewability/?token=134565d8b96c171299d50a57140bd55d (on file with the Syracuse Law Review).

119. *See State Trade Expansion Program (STEP)*, U.S. SMALL BUS. ADMIN., https://www.sba.gov/funding-programs/grants/state-trade-expansion-program-step (on file with the Syracuse Law Review) (last visited Feb. 9, 2025).

businesses plan to use the funds, ideally involving the expertise of an ADA compliance professional. Certain Small Business Development Centers already administer Small Business Administration grants,[120] so these entities may be the best administrators to maximize the impact of any disability access grants. Additionally, a corresponding reduction of tax benefits should not accompany these grants, as the existing provisions only allow businesses to recoup a portion of their expenses.

3. Enhanced & Coordinated Tax Benefit Education

An "all-hands-on-deck" approach should be utilized to increase small businesses' awareness of the available tax benefits and correct any misconceptions about their availability. Campaigns should concentrate on the free informational resources that small businesses are most likely to use, such as social media sites and podcasts. While some government agencies already provide resources for small businesses, their emphasis on tax education is often insufficient. For example, the DOJ's Title III primer for small businesses primarily discusses the obligation to comply, mentioning the barrier removal deduction and disabled access credit only at the very end of the page.[121] Government entities should revise these resources to highlight the available tax provisions and emphasize the benefits of making improvements.

In addition to updating and expanding the available resources, active outreach efforts should engage business owners directly. In the 2002 GAO report, business representatives indicated that including disability advocacy groups and the tax preparation industry in

120. *See Grants for Community Organizations*, U.S. SMALL BUS. ADMIN. (Aug. 1, 2025), https://www.sba.gov/ funding-programs/grants/grants-community-organizations (on file with the Syracuse Law Review).

121. *See ADA Update: A Primer for Small Business*, C.R. DIV., U.S. DEP'T OF JUST. (Feb. 28, 2020), https://www.ada.gov/resources/title-iii-primer/ (on file with the Syracuse Law Review). Similarly, in March 2025, the DOJ announced that it was "raising awareness about tax incentives for businesses" by directing businesses to "[a]n explanation of these tax incentives . . . featured prominently on the ADA.gov website." *Justice Department Announces Actions to Combat Cost-of-Living Crisis, Including Rescinding 11 Pieces of Guidance*, C.R. DIV., U.S. DEP'T OF JUST. (Mar. 19, 2025), https://www.justice.gov/opa/pr/justice-department-announces-actions-combat-cost-living-crisis-including-rescinding-11 (on file with the Syracuse Law Review). The prominently featured explanation may be located by navigating to ada.gov, choosing "Guidance & Resource Materials" from dropdown, then scrolling past twenty-eight other items to find "Expanding Your Market: Tax Incentives for Businesses." *See generally Guidance & Resource Materials*, C.R. DIV., U.S. DEP'T OF JUST., https://www.ada.gov/resources/ (on file with the Syracuse Law Review) (last visited Oct. 16, 2025).

outreach efforts would likely be effective.[122] The report also indicated that significant increases in the maximum eligible dollar amounts could attract the attention of small business owners.[123] Business organizations, such as America's Small Business Development Centers and the National Federation of Independent Businesses, should distribute informational literature to their constituents or host workshops on the technicalities of each provision's requirements. In addition to top-down efforts, individual advocates can launch grassroots campaigns to make phone calls, send letters, and use social media to reach both small business owners and tax preparers. The GAO should produce an annual report, similar to the 2002 report, to monitor the utilization of these provisions and solicit feedback for further refinements. Although legislative change remains a slow process, a coordinated effort to inform small businesses could begin to shift the tone surrounding Title III compliance.

CONCLUSION

The ADA was a monumental step toward inclusion of individuals with disabilities; however, the Act requires refinement to fully achieve its goal of integration and participation in all aspects of society. A few allegedly misguided plaintiffs have allowed Title III's opponents to undermine the important objectives of this landmark legislation and threaten its future viability. Even if Congress or the courts do not eliminate standing for tester plaintiffs, other compliance initiatives can support Title III enforcement without exacerbating the negative impacts on small businesses.

By redirecting compliance efforts from punitive sticks to productive carrots, Congress can create new intrinsic motivators and end decades of divisive practices. Expanding existing tax incentives would benefit the disability community by improving access to public accommodations, which, in turn, would foster greater economic activity, benefitting small businesses. Increased income would raise the business's tax obligation, generating more tax revenue for the government. These reforms would benefit all three parties and further the integrative goal of the ADA.

122. *See* U.S. Gen. Acct. Off., GAO-03-39, Business Tax Incentives: Incentives to Employ Workers with Disabilities Receive Limited Use and Have an Uncertain Impact 23 (2002).

123. *See id.* at 25.