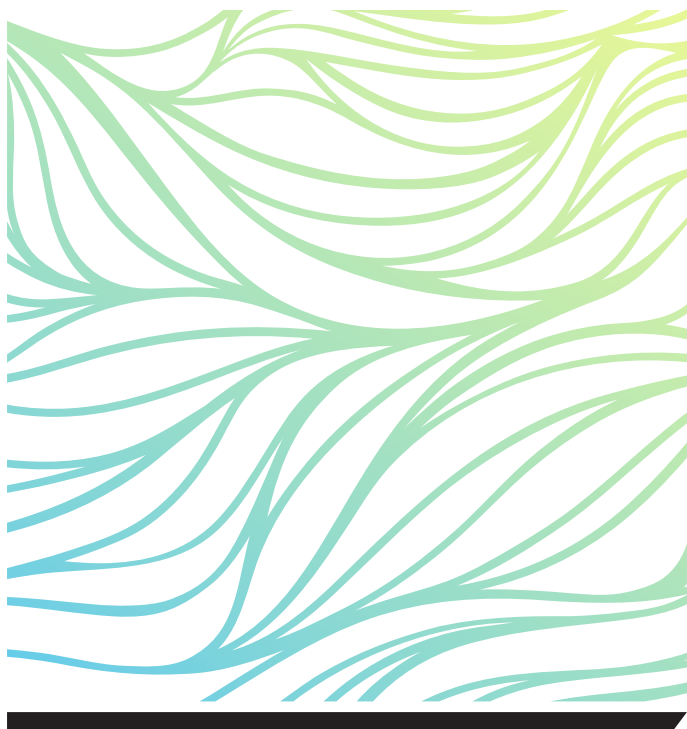




insights

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Increasing Access to Parks for Disabled People

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The passage of the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. § 12101 *et seq.*, was a trailblazing event in civil rights law. Beyond prohibiting discrimination against individuals with disabilities in employment, public services, and public accommodations, the ADA established an affirmative duty on the part of private and government entities to provide reasonable accommodations that enable full participation in society. This mandate extends to the ability to experience the natural world. Whether visiting a neighborhood garden, exploring a state wildlife preserve, or watching the sun rise at Yosemite's Tunnel View, time spent outdoors can improve physical, emotional, and spiritual well-being; enhance a sense of belonging; and help people connect with others. These well-known benefits draw one billion visits to federal public lands per year; conservative estimates place the number of annual visits by people with disabilities at 15%, or 150 million. See U.S. Geological Surv., *Monitoring Recreation on Federally Managed Lands and Waters—Visitation Estimation*,

Sci. Investigations Rep. 2025-5022, at 1 (2025) (estimating 1 billion visits annually to public lands); U.S. Dep't of Interior, Nat'l Park Serv., *Accessibility in the National Park 2015–2020*, at 6 (2014) (conservatively estimating 10–15% of visitors to park service lands have disabilities). These spaces present a challenge: How do we balance public access with the responsibility of environmental preservation?

For some it seems that the answer to that question is to hijack the ADA and use people with disabilities as an excuse to open and forge roads for activities that result in long-term harm to the environment and to the ecosystem critical to sustaining animal and plant populations, which is exactly what Senator Mike Lee's Outdoor Americans with Disabilities Act (OADA), S. 2968, 119th Cong. (2025) (proposed), seeks to do. The OADA directs that "[n]otwithstanding any other provision of law (including regulations), the Secretaries concerned [Agriculture and Interior] shall *prioritize* updating travel management plans and motor vehicle use plans of the Bureau of Land Management Forest Service." *Id.* § 3 (emphasis added). It also severely restricts the ability of these land management agencies to close existing roads, instructs that roads closed within the preceding 10 years be considered for reopening, and charges the secretaries with identifying new roads to replace any roads that are closed. *Id.* § 4. And while the OADA requires public participation in decisions about road closures, OADA § 4(b)(2) is silent on the same for road openings. Finally, not surprisingly, the OADA exempts road closings and openings from compliance with the National Environmental Policy Act (NEPA) of 1969, *id.* § 4(b)(4), the federal law that requires an assessment of the environmental, social, and economic impacts of certain proposed federal projects.

The impetus for the OADA, which was first introduced in 2024, was not a concern for people with disabilities, but instead the Bureau of Land Management's closure of miles of roads in Utah in order to protect natural and cultural resources as well as critical habitat of endangered animals, angering owners of off-road vehicles and private interests seeking to use those roads for resource extraction. The "any other provision of law (including regulations)" that the OADA overrides includes, for example, what is known as the Roadless Rule, 36 C.F.R. Part 294, Subpart B, a 2001 U.S. Forest Service policy (recently rescinded by the current administration) that prohibited road construction and timbering in undeveloped forests. Despite the numerous barriers that the disabled community faces in accessing public lands, the only subject of the OADA is permitting cars and off-road vehicles to access otherwise undisturbed land.

Even if the OADA was truly concerned with increasing access, simply having more roads is not the solution, especially in consideration of the 6.1% of Americans that have a travel-limiting disability, U.S. Dep't of Transp., Bureau of Transp. Stat., *Travel Patterns of Adults with Travel-Limiting Disabilities* (2024), and the fact that off-road vehicles are not financially or physically accessible for many individuals. Maintaining and expanding existing trails, installing benches, ensuring paths are wide enough and have appropriate surfaces for wheelchairs, and making motorized and off-road wheelchairs available for visitor use would go a long way to addressing recreational

needs. Even something as relatively simple as informational signage and written materials about trail conditions and grading will let all users make appropriate decisions about the suitability of any particular trail or activity. And all of this can and should be facilitated by working with appropriate organizations and nonprofits who have experience and expertise in the area. But none of that is even considered in the OADA.

What makes Senator Lee's bill even more off target is the fact that there are already laws in place that address the roadblocks the disabled community faces in engaging in recreational activities on federal lands, including the recently enacted Expanding Public Lands Outdoor Recreation Experiences (EXPLORE) Act, 16 U.S.C. § 8411 *et seq.* (2025). The EXPLORE Act is intended to "foster and encourage recreation on Federal recreational land and waters." *Id.* § 8411. To fulfill that purpose, Title II, Subtitle A, of the EXPLORE Act, entitled Access for People With Disabilities, directs the relevant agencies to identify at least 41 diverse locations for new accessible trails throughout lands maintained by the National Forest System, the National Park Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service. *Id.* § 8484(a) (requiring the identification of three locations in each region of the specified land management entities). With regard to motorized vehicles in particular, the EXPLORE Act specifically directs the "creat[ion of] additional opportunities, as appropriate, and in accordance with existing law, for motorized and nonmotorized access and opportunities on Federal recreational lands and waters administered by the Chief of the Forest Service or the Director of the Bureau of Land Management." *Id.* § 8425(d). Finally, the EXPLORE Act goes far beyond trail creation and directs the creation of new areas and opportunities that are accessible to people with disabilities, including areas for camping, fishing, boating, biking, and off-road vehicle recreation. *Id.* § 8485.

The differences in implementation between the OADA and the EXPLORE Act are sharp. While public engagement is

severely limited under the OADA, the EXPLORE Act requires coordination with stakeholders, including "organizations with expertise or experience providing outdoor recreation opportunities to individuals with disabilities." *Id.* §§ 8482, 8483. The EXPLORE Act also requires the placement of appropriate signage at trailheads and the availability of written materials describing any trail obstacles or barriers, as well as the use of assistive technology in making information available to the public. *Id.* § 8482. Done properly, accessible design choices like these are not just compatible with environmental preservation but an enhancement to it.

Of course, implementation of the EXPLORE Act has had a rough road under the current administration given the cuts in funding and personnel. Further, there is no process in place for the envisioned community engagement, and so the goal of working with appropriate organizations is not being met. But unlike the OADA, the EXPLORE Act is actually focused on addressing a full range of needs of the disabled community, not on using the needs of the disabled community as pretense for a different objective.

Disability is a normal part of life. Everyone will experience illness and disability at some time, and our value should not be determined by it. People with disabilities should not be viewed as a problem to be solved or an obligation to be met, but as important members of our communities who deserve access to the same qualities of life as everyone else. It is unfortunate that legislation is required to protect this basic human right, and inexcusable that the disabled community would be used as cover for a separate political agenda. ♻️

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