

Public Law 88-443

AN ACT

August 18, 1964
[H. R. 10041]

To improve the public health through revising, consolidating, and improving the hospital and other medical facilities provisions of the Public Health Service Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hospital and Medical Facilities Amendments of 1964".

Hospital and Medical Facilities Amendments of 1964.

SEC. 2. Part B of title III of the Public Health Service Act (42 U.S.C. 243, et seq.) is amended by inserting at the end thereof the following new section:

58 Stat. 693;
75 Stat. 824;
76 Stat. 1155.

"SPECIAL PROJECT GRANTS FOR ASSISTING IN THE AREA-WIDE PLANNING OF HEALTH AND RELATED FACILITIES

"SEC. 318. There are authorized to be appropriated \$2,500,000 for the fiscal year ending June 30, 1965, and \$5,000,000 for each of the next four fiscal years to enable the Surgeon General to make grants to the appropriate State agency or agencies designated in accordance with section 604(a)(1) to cover not to exceed 50 per centum of the costs of projects for developing (and from time to time revising) and supervising and assisting in the carrying out of comprehensive regional, metropolitan area, or other local area plans for coordination of existing and planned health facilities, and facilities related thereto, and services provided by such facilities."

Post, p. 452.

SEC. 3. (a) Title VI of the Public Health Service Act (42 U.S.C., ch. 6A, subch. IV) is amended to read as follows:

60 Stat. 1041;
68 Stat. 461;
72 Stat. 489.

"TITLE VI—ASSISTANCE FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

"DECLARATION OF PURPOSE

"SEC. 600. The purpose of this title is—

"(a) to assist the several States in the carrying out of their programs for the construction and modernization of such public or other nonprofit community hospitals and other medical facilities as may be necessary, in conjunction with existing facilities, to furnish adequate hospital, clinic, or similar services to all their people;

"(b) to stimulate the development of new or improved types of physical facilities for medical, diagnostic, preventive, treatment, or rehabilitative services; and

"(c) to promote research, experiments, and demonstrations relating to the effective development and utilization of hospital, clinic, or similar services, facilities, and resources, and to promote the coordination of such research, experiments, and demonstrations and the useful application of their results.

"PART A—GRANTS AND LOANS FOR CONSTRUCTION AND MODERNIZATION
OF HOSPITALS AND OTHER MEDICAL FACILITIES

"AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION GRANTS

"SEC. 601. In order to assist the States in carrying out the purposes of section 600, there are authorized to be appropriated—

"(a) for the fiscal year ending June 30, 1965, and each of the next four fiscal years—

"(1) \$70,000,000 for grants for the construction of public or other nonprofit facilities for long-term care;

"(2) \$20,000,000 for grants for the construction of public or other nonprofit diagnostic or treatment centers;

"(3) \$10,000,000 for grants for the construction of public or other nonprofit rehabilitation facilities;

"(b) for grants for the construction of public or other nonprofit hospitals and public health centers and for grants for modernization of such facilities and the facilities referred to in paragraph (a), \$150,000,000 for the fiscal year ending June 30, 1965, \$160,000,000 for the fiscal year ending June 30, 1966, \$170,000,000 for the fiscal year ending June 30, 1967, and \$180,000,000 each for the next two fiscal years.

"STATE ALLOTMENTS

"SEC. 602. (a) (1) Each State shall be entitled for each fiscal year to an allotment bearing the same ratio to the sums appropriated for such year pursuant to subparagraphs (1), (2), and (3), respectively, of section 601(a), and to an allotment bearing the same ratio to the new hospital portion of the sums appropriated for such year pursuant to section 601(b), as the product of—

"(A) the population of such State, and

"(B) the square of its allotment percentage,

bears to the sum of the corresponding products for all of the States. As used in this paragraph, the new hospital portion of sums appropriated pursuant to section 601(b) (which portion shall be available for grants for the construction of public or other nonprofit hospitals and public health centers) is 100 per centum of such sums in the case of the fiscal year ending June 30, 1965, seven-eighths thereof in the case of the first fiscal year thereafter, twenty-seven thirty-fourths thereof in the case of the second fiscal year thereafter, thirteen-eightieths thereof in the case of the third fiscal year thereafter, twenty-five thirty-sixths thereof in the case of the fourth fiscal year thereafter.

"(2) For each fiscal year beginning after June 30, 1965, the Surgeon General shall, in accordance with regulations, make allotments from the remainder of the sums appropriated pursuant to section 601(b) (which portion shall be available for grants for modernization of facilities referred to in paragraphs (a) and (b) of section 601) on the basis of the population, the extent of the need for modernization of the facilities referred to in paragraphs (a) and (b) of section 601, and the financial need of the respective States.

"(b) (1) The allotment to any State under subsection (a) for any fiscal year which is less than—

"(A) \$25,000 for the Virgin Islands, American Samoa, or Guam and \$50,000 for any other State, in the case of an allotment for grants for the construction of public or other nonprofit rehabilitation facilities,

"(B) \$50,000 for the Virgin Islands, American Samoa, or Guam and \$100,000 for any other State in the case of an allotment

for grants for the construction of public or other nonprofit diagnostic or treatment centers, or

“(C) \$100,000 for the Virgin Islands, American Samoa, or Guam and \$200,000 for any other State in the case of an allotment for grants for the construction of public or other nonprofit facilities for long-term care or for the construction of public or other nonprofit hospitals and public health centers, or for the modernization of facilities referred to in paragraph (a) or (b) of section 601,

shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment from appropriations under such subparagraph or paragraph to each of the remaining States under subsection (a) of this section, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from appropriations under such subparagraph or paragraph from being thereby reduced to less than that amount.

“(2) An allotment of the Virgin Islands, American Samoa, or Guam for any fiscal year may be increased as provided in paragraph (1) only to the extent it satisfies the Surgeon General, at such time prior to the beginning of such year as the Surgeon General may designate, that such increase will be used for payments under and in accordance with the provisions of this part.

“(c) For the purposes of this part—

“(1) The ‘allotment percentage’ for any State shall be 100 per centum less than percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than $33\frac{1}{3}$ per centum, and (B) the allotment percentage for the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be 75 per centum.

Allotment percentages.

“(2) The allotment percentages shall be determined by the Surgeon General between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of each of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce, and the States shall be notified promptly thereof. Such determination shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such determination.

“(3) The population of the several States shall be determined on the basis of the latest figures certified by the Department of Commerce.

“(4) The term ‘United States’ means (but only for purposes of paragraphs (1) and (2)) the fifty States and the District of Columbia.

“(d) (1) Any sum allotted to a State, other than the Virgin Islands, American Samoa, and Guam for a fiscal year under this section and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next fiscal year (and for such year only), in addition to the sums allotted to such State for such purpose for such next fiscal year.

“(2) Any sum allotted to the Virgin Islands, American Samoa, or Guam for a fiscal year under this section and remaining unobligated at the end of such year shall remain available to it, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the sums allotted to it for such purpose for each of such next two fiscal years.

“(e) (1) Upon the request of any State that—

“(A) a specified portion of any allotment of such State under paragraph (1) of subsection (a), other than an allotment for

grants for the construction of public or other nonprofit rehabilitation facilities, be added to another allotment of such State under paragraph (1) or (2) of such subsection, other than an allotment for grants for the construction of public or other nonprofit hospitals and public health centers, or

“(B) a specified portion of an allotment of such State under paragraph (2) of subsection (a) be added to an allotment of such State under paragraph (1) of such subsection, and upon simultaneous certification to the Surgeon General by the State agency in such State to the effect that—

“(C) it has afforded a reasonable opportunity to make applications for the portion so specified and there have been no approvable applications for such portion, or

“(D) in the case of a request to transfer a portion of an allotment under paragraph (1) of subsection (a) for grants for the construction of public or other nonprofit hospitals and public health centers, use of such portion as requested by such State agency will better carry out the purposes of this title,

the Surgeon General shall promptly (but after application of subsection (b)) adjust the allotments of such State in accordance with such request and shall notify the State agency.

“(2) In addition to the transfer of portions of allotments under paragraph (1), the Surgeon General, upon the request of any State that a specified portion of an allotment of such State under paragraph (2) of subsection (a) be added to an allotment of such State under paragraph (1) of such subsection for grants for the construction of public or other nonprofit hospitals and public health centers and upon simultaneous certification to him by the State agency in such State to the effect that the need for new public or other nonprofit hospitals and public health centers is substantially greater than the need for modernization of facilities referred to in paragraph (a) or (b) of section 601, shall promptly (but after application of subsection (b) of this section) adjust the allotments of such State in accordance with such request and shall notify the State agency; except that not more than the following portions of allotments of a State under paragraph (2) of subsection (a) may be so added (under this paragraph) to allotments of such State under paragraph (1) of such subsection:

“(A) in the case of an allotment under paragraph (2) of subsection (a) for the fiscal year ending June 30, 1966, one-half of such allotment;

“(B) in the case of an allotment thereunder for the fiscal year ending June 30, 1967, three-sevenths of such allotment;

“(C) in the case of an allotment thereunder for the fiscal year ending June 30, 1968, two-fifths of such allotment; and

“(D) in the case of an allotment thereunder for the fiscal year ending June 30, 1969, five-elevenths of such allotment.

“(3) After adjustment of allotments of any State as provided in paragraph (1) or (2) of this subsection, the allotments as so adjusted shall be deemed to be the State's allotments under this section.

“(f) In accordance with regulations, any State may file with the Surgeon General a request that a specified portion of an allotment to it under this part for grants for construction of any type of facility, or for modernization of facilities, be added to the corresponding allotment of another State for the purpose of meeting a portion of the Federal share of the cost of a project for the construction of a facility of that type in such other State, or for modernization of a facility in such other State, as the case may be. If it is found by the Surgeon General (or, in the case of a rehabilitation facility, by the Surgeon General and the Secretary) that construction or modernization of the

facility with respect to which the request is made would meet needs of the State making the request and that use of the specified portion of such State's allotment, as requested by it, would assist in carrying out the purposes of this title, such portion of such State's allotment shall be added to the corresponding allotment of the other State, to be used for the purpose referred to above.

"GENERAL REGULATIONS

"SEC. 603. The Surgeon General, with the approval of the Federal Hospital Council and the Secretary of Health, Education, and Welfare, shall by general regulations prescribe—

"(a) the general manner in which the State agency shall determine the priority of projects based on the relative need of different areas lacking adequate facilities of various types for which assistance is available under this part, giving special consideration—

"(1) in the case of projects for the construction of hospitals, to facilities serving rural communities and areas with relatively small financial resources;

"(2) in the case of projects for the construction of rehabilitation facilities, to facilities operated in connection with a university teaching hospital which will provide an integrated program of medical, psychological, social, and vocational evaluation and services under competent supervision;

"(3) in the case of projects for modernization of facilities, to facilities serving densely populated areas; and

"(4) to the extent deemed feasible by the State agency, to hospital facilities which will include new or expanded facilities for nurse training;

"(b) general standards of construction and equipment for facilities of different classes and in different types of location, for which assistance is available under this part;

"(c) criteria for determining needs for general hospital and long-term care beds, and needs for hospitals and other facilities for which aid under this part is available, and for developing plans for the distribution of such beds and facilities;

"(d) criteria for determining the extent to which existing facilities, for which aid under this part is available, are in need of modernization; and

"(e) that the State plan shall provide for adequate hospitals, and other facilities for which aid under this part is available, for all persons residing in the State, and adequate hospitals (and such other facilities) to furnish needed services for persons unable to pay therefor. Such regulations may also require that before approval of an application for a project is recommended by a State agency to the Surgeon General for approval under this part, assurance shall be received by the State from the applicant that (1) the facility or portion thereof to be constructed or modernized will be made available to all persons residing in the territorial area of the applicant; and (2) there will be made available in the facility or portion thereof to be constructed or modernized a reasonable volume of services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial viewpoint.

"STATE PLANS

"SEC. 604. (a) Any State desiring to participate in this part may submit a State plan. Such plan must—

"(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

"(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) will have authority to carry out such plan in conformity with this part;

"(3) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations or groups, and of public agencies, concerned with the operation, construction, or utilization of hospital or other facilities for diagnosis, prevention, or treatment of illness or disease, or for provision of rehabilitation services, and an equal number of representatives of consumers familiar with the need for the services provided by such facilities, to consult with the State agency in carrying out the plan, and provide, if such council does not include any representatives of nongovernmental organizations or groups, or State agencies, concerned with rehabilitation, for consultation with organizations, groups, and State agencies so concerned;

"(4) set forth, in accordance with criteria established in regulations prescribed under section 603 and on the basis of a statewide inventory of existing facilities, a survey of need, and (except to the extent provided by or pursuant to such regulations) community, area, or regional plans—

"(A) the number of general hospital beds and long-term care beds, and the number and types of hospital facilities and facilities for long-term care, needed to provide adequate facilities for inpatient care of people residing in the State, and a plan for the distribution of such beds and facilities in service areas throughout the State;

"(B) the public health centers needed to provide adequate public health services for people residing in the State, and a plan for the distribution of such centers throughout the State;

"(C) the diagnostic or treatment centers needed to provide adequate diagnostic or treatment services to ambulatory patients residing in the State, and a plan for distribution of such centers throughout the State;

"(D) the rehabilitation facilities needed to assure adequate rehabilitation services for disabled persons residing in the State, and a plan for distribution of such facilities throughout the State; and

"(E) effective January 1, 1966, the extent to which existing facilities referred to in section 601 (a) or (b) in the State are in need of modernization;

"(5) set forth a construction and modernization program conforming to the provisions set forth pursuant to paragraph (4) and regulations prescribed under section 603 and providing for construction or modernization of the hospital or long-term care facilities, public health centers, diagnostic or treatment centers, and rehabilitation facilities which are needed, as determined under the provisions so set forth pursuant to paragraph (4);

"(6) set forth, with respect to each of such types of medical facilities, the relative need, determined in accordance with regulations prescribed under section 603, for projects for facilities of

that type, and provide for the construction or modernization, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need;

“(7) provide minimum standards (to be fixed in the discretion of the State) for the maintenance and operation of facilities providing inpatient care which receive aid under this part and, effective July 1, 1966, provide for enforcement of such standards with respect to projects approved by the Surgeon General under this part after June 30, 1964;

“(8) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Surgeon General shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Surgeon General to be necessary for the proper and efficient operation of the plan;

“(9) provide for affording to every applicant for a construction or modernization project an opportunity for a hearing before the State agency;

“(10) provide that the State agency will make such reports, in such form and containing such information, as the Surgeon General may from time to time reasonably require, and will keep such records and afford such access thereto as the Surgeon General may find necessary to assure the correctness and verification of such reports;

“(11) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (10); and

“(12) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Surgeon General any modifications thereof which it considers necessary.

“(b) The Surgeon General shall approve any State plan and any modification thereof which complies with the provisions of subsection (a). If any such plan or modification thereof shall have been disapproved by the Surgeon General for failure to comply with subsection (a), the Federal Hospital Council shall, upon request of the State agency, afford it an opportunity for hearing. If such Council determines that the plan or modification complies with the provisions of such subsection, the Surgeon General shall thereupon approve such plan or modification.

“APPROVAL OF PROJECTS FOR CONSTRUCTION OR MODERNIZATION

“SEC. 605. (a) For each project pursuant to a State plan approved under this part, there shall be submitted to the Surgeon General, through the State agency, an application by the State or a political subdivision thereof or by a public or other nonprofit agency. If two or more such agencies join in the project, the application may be filed by one or more of such agencies. Such application shall set forth—

“(1) a description of the site for such project;

“(2) plans and specifications therefor, in accordance with regulations prescribed under section 603;

“(3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or other nonprofit agency which is to operate the facility on completion of the project;

"(4) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed;

"(5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of construction or modernization on the project will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c); and

"(6) a certification by the State agency of the Federal share for the project.

"(b) The Surgeon General shall approve such application if sufficient funds to pay the Federal share of the cost of such project are available from the appropriate allotment to the State, and if the Surgeon General finds (1) that the application contains such reasonable assurance as to title, financial support, and payment of prevailing rates of wages; (2) that the plans and specifications are in accord with the regulations prescribed pursuant to section 603; (3) that the application is in conformity with the State plan approved under section 604 and contains an assurance that in the operation of the project there will be compliance with the applicable requirements of the regulations prescribed under section 603(e), and with State standards for operation and maintenance; and (4) that the application has been approved and recommended by the State agency and is entitled to priority over other projects within the State in accordance with the regulations prescribed pursuant to section 603(a). Notwithstanding the preceding sentence, the Surgeon General may approve such an application for a project for construction or modernization of a rehabilitation facility only if it is also approved by the Secretary of Health, Education, and Welfare.

"(c) No application shall be disapproved until the Surgeon General has afforded the State agency an opportunity for a hearing.

"(d) Amendment of any approved application shall be subject to approval in the same manner as an original application.

"(e) Notwithstanding any other provision of this title, no application for a diagnostic or treatment center shall be approved under this section unless the applicant is (1) a State, political subdivision, or public agency, or (2) a corporation or association which owns and operates a nonprofit hospital (as defined in section 625).

"PAYMENTS FOR CONSTRUCTION OR MODERNIZATION

"SEC. 606. (a) Upon certification to the Surgeon General by the State agency, based upon inspection by it, that work has been performed upon a project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment is due to the applicant, such installment shall be paid to the State, from the applicable allotment of such State, except that (1) if the State is not authorized by law to make payments to the applicant, or if the State so requests, the payment shall be made directly to the applicant, (2) if the Surgeon General, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred

49 Stat. 1011;
Ante, p. 238.

64 Stat. 1267.
63 Stat. 108.

requiring action pursuant to section 607, payment may, after he has given the State agency notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (3) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project.

“(b) In case an amendment to an approved application is approved as provided in section 605 or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

“(c) (1) At the request of any State, a portion of any allotment or allotments of such State under this part shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Surgeon General for the proper and efficient administration during such year of the State plan approved under this part; except that not more than 2 per centum of the total of the allotments of such State for a year, or \$50,000, whichever is less, shall be available for such purpose for such year. Payments of amounts due under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Surgeon General may determine.

“(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from State sources for such year for administration of the State plan approved under this part not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1964.

“WITHHOLDING OF PAYMENTS

“SEC. 607. Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the State agency designated as provided in section 604(a) (1), finds—

“(a) that the State agency is not complying substantially with the provisions required by section 604 to be included in its State plan; or

“(b) that any assurance required to be given in an application filed under section 605 is not being or cannot be carried out; or

“(c) that there is a substantial failure to carry out plans and specifications approved by the Surgeon General under section 605; or

“(d) that adequate State funds are not being provided annually for the direct administration of the State plan,

the Surgeon General may forthwith notify the State agency that—

“(e) no further payments will be made to the State under this part, or

“(f) no further payments will be made from the allotments of such State from appropriations under any one or more subparagraphs or paragraphs of section 601, or for any project or projects, designated by the Surgeon General as being affected by the action or inaction referred to in paragraph (a), (b), (c), or (d) of this section,

as the Surgeon General may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments may be withheld, in whole or in part, until there is no longer any failure to comply (or carry out the assurance or plans and specifications or provide adequate State funds, as the case

may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled.

“JUDICIAL REVIEW

“SEC. 608. (a) If the Surgeon General refuses to approve any application for a project submitted under section 605 or section 610, the State agency through which such application was submitted, or if any State is dissatisfied with his action under section 607 such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Surgeon General, or any officer designated by him for that purpose. The Surgeon General shall thereupon file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Surgeon General or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Surgeon General may modify or set aside his order.

72 Stat. 941.

“(b) The findings of the Surgeon General as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Surgeon General to take further evidence, and the Surgeon General may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

“(c) The judgment of the court affirming or setting aside, in whole or in part, any action of the Surgeon General shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Surgeon General's action.

62 Stat. 928.

“RECOVERY

“SEC. 609. If any facility with respect to which funds have been paid under section 606 shall, at any time within twenty years after the completion of construction—

“(a) be sold or transferred to any person, agency, or organization (1) which is not qualified to file an application under section 605, or (2) which is not approved as a transferee by the State agency designated pursuant to section 604, or its successor, or

“(b) cease to be a public health center or a public or other non-profit hospital, diagnostic or treatment center, facility for long-term care, or rehabilitation facility, unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from this obligation,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of the facility as constituted an approved project or projects, as the amount

of the Federal participation bore to the cost of the construction or modernization under such project or projects. Such right of recovery shall not constitute a lien upon said facility prior to judgment.

“LOANS FOR CONSTRUCTION OR MODERNIZATION OF HOSPITALS AND OTHER
MEDICAL FACILITIES

“SEC. 610. (a) In order further to assist the States in carrying out the purposes of this title, the Surgeon General is authorized to make a loan of funds to the applicant for any project for construction or modernization which meets all of the conditions specified for a grant under this part.

“(b) Except as provided in this section, an application for a loan with respect to any project under this part shall be submitted, and shall be approved by the Surgeon General, in accordance with the same procedures and subject to the same limitations and conditions as would be applicable to the making of a grant under this part for such project. Any such application may be approved in any fiscal year only if sufficient funds are available from the allotment for the type of project involved. All loans under this section shall be paid directly to the applicant.

“(c) (1) The amount of a loan under this part shall not exceed an amount equal to the Federal share of the estimated cost of construction or modernization under the project. Where a loan and a grant are made under this part with respect to the same project, the aggregate amount of such loan and such grant shall not exceed an amount equal to the Federal share of the estimated cost of construction or modernization under the project. Each loan shall bear interest at the rate arrived at by adding one-quarter of 1 per centum per annum to the rate which the Secretary of the Treasury determines to be equal to the current average yield on all outstanding marketable obligations of the United States as of the last day of the month preceding the date the application for the loan is approved and by adjusting the result so obtained to the nearest one-eighth of 1 per centum. Each loan made under this part shall mature not more than forty years after the date on which such loan is made, except that nothing in this part shall prohibit the payment of all or part of the loan at any time prior to the maturity date. In addition to the terms and conditions provided for, each loan under this part shall be made subject to such terms, conditions, and covenants relating to repayment of principal, payment of interest, and other matters as may be agreed upon by the applicant and the Surgeon General.

“(2) The Surgeon General may enter into agreements modifying any of the terms and conditions of a loan made under this part whenever he determines such action is necessary to protect the financial interest of the United States.

“(3) If, at any time before a loan for a project has been repaid in full, any of the events specified in clause (a) or clause (b) of section 609 occurs with respect to such project, the unpaid balance of the loan shall become immediately due and payable by the applicant, and any transferee of the facility shall be liable to the United States for such repayment.

“(d) Any loan under this part shall be made out of the allotment from which a grant for the project concerned would be made. Payments of interest and repayments of principal on loans under this part shall be deposited in the Treasury as miscellaneous receipts.

“PART B—GENERAL

“FEDERAL HOSPITAL COUNCIL AND ADVISORY COMMITTEES

“SEC. 621. (a) In administering this title, the Surgeon General shall consult with a Federal Hospital Council consisting of the Surgeon General, who shall serve as Chairman ex officio, and twelve members appointed by the Secretary of Health, Education, and Welfare. Six of the twelve appointed members shall be persons who are outstanding in fields pertaining to medical facility and health activities, and three of these six shall be authorities in matters relating to the operation of hospitals or other medical facilities, one of them shall be an authority in matters relating to the mentally retarded, and one of them shall be an authority in matters relating to mental health, and the other six members shall be appointed to represent the consumers of services provided by such facilities and shall be persons familiar with the need for such services in urban or rural areas.

“(b) Each appointed member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. An appointed member shall not be eligible to serve continuously for more than two terms (whether beginning before or after enactment of this section) but shall be eligible for reappointment if he has not served immediately preceding his reappointment.

“(c) The Council shall meet as frequently as the Surgeon General deems necessary, but not less than once each year. Upon request by three or more members, it shall be the duty of the Surgeon General to call a meeting of the Council.

“(d) The Council is authorized to appoint such special advisory or technical committees as may be useful in carrying out its functions.

“(e) Appointed Council members and members of advisory or technical committees, while serving on business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary of Health, Education, and Welfare, but not exceeding \$75 per day, including travel time, and, while so serving away from their places of residence, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

60 Stat. 808;
75 Stat. 339, 340.

“CONFERENCE OF STATE AGENCIES

“SEC. 622. Whenever in his opinion the purposes of this title would be promoted by a conference, the Surgeon General may invite representatives of as many State agencies, designated in accordance with section 604, to confer as he deems necessary or proper. A conference of the representatives of all such State agencies shall be called annually by the Surgeon General. Upon the application of five or more of such State agencies, it shall be the duty of the Surgeon General to call a conference of representatives of all State agencies joining in the request.

“STATE CONTROL OF OPERATIONS

“SEC. 623. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility with respect to which any funds have been or may be expended under this title.

“STUDIES AND DEMONSTRATIONS RELATING TO COORDINATED USE OF
HOSPITAL FACILITIES

“SEC. 624. (a) The Surgeon General is authorized to conduct research, experiments, and demonstrations relating to the effective development and utilization of services, facilities, and resources of hospitals or other medical facilities and, after consultation with the Federal Hospital Council, to make grants-in-aid to States, political subdivisions, universities, hospitals, and other public and nonprofit private institutions or organizations for projects for the conduct of research, experiments, or demonstrations relating to the development, utilization, and coordination of services, facilities, and resources of hospitals or other medical facilities, agencies, or institutions, and including the construction of units of hospitals or other medical facilities which involve experimental architectural designs or functional layout, the efficiency or economy of which can be tested and evaluated, or the demonstration thereof, and projects for acquisition of experimental or demonstration equipment for use in connection with hospitals or other medical facilities. Any award for any such project made from an appropriation under this section for any fiscal year may include such amounts as the Surgeon General determines to be necessary for succeeding fiscal years for completion of the Federal participation in the project as approved by the Surgeon General. Payments of any such grant may be made in advance or by way of reimbursement, and in such installments, as may be determined by the Surgeon General; and shall be made on such conditions as the Surgeon General finds necessary to carry out the purposes of this section. A grant under this section with respect to any project for construction of a facility or for acquisition of equipment (1) may not exceed \$500,000, and (2) except where the Surgeon General determines that unusual circumstances make a larger percentage necessary in order to effectuate the purposes of this section, may not exceed 50 per centum of so much of the cost of such facility or such equipment as the Surgeon General determines is reasonably attributable to experimental or demonstration purposes. The provisions of clause (5) of the third sentence of subsection (a) of section 605 and any other provisions of such section which the Surgeon General deems appropriate shall be applicable, along with such other conditions as the Surgeon General may determine, to grants under this section for projects for construction or for acquisition of equipment. There is authorized to be appropriated not to exceed \$10,000,000 for any fiscal year to carry out the provisions of this section.

“(b) If, within twenty years after completion of any construction for which funds have been paid under this section—

“(1) the applicant or other owner of the facility shall cease to be a public or other nonprofit institution or organization, or

“(2) the facility shall cease to be used for the purposes for which it was constructed or for the provision of hospital or other services for which construction projects may be approved under this title (unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so),

the United States shall be entitled to recover from the applicant or other owner of the facility an amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility. Such right of recovery shall not constitute a lien on such facility prior to judgment.

"DEFINITIONS

"SEC. 625. For the purposes of this title—

"(a) The term 'State' includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the District of Columbia.

"(b) The term 'Federal share' with respect to any project means the proportion of the cost of construction of such project to be paid by the Federal Government, determined as follows:

"(1) With respect to projects for which grants are made from allotments made from appropriations under paragraph (b) of section 601, the Federal share shall be whichever of the following the State elects:

"(A) the share determined by the State agency in accordance with standards, included in the State plan, which provide equitably for variations between projects on the basis of objective criteria related to the economic status of areas and, if the State so elects, such other factor or factors as may be appropriate and be permitted by regulations, except that such standards may not provide for a Federal share of more than $66\frac{2}{3}$ per centum, or less than $33\frac{1}{3}$ per centum, or

"(B) the amount (not less than $33\frac{1}{3}$ per centum and not more than either $66\frac{2}{3}$ per centum or the State's allotment percentage, whichever is lower) established by the State agency for all projects in the State;

"(2) With respect to projects for which grants are made from allotments made from appropriations under paragraph (a) of section 601, the Federal share shall be whichever of the following the State elects:

"(A) the share determined by the State agency in accordance with the standards, included in the State plan, and meeting the requirements set forth in subparagraph (A) of paragraph (1),

"(B) the amount (not less than $33\frac{1}{3}$ per centum and not more than either $66\frac{2}{3}$ per centum or the State's allotment percentage, whichever is lower) established by the State agency for all projects in the State, or

"(C) 50 per centum of the cost of construction of the project.

The State agency shall, prior to the approval by it, under the State plan approved under part A, of the first project in the State during any fiscal year, give written notification to the Surgeon General of the Federal share which it has elected pursuant to paragraph (1), and the Federal share which it has elected pursuant to paragraph (2), of this subsection for projects in such State to be approved by the Surgeon General during such fiscal year, and such Federal share or shares for projects in such State approved by the Surgeon General during such fiscal year shall not be changed after approval of such first project by the State.

"(c) The term 'hospital' includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care.

"(d) The term 'public health center' means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

“(e) The term ‘nonprofit’ as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

“(f) The term ‘diagnostic or treatment center’ means a facility for the diagnosis or diagnosis and treatment of ambulatory patients—

“(1) which is operated in connection with a hospital, or

“(2) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or, in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State.

“(g) The term ‘rehabilitation facility’ means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of—

“(1) medical evaluation and services, and

“(2) psychological, social, or vocational evaluation and services, under competent professional supervision, and in the case of which—

“(3) the major portion of the required evaluation and services is furnished within the facility; and

“(4) either (A) the facility is operated in connection with a hospital, or (B) all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

“(h) The term ‘facility for long-term care’ means a facility providing in-patient care for convalescent or chronic disease patients who require skilled nursing care and related medical services—

“(1) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculous patients) or is operated in connection with a hospital, or

“(2) in which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.

“(i) The term ‘construction’ includes construction of new buildings, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities); including architects’ fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.

“(j) The term ‘cost’ as applied to construction or modernization means the amount found by the Surgeon General to be necessary for construction and modernization respectively, under a project, except that such term, as applied to a project for modernization of a facility for which a grant or loan is to be made from an allotment under section 602(a)(2), does not include any amount found by the Surgeon General to be attributable to expansion of the bed capacity of such facility.

“(k) The term ‘modernization’ includes alteration, major repair (to the extent permitted by regulations), remodeling, replacement, and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

“(1) The term ‘title’, when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Surgeon General finds sufficient to assure for a period of not less than fifty years’ undisturbed use and possession for the purposes of construction and operation of the project.”

(b) The amendment made by subsection (a) shall become effective upon the date of enactment of this Act, except that—

Effective date.

(1) all applications approved by the Surgeon General under title VI of the Public Health Service Act prior to such date, and allotments of sums appropriated prior to such date, shall be governed by the provisions of such title VI in effect prior to such date;

(2) allotment percentages promulgated by the Surgeon General under such title VI during 1962 shall continue to be effective for purposes of such title as amended by this Act for the fiscal year ending June 30, 1965;

(3) the terms of members of the Federal Hospital Council who are serving on such Council prior to such date shall expire on the date they would have expired had this Act not been enacted;

(4) the provisions of the fourth sentence of section 636(a) of the Public Health Service Act, as in effect prior to the enactment of this Act, shall apply in lieu of the fourth sentence of section 624(a) of the Public Health Service Act, as amended by this Act, in the case of any project for construction of a facility or for acquisition of equipment with respect to which a grant for any part thereof or for planning such construction or equipment was made prior to the enactment of this Act;

(5) no application with respect to a project for modernization of any facility in any State may be approved by the Surgeon General, for purposes of receiving funds from an allotment under section 602(a)(2) of the Public Health Service Act, as amended by this Act, before July 1, 1965, or before such State has had a State plan approved by the Surgeon General as meeting the requirements of section 604(a)(4)(E) as well as the other requirements of section 604 of such Act as so amended.

Approved August 18, 1964.

60 Stat. 1041;
68 Stat. 461;
72 Stat. 489.
42 USC 291-
291z.

75 Stat. 825.
42 USC 291n.

Ante, p. 459.

Ante, p. 448.

Ante, p. 452.

Public Law 88-444

AN ACT

August 19, 1964
[H. R. 11611]

To establish a National Commission on Technology, Automation, and Economic Progress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress finds it imperative to accelerate the national effort to—

(a) identify and assess the past effects and the current and prospective role and pace of technological change;

(b) identify and describe the impact of technological and economic change on production and employment, including new job requirements and the major types of worker displacement, both technological and economic, which are likely to occur during the next ten years; the specific industries, occupations, and geographic areas which are most likely to be involved; and the social and economic effects of these developments on the Nation's economy, manpower, communities, families, social structure, and human values;

(c) define those areas of unmet community and human needs toward which application of new technologies might most effectively be directed, encompassing an examination of technological developments that have occurred in recent years, including those resulting from the Federal Government's research and development programs;

(d) assess the most effective means for channeling new technologies into promising directions, including civilian industries

National Commission on Technology, Automation, and Economic Progress.