

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

§ 291a. Authorization of appropriations

In order to assist the States in carrying out the purposes of section 291 of this title, there are authorized to be appropriated—

(a) for the fiscal year ending June 30, 1974—

(1) \$20,800,000 for grants for the construction of public or other nonprofit facilities for long-term care;

(2) \$70,000,000 for grants for the construction of public or other nonprofit outpatient facilities;

(3) \$15,000,000 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, \$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, \$180,000,000 each for the next two fiscal years, \$195,000,000 for the fiscal year ending June 30, 1970, \$147,500,000 for the fiscal year ending June 30, 1971, \$152,500,000 for the fiscal year ending June 30, 1972, \$157,500,000 for the fiscal year ending June 30, 1973, and \$41,400,000 for the fiscal year ending June 30, 1974; and

(c) for grants for modernization of the facilities referred to in paragraphs (a) and (b), \$65,000,000 for the fiscal year ending June 30, 1971, \$80,000,000 for the fiscal year ending June 30, 1972, \$90,000,000 for the fiscal year ending June 30, 1973, and \$50,000,000 for the fiscal year ending June 30, 1974.

(July 1, 1944, ch. 373, title VI, § 601, as added Pub. L. 88-443, § 3(a), Aug. 18, 1964, 78 Stat. 448; amended Pub. L. 90-574, title IV, § 402(a), Oct. 15, 1968, 82 Stat. 1011; Pub. L. 91-296, title I, §§ 101(a), 102(a), 116(a), June 30, 1970, 84 Stat. 337, 341; Pub. L. 93-45, title I, § 108(a), June 18, 1973, 87 Stat. 92.)

PRIOR PROVISIONS

A prior section 291a, act July 1, 1944, ch. 373, title VI, § 611, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, authorized appropriations for surveys and planning, prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291d, act July 1, 1944, ch. 373, title VI, § 621, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended Oct. 25, 1949, ch. 722, § 2(a), 63 Stat. 897; July 27, 1953, ch. 243, 67 Stat. 196; Aug. 2, 1956, ch. 871, title IV, § 401, 70 Stat. 929; Aug. 14, 1958, Pub. L. 85-664, § 1(a), 72 Stat. 616, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291p, act July 1, 1944, ch. 373, title VI, § 646, as added July 12, 1954, ch. 471, § 2, 68 Stat. 461, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291s, act July 1, 1944, ch. 373, title VI, § 651, as added July 12, 1954, ch. 471, § 3, 68 Stat. 462; amended Aug. 2, 1956, ch. 871, title IV, § 402, 70 Stat. 929; Aug. 14, 1958, Pub. L. 85-664, § 1(b), 72 Stat. 616; Oct. 5, 1961, Pub. L. 87-395, § 3(a), 75 Stat. 825, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88-443.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-45, § 108(a)(1), substituted introductory text reading “fiscal year ending June 30,

1974” for “fiscal year ending June 30, 1965, and each of the next eight fiscal years” and in cl. (1) “\$20,800,000” for “\$85,000,000”.

Subsec. (b). Pub. L. 93-45, § 108(a)(2), authorized appropriations of \$41,400,000 for fiscal year ending June 30, 1974.

Subsec. (c). Pub. L. 93-45, § 108(a)(3), authorized appropriations of \$50,000,000 for fiscal year ending June 30, 1974.

1970—Par. (a). Pub. L. 91-296, §§ 101(a)(1), (2), 116(a), substituted “outpatient facilities” for “diagnostic or treatment centers” in enumeration of facilities eligible for construction grants, extended through fiscal year ending June 30, 1973, authority to appropriate funds for construction grants, increased from \$70,000,000 to \$85,000,000 annual authority to make grants for public or other nonprofit facilities for long-term care, from \$20,000,000 to \$70,000,000 authority for public or other nonprofit outpatient facilities, and from \$10,000,000 to \$15,000,000 authority for public or other nonprofit rehabilitation facilities.

Par. (b). Pub. L. 91-296, §§ 101(a)(3), 102(a)(1), struck out provisions authorizing grants for modernization of facilities and inserted provisions authorizing appropriation of \$147,500,000 for fiscal year ending June 30, 1971, \$152,500,000 for fiscal year ending June 30, 1972, and \$157,500,000 for fiscal year ending June 30, 1973, for grants for construction of public or other nonprofit hospitals and public health centers

Par. (c). Pub. L. 91-296, § 102(a)(2), added par. (c).

1968—Par. (a). Pub. L. 90-574, § 402(a)(1), substituted “next five” for “next four”.

Par. (b). Pub. L. 90-574, § 402(a)(2), authorized appropriation of \$195,000,000 for fiscal year ending June 30, 1970.

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91-296, title I, § 101(b), June 30, 1970, 84 Stat. 337, provided that: “The amendments made by subsection (a) [amending this section] shall take effect with respect to appropriations made under such section 601 [42 U.S.C. 291a] for fiscal years beginning after June 30, 1970.”

Pub. L. 91-296, title I, § 102(a), June 30, 1970, 84 Stat. 337, provided that the amendment made by that section is effective with respect to appropriations made under this section for fiscal years beginning after June 30, 1970.

§ 291b. State allotments

(a) Computation for individual States; formulas for both new construction and modernization

(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 291a(a) of this title, and to an allotment bearing the same ratio to the sums appropriated for such year pursuant to section 291a(b) of this title, 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.

(2) For each fiscal year, the Secretary shall, in accordance with regulations, make allotments among the States, from the sums appropriated for such year under section 291a(c) of this title, on the basis of the population, the financial need, and the extent of the need for modernization of the facilities referred to in paragraphs (a) and (b) of section 291a of this title, of the respective States.

(b) Minimum allotments

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

(A) \$50,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, 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 rehabilitation facilities,

(B) \$100,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, 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 outpatient facilities,

(C) \$200,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam and \$300,000 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 291a of this title, or

(D) \$200,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam and \$300,000 for any other State in the case of an allotment for grants for the modernization of facilities referred to in paragraphs (a) and (b) of section 291a of this title,

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, the Trust Territory of the Pacific Islands, 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) Allotment percentages; definitions; determination

For the purposes of this part—

(1) The "allotment percentage" for any State shall be 100 per centum less that 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 33½ per centum, and (B) the allotment percentage for the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands shall be 75 per centum.

(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) Availability of allotments in subsequent years

(1) Any sum allotted to a State, other than the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, 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 two fiscal years (and for such years only), in addition to the sums allotted to such State for such purposes for such next two fiscal years.

(2) Any sum allotted to the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, 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) Transfer of allotments

(1) Upon the request of any State that a specified portion of any allotment of such State under subsection (a) for any fiscal year be added to any other allotment or allotments of such State under such subsection for such year, the Secretary 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; except that the aggregate of the portions so transferred from an allotment for a fiscal year pursuant to this paragraph may not exceed the amount specified with respect to such allotment in clause (A), (B), (C), or (D), as the case may be, of subsection (b)(1) which is applicable to such State.

(2) In addition to the transfer of portions of allotments under paragraph (1), upon the request of any State that a specified portion of any allotment of such State under 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 such subsection, other than an allotment for grants for the construction of public or other nonprofit hospitals and public health centers, and upon simultaneous certification to the Secretary by the State agency in such State to the effect that—

(A) 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

(B) in the case of a request to transfer a portion of an allotment for grants for the con-

struction 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 subchapter,

the Secretary 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.

(3) In addition to the transfer of portions of allotments under paragraph (1) or (2), 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 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 291a of this title, the Secretary 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.

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

(f) Request by State to transfer portion of allotment

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 subchapter, 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.

(July 1, 1944, ch. 373, title VI, § 602, as added Pub. L. 88-443, § 3(a), Aug. 18, 1964, 78 Stat. 448; amended Pub. L. 90-574, title IV, § 402(b), Oct. 15, 1968, 82 Stat. 1011; Pub. L. 91-296, title I, §§ 103(a), (b), 104, 116(a), 119(a)-(c), 122, June 30, 1970, 84 Stat. 338, 341, 343, 344.)

PRIOR PROVISIONS

A prior section 291b, act July 1, 1944, ch. 373, title VI, § 612, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, related to a State application for funds, its requirements and its approval, prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291c, act July 1, 1944, ch. 373, title VI, § 624, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1941, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291g, act July 1, 1944, ch. 373, title VI, § 624, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended June 29, 1948, ch. 728, § 1, 62 Stat. 1103; Oct. 25, 1949, ch. 722, §§ 3(b), 7, 63 Stat. 899, 901; Aug. 1, 1956, ch. 852, § 19(c), 70 Stat. 911; Sept. 25, 1962, Pub. L. 87-688, § 4(a)(3), 76 Stat. 587, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291i(a) to (d), act July 1, 1944, ch. 373, title VI, § 631, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended June 19, 1948, ch. 544, 62 Stat. 531; Aug. 1, 1956, ch. 852, § 19(a), (b), 70 Stat. 911; June 25, 1959, Pub. L. 86-70, § 31(c), 73 Stat. 149; July 12, 1960, Pub. L. 86-624, § 29(d), 74 Stat. 419; Sept. 25, 1962, Pub. L. 87-688, § 4(a)(2), 76 Stat. 587, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291n-1, act July 1, 1944, ch. 373, title VI, § 637, formerly § 654(c), as added July 12, 1954, ch. 471, § 3, 68 Stat. 463, renumbered and amended Aug. 14, 1959, Pub. L. 86-158, title II, § 201, 73 Stat. 349, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291r, act July 1, 1944, ch. 373, title VI, § 648, as added July 12, 1954, ch. 471, § 2, 68 Stat. 462, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291t, act July 1, 1944, ch. 373, title VI, § 652, as added July 12, 1954, ch. 471, § 3, 68 Stat. 462; amended Aug. 1, 1956, ch. 852, § 19(c), 70 Stat. 911; Oct. 5, 1961, Pub. L. 87-395, § 3(b), 75 Stat. 825; Sept. 25, 1962, Pub. L. 87-688, § 4(a)(3), 76 Stat. 587, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291v(b), act July 1, 1944, ch. 373, title VI, § 654, as added July 12, 1954, ch. 471, § 3, 68 Stat. 463, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88-443.

AMENDMENTS

1970—Subsec. (a)(1). Pub. L. 91-296, § 103(a), substituted "sums appropriated for such year" for "new hospital portion of the sums appropriated for such year" and struck out provision setting out a formula for determining new hospital portion of sums appropriated pursuant to section 291a(b) of this title.

Subsec. (a)(2). Pub. L. 91-296, § 103(a), substituted "Secretary" for "Surgeon General", and substituted reference to sums appropriated for such year under section 291a(c) of this title for reference to remainder of sums appropriated pursuant to section 291a(b) of this title (which portion was to be available for grants for modernization of facilities referred to in paragraphs (a) and (b) of section 291a of this title).

Subsec. (b)(1)(A). Pub. L. 91-296, §§ 103(b)(1), 119(a)(1), substituted "\$50,000" and "\$100,000" for "\$25,000" and "\$50,000", respectively, and inserted reference to Trust Territory of the Pacific Islands.

Subsec. (b)(1)(B). Pub. L. 91-296, §§ 103(b)(2), 116(a), 119(a)(1), substituted "\$100,000" and "\$200,000" for "\$50,000" and "\$100,000", respectively, substituted "outpatient facilities" for "diagnostic or treatment centers", and inserted reference to Trust Territory of the Pacific Islands.

Subsec. (b)(1)(C). Pub. L. 91-296, §§ 103(b)(3), 119(a)(1), substituted "\$200,000" and "\$300,000" for "\$100,000" and "\$200,000", respectively, and inserted reference to Trust Territory of the Pacific Islands.

Subsec. (b)(1)(D). Pub. L. 91-296, § 103(b)(4), added subpar. (D).

Subsecs. (b)(2), (c)(1). Pub. L. 91-296, § 119(a)(2), (b), inserted reference to Trust Territory of the Pacific Islands.

Subsec. (d)(1). Pub. L. 91-296, §§119(c), 122, inserted reference to Trust Territory of the Pacific Islands and substituted two years for one year as the time span following a year in which allotted sums remaining unobligated at the end thereof during which such unobligated funds remain available.

Subsec. (d)(2). Pub. L. 91-296, §119(c), inserted references to Trust Territory of the Pacific Islands.

Subsec. (e). Pub. L. 91-296, §104, authorized any State to make transfers of any amount up to the minimum amount allotted to any state for a particular category and authorized all amounts above such minimums to be transferred from one category of assistance to another without restriction on the amounts with the exception that no funds could be transferred from rehabilitation facilities category or to new hospital construction category and that all transfers be justified on the basis that either there are no approvable applications in the category from which funds are transferred or, in case of transfers from new hospital construction category, the purposes of the program would be better served by the transfer, and authorized transfers to new hospital construction from modernization category if need is greater.

1968—Subsec. (a)(1). Pub. L. 90-574, §402(b)(1), inserted provision for two-thirds of the sums appropriated in the case of the fifth fiscal year thereafter.

Subsec. (e)(2)(E). Pub. L. 90-574, §402(b)(2), added subpar. (E).

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91-296, title I, §103(a), June 30, 1970, 84 Stat. 338, provided that the amendment made by that section is effective with respect to appropriations made pursuant to section 291a of this title for fiscal years beginning after June 30, 1970.

Pub. L. 91-296, title I, §103(b), June 30, 1970, 84 Stat. 338, provided that the amendment made by that section is effective with respect to allotments from appropriations made pursuant to section 291a of this title for fiscal years beginning after June 30, 1970.

Pub. L. 91-296, title I, §104, June 30, 1970, 84 Stat. 338, provided that the amendment made by that section is effective with respect to allotments made pursuant to section 291a of this title for fiscal years beginning after June 30, 1970.

Pub. L. 91-296, title I, §119(e), June 30, 1970, 84 Stat. 343, provided that: "The amendments made by this section [amending this section and section 291o of this title] shall apply with respect to allotments (and grants therefrom) under part A of title VI of the Public Health Service Act [42 U.S.C. 291a et seq.] for fiscal years ending after June 30, 1970, and with respect to loan guarantees and loans under part B of such title [42 U.S.C. 291j-1 et seq.] made after June 30, 1970."

Pub. L. 91-296, title I, §122, June 30, 1970, 84 Stat. 344, provided that the amendment made by that section is effective with respect to allotments made from appropriations under section 291a of this title for fiscal years beginning after June 30, 1970.

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education. Office of Surgeon General reestablished within the Office of the Assistant Secretary for Health, see Notice of Department of Health and Human Services, Office of the Assistant Secretary for Health, Mar. 30, 1987, 52 F.R. 11754.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

AVAILABILITY OF FUNDS FOR OBLIGATION FROM ALLOTMENT FOR ADMINISTRATION OF PLAN

Pub. L. 93-641, §5(b), Jan. 4, 1975, 88 Stat. 2274, provided that any State having in the fiscal year ending June 30, 1975 or the next fiscal year funds available for obligation from its allotments under section 291a et seq. of this title, may in such fiscal year use for the proper and efficient administration during such year of its State plan an amount of such funds not exceeding 4 percentum of such funds or \$100,000, whichever is less.

ALLOTMENT STUDY; REPORT TO CONGRESS

Pub. L. 91-296, title I, §103(c), June 30, 1970, 84 Stat. 338, directed Secretary to study effects of the formula specified in subsec. (a)(1) of this section for allotment among the States for construction of health facilities, with results of such study together with recommendations for change to be reported to Congress on May 15, 1972.

APPROVAL OF APPLICATION FOR MODERNIZATION PRIOR TO JULY 1, 1965, OR BEFORE APPROVAL OF A STATE PLAN

Pub. L. 88-443, §3(b)(5), Aug. 18, 1964, 78 Stat. 462, providing that no application for modernization of any facility may be approved for purposes of receiving funds before the approval of a State plan, as well as other requirements, is set out as an Effective Date note under section 291 of this title.

§ 291c. General regulations

The Surgeon General, with the approval of the Federal Hospital Council and the Secretary of Health and Human Services shall by general regulations prescribe—

(a) Priority of projects; determination

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 areas with relatively small financial resources and, at the option of the State, rural communities;

(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;

(4) in the case of projects for construction or modernization of outpatient facilities, to any outpatient facility that will be located in, and provide services for residents of, an area determined by the Secretary to be a rural or urban poverty area;

(5) to projects for facilities which, alone or in conjunction with other facilities, will provide comprehensive health care, including outpatient and preventive care as well as hospitalization;