

# CRS Report for Congress

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## Assistive Technology Act: Programs and Funding

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### Summary

The Assistive Technology Act (AT Act) of 1998 is a major source of federal funding for individuals with disabilities needing Assistive Technology (AT). Assistive Technology is generally defined as any kind of device or service that assists persons with disabilities to perform day-to-day tasks and activities. Authorization for the AT Act expires on September 30, 2004.

The FY2003 appropriation for programs authorized under the AT Act is \$26.8 million, a 13% reduction from the President's 2003 request. The Assistive Technology State Grant program under Title I will receive approximately 76% (\$20.3 million) of the \$26.8 million. The Administration has not requested any funding for AT Act programs for FY2004. This report will be updated whenever new program or budget activity occurs.

### Background

Assistive Technology (AT) is generally defined as any kind of device or service that assists persons with disabilities to perform day to day tasks and activities.<sup>1</sup> The devices range from "low-tech" mobility devices such as walkers and canes to "high-tech" speech synthesizers and other communication devices.<sup>2</sup> AT can be a powerful tool that allows individuals with disabilities of any age to lead independent lives, and to work, participate fully in community and school, and make informed choices in all aspects of their lives. The Assistive Technology Act (AT Act) of 1998 (P.L.105-394) was signed into law on November 13, 1998, and builds on the previous law – Technology Related Assistance for

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<sup>1</sup> "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities. [P.L.105-394, 112 Stat.3631]

<sup>2</sup> Dawn Carlson, et al., *Assistive Technology Survey Results: Continued Benefits and Needs Reported by Americans with Disabilities*, Sept. 27, 2001, at [<http://www.nccdr.org/du/researchexchange/v07n01/atpaper/>], visited Dec. 21, 2002.

Individuals with Disabilities (Tech Act) of 1988 (P.L. 100-401). It is the first major federal statute to deal with enhancing information and public awareness of AT devices and services. Programs under the AT Act operate in all 56 states and territories including the District of Columbia. At present, approximately 24 million persons age 18 and over with disabilities are using AT in the US.<sup>3</sup> Authorization for the AT Act of 1998 expires on September 30, 2004.

The AT Act is one way for the federal government to play a role in promoting access to AT devices and services for individuals with disabilities. To further strengthen this role, in 2001 the President announced the *New Freedom Initiative* (NFI).<sup>4</sup> Under this initiative, the Access to Telework Fund was created within the Department of Education, to increase employment opportunities for persons with disabilities. The fund provides matching funds to states to enable them to provide loans for persons with disabilities to purchase computers and other equipment so that they can telework from home.

There are three programs funded for FY2003 under the AT Act: 1) AT state grants; 2) grants for protection and advocacy; and 3) technical assistance. The National Institute of Disability and Rehabilitation Research (NIDRR) in the Department of Education administers these programs.

Below is a brief description of the funded programs under the Act, and issues for congressional consideration, where appropriate. **Table 1** provides funding levels for FY2001, FY2002, FY2003, and the FY2004 budget request.

***The purposes of the AT Act of 1998 are to:***

- Support states in sustaining and strengthening their capacity to address the assistive technology needs of individuals with disabilities;
- Identify federal policies that facilitate investment in assistive technology that could benefit people with disabilities, and eliminate barriers that impede investment in assistive technology across federal agencies and departments; and
- Support loan programs that help persons with disabilities purchase assistive technology devices or services.

## Programs and Funding

### Title I – State Grant Program

Under Title I of the AT Act, three programs are authorized: 1) AT state grant program; 2) state grant program for protection and advocacy services; and 3) the technical assistance program. Authorization of appropriations for Title I expires on September 30, 2004. The Act authorized \$36 million in FY1999, and such sums as may be necessary for FY2000 through FY2004.

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<sup>3</sup> N.J. Ehrlich and D. Carlson, *Assistive Technology Use and Need in the United States: A Survey of Persons with Disabilities Using a Dual Frame Design*, Ann Arbor, MI, University of Michigan Institute for Social Research, June 2002, discussion paper available at [<http://projects.isr.umich.edu/papers/>].

<sup>4</sup> For further information on the *New Freedom Initiative* see [<http://www.whitehouse.gov/news/freedominitiative/freedominitiative.pdf>], visited Dec. 21, 2002.

***The state grant program, requires states to carry out four mandatory activities:***

- Implement a public awareness program designed to provide information related to availability and benefits of assistive technology devices and services;
- Promote interagency coordination to improve access to assistive technology devices and services for individuals of all ages with disabilities;
- Create technical assistance and training programs, including the development and implementation of regulations, policies and practices that promote access to assistive technology services; and
- Implement outreach programs to support statewide community-based organizations that provide assistive devices and services to individuals.

**AT State Grant Program.** The program supports states in their development of technology-related activities and initiatives that enhance the ability of individuals with disabilities to access AT devices and services through systems changes, advocacy, and consumer responsiveness.

There are four mandatory activities (shown at left). In addition, states and territories that receive funding under the AT Act may undertake optional activities, such as developing other funding schemes to pay for AT devices and services, establishing demonstration programs, and providing short-term loans to employers or public agencies who are seeking to comply with the Americans with Disabilities Act (ADA) of 1990<sup>5</sup> and Section 504 of the Rehabilitation Act of 1973 as amended<sup>6, 7</sup> among other things.

The state grant program is a discretionary grant program with competitive funding awarded by NIDRR. Under the program, states receive funding for a period of 10 years.<sup>8</sup> Those that have completed 10 years of funding may apply for a 3-year extension grant. Under the law, extension grants must be funded at the same amount the state received in its 10<sup>th</sup> year of funding.

***State Grants for Protection and Advocacy Services.*** The program supports protection and advocacy services to assist individuals with disabilities in acquiring, utilizing or maintaining assistive technology devices. Formula grants are awarded by NIDRR directly to the entity in each state that administers the protection and advocacy program established under the Developmental Disabilities and Bill of Rights Act of 2000.<sup>9</sup> Funds are distributed on the basis of state population with a minimum annual grant of \$50,000 (subject to funding availability). Grants are awarded for a period of 6 years.

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<sup>5</sup> P.L. 101-336.

<sup>6</sup> P.L. 105-220.

<sup>7</sup> For further information on the Rehabilitation Act of 1973 see CRS Report RL31298, *Rehabilitation Act: Summary of 1998 Reauthorization Legislation*, by Carol O' Shaughnessy, and CRS Report RL31378, *Rehabilitation Act: Programs and Funding*, by Sidath V. Panangala.

<sup>8</sup> The 10 year grants are made-up of a 3-year development grant, 2-year initial extension grant and a 5-year extension grant.

<sup>9</sup> P.L. 106-402. For further information about protection and advocacy services established under this act see CRS Report RS21160, *The Developmental Disabilities Act: Programs and Funding*, by Sidath V. Panangala.

**Technical Assistance.** The program supports technical assistance to state agencies that administer Title I and Title III programs of the AT Act. The funds are awarded on a competitive basis. The Act requires that the Secretary of Education establish and maintain a National Public Internet Site for dissemination of information on technical assistance and increased access to AT devices and services and other disability related resources.

**FY2003 Funding for Title I Programs.** Funding for programs under Title I is \$26.8 million in FY2003.<sup>10</sup> This amount will provide funding for the State Grant program, Protection and Advocacy and Technical Assistance programs under Title I. Of the total, approximately \$20.3 million is allocated to the State Grant program. This amount will allow funding for all states and territories at their FY2002 funding level. Additionally, the Consolidated Appropriations Resolution 2003 (P.L. 108-7), provided funding for 23 states that would have been ineligible to receive funding in FY2003 due to the sunset provisions of prior law.<sup>11</sup> The AT Act stipulates that states participating in the State Grant program are ineligible to receive funding after 13 years of participating in the program. Additionally, the law stipulates that states in their 9<sup>th</sup> and 10<sup>th</sup> year of funding are to receive declining amounts over the 2-year period (that is, in the 9<sup>th</sup> year states are to receive 75% of what they received in their 8<sup>th</sup> year of funding; in the 10<sup>th</sup> year they are to receive 50% of the amount they received in the 8<sup>th</sup> year of funding).<sup>12</sup>

**FY2004 Budget Request for Title I.** The Administration has not requested any funding for programs under Title I for FY2004. The Administration believes that State Grant program has fulfilled its original mission by providing 10 years or more of federal funding to states to assist them in developing assistive technology programs. The President's FY2004 budget also proposes a shift of \$2.6 million funding from the Protection and Advocacy (P&A) program under Title I of the AT Act to the P&A for Individual Rights under Title V of the Rehabilitation Act of 1973, as amended. In FY2003 the President's budget request for the P&A for Individual Rights under Title V of the Rehabilitation Act of 1973 as amended, was \$15.2 million; the FY2004 budget request for the program is \$17.8 million.

**Issues for Congressional Consideration.** Considerable attention has been drawn to the sunset clause under Title I of the AT Act. This clause, in the Tech Act of 1988, originally prohibited funding for the AT State Grant program beyond a period of 10 years. The AT Act of 1998 authorized an additional 3 years of funding for the state

<sup>10</sup> On Feb. 20, 2003, the President signed into law the Consolidated Appropriations Resolution 2003 [P.L.108-7]. Section 601 of this law requires an amount equal to 0.65% rescinded proportionately to each program, project, and activity within each account including some accounts of the Department of Education for FY2003. This number is from the budget tables published by the Department of Education on Mar. 5, 2004.

<sup>11</sup> In FY2002, nine states were ineligible to receive funding: Arkansas, Colorado, Illinois, Kentucky, Maine, Maryland, Minnesota, Nebraska, and Utah. In FY2003, 14 states were ineligible to receive funding because they had already participated for 13 years: Alaska, Indiana, Iowa, Massachusetts, Mississippi, Nevada, New Mexico, New York, North Carolina, Oregon, Tennessee, Vermont, Virginia, and Wisconsin. In FY2004, 8 states will be ineligible for funding: Delaware, Georgia, Hawaii, Louisiana, Missouri, Montana, New Hampshire, and South Carolina.

<sup>12</sup> P.L. 105-394, Title I, 112 Stat, 3641.

grant program at the discretion of the Secretary of Education. However, despite sunset provisions, for FY2003, Congress approved one year of additional funding at their FY2002 levels for 14 states in their 14<sup>th</sup> year of funding and 9 states in their 15<sup>th</sup> year of funding in FY2003 [P.L. 108-7].

Sunset provisions and congressional action in 2003 to continue funding for 23 expiring states raises a number of questions for congressional consideration. These include: What action might Congress take regarding continuation of the sunset provision? Should the sunset provision be lifted for states whose grants will expire in FY2004 and succeeding years as it was in the 2 preceding years? Given the heightened focus on assistive technology as part of the President's *New Freedom Initiative* should Congress review the effect of the sunset provision to determine if it should be lifted permanently?

## **Title II – National Activities**

Title II of the AT Act is designed to fund programs of national significance which may include the support of technology training, the development and training of individuals for technology careers, device and equipment redistribution information systems and recycling centers, and technology transfer. The Act authorized \$10 million for the programs under Title II for FY1999 and such sums as may be necessary for FY2000. However, no funds have been appropriated for most programs under Title II since FY1999.

Funding for the President's Commission on Employment of People with Disabilities (CEPD) is authorized under Title II of the Act. However, during the FY2001 appropriation process, Congress authorized the creation of the Office of Disability Employment Policy under the Department of Labor to replace the President's CEPD. Funding for the Office for FY2003 is \$47.4 million, this will go towards funding salaries and expenses. The Administration has requested \$47.3 million for salaries and expenses in FY2004.

## **Title III – Alternative Financing Mechanisms**

Under Title III of the AT Act, discretionary grants are awarded on a competitive basis to states to pay for the federal share of the cost of the establishment, administration, or expansion of alternative financing mechanisms. Under the program, a variety of alternative financing mechanisms may be developed to assist individuals with disabilities and their families to purchase equipment or services. Alternative financing mechanisms may include: 1) a low interest loan fund; 2) an interest buy-down program;<sup>13</sup> 3) a revolving loan fund;<sup>14</sup> 4) a loan guarantee or insurance program;<sup>15</sup> 5) a loan operated by a partnership among private entities for purchase or lease of assistive technology devices; or 6) any other mechanism approved by the Secretary. The law requires the Secretary to

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<sup>13</sup> An organization using AT funds reduces the interest rate of a loan made by a lending institution to a borrower.

<sup>14</sup> This is a loan where the individual borrows money, and loan repayments are recycled back into the loan fund for awarding future loans.

<sup>15</sup> These loans are backed by a promise or guarantee that if the borrower defaults the loan will be paid back.

award states a minimum of \$500,000 (\$105,000 to territories) plus an additional amount based on state population (according to a specified population density factor).<sup>16</sup> The federal share of the cost of any alternative financing program may not exceed 50%. The authorization for Title III expired at the end of FY2000.<sup>17</sup>

**FY2003 Funding for Title III Programs.** The Administration requested \$15.2 million for FY2003. In the Consolidated Appropriations Resolution 2003 (P.L.108-7), Congress did not include language for continuation of funding for FY2003. The President's budget has not requested any funding for FY2004, the Administration believes that increased funding in FY2002 – \$36.5 million, which remains available for 2 years, will provide adequate funding for alternative financing programs.

**Table 1. Assistive Technology Programs: Funding History for FY2001, FY2002, and FY2003**

(in thousands of dollars)

Programs	FY2001 actual	FY2002 actual	FY2003 estimate <sup>a</sup>	FY2004 request
<b>Title I — State Grant program</b>				
Assistive Technology State Grant Program	\$22,069	\$20,289	\$20,289	not requested
Protection and Advocacy	2,680	2,680	4,572	not requested
Technical Assistance	1,363	1,363	1,963	not requested
<b>Title II — National Activities<sup>b</sup></b>				
	not funded	not funded	not requested	not requested
<b>Title III — Alternative Financing Mechanisms</b>				
	15,000	36,552	not authorized <sup>c</sup>	not requested
<b>Total</b>	<b>\$41,112</b>	<b>\$60,884</b>	<b>\$26,824</b>	<b>\$0</b>

NA= Not Available, at this time the Administration has not decided on how the appropriated funds will be allocated between the two programs.

<sup>a</sup> Estimated obligations.

<sup>b</sup> Programs under Title II have not been funded. In FY2002, the Office of Disability Employment Policy, the successor to the President's Committee on Employment of People with Disabilities received \$38.5 million for salaries and expenses. This office is now in the Labor Department and is no longer authorized under Title II of the Assistive Technology Act of 1998.

<sup>c</sup> Under provisions of the General Education Provision Act (GEPA) Section 422, funding for Title III was extended by 1 fiscal year. This extension expired Sept. 30, 2001. Since then the program has been carried out under authority provided by annual appropriations legislation. The Consolidated Appropriations Resolution, 2003 [P.L.108-7], did not authorize funding for the program.

<sup>16</sup> P.L. 105-394, Title III, 112 Stat, 3658.

<sup>17</sup> Under provisions of the General Education Provision Act (GEPA) Section 422, funding for Title III was extended by 1 fiscal year. This extension expired Sept. 30, 2001. Since then the program has been carried out under authority provided by annual appropriations legislation. The Consolidated Appropriations Resolution, 2003 [P.L.108-7], did not authorize funding for the program.