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P.L. 91-517 -- DEVELOPMENTAL
DISABILITIES SERVICES AND FACILITIES
CONSTRUCTION AMENDMENTS OF 1970, AND
BACKGROUND

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INTRODUCTION

This report is a summary of the provisions of the Developmental Disabilities Services and Facilities Construction Act of 1970, P.L. 90-517. This legislation amended the Mental Retardation Facilities Construction Act of 1964. For reasons of continuity, the report contains brief descriptions of that 1964 legislation and its 1968 amendments. Also included is a summary of the accomplishments of the 1964 legislation in terms of facilities constructed and numbers of persons assisted, as well as a table showing a history of funding of the program 1964 through 1970.

P.L. 91-517 -- DEVELOPMENTAL DISABILITIES SERVICES
AND FACILITIES CONSTRUCTION AMENDMENTS OF 1970

This legislation amends the Mental Retardation and Community Mental Health Centers Construction Act of 1963 (P.L. 88-164) to assist the States in developing a plan for the provision of comprehensive services to persons affected by mental retardation and other developmental disabilities originating in childhood. It will assist the States in providing services in accordance with the plan and in the construction of facilities to provide such services. A detailed summary of the provisions follows:

Grants to the States for Planning, Administration, Services and Construction of Facilities for Persons with Developmental Disabilities

Title I, Part C of the Mental Retardation and Community Mental Health Centers Construction Act of 1963 created authority for the construction of community mental retardation facilities. The new legislation replaces this authority with a broad new Federal-State grant-in-aid program to:

1. Assist the States in developing and implementing a comprehensive continuing plan for meeting the current and future need for services to persons with developmental disabilities;
2. Assist public or other nonprofit private agencies in the construction of facilities for the provision of services;

3. Provide services to developmentally disabled persons, including costs of operation, staffing, and maintenance of facilities;
4. Support State and local planning, administration, or technical assistance relating to services and facilities;
5. Train specialized personnel and support research related to such training for the specialized needs of the developmentally disabled;
6. Develop and demonstrate new or improved techniques for the provision of services for persons with developmental disabilities.

The legislation authorizes appropriations for this program of \$60 million in fiscal year 1971, \$105 million in fiscal 1972, and \$130 million in fiscal year 1973.

State Allotments

State allotments under the program will be calculated on the basis of population, the extent of need for services and facilities, and the financial need of the State. Each State will receive a minimum allotment of \$100,000 a year.

After fiscal year 1971, the minimum State allotment may be increased when the level of annual appropriations for the program rises above the \$60 million authorization level for fiscal year 1971. The percentage increase in the minimum allotment will be identical to the percentage by which the appropriation in that fiscal year exceeds the \$60 million authorized for fiscal year 1971.

In determining a State's need for services, the Secretary of Health, Education and Welfare is authorized to take into account the scope and extent of services specified in the State plan. If a State does not use all the funds allotted to it, the Secretary may reallocate such funds to another State in accordance with a specified formula.

Funds allocated to a State for construction will remain available for two fiscal years. If a State's plan calls for the construction of a particular facility and the Federal share of the costs will exceed the State's construction allotment for that fiscal year, then the funds may remain available for a total of three fiscal years. This will allow States with low annual construction allotments to pool allotments for three years in order to obtain funds for a single construction project.

Whenever a State plan calls for the participation of more than one State agency in providing services under the State plan, then that State may apportion grant funds among these two or more agencies in accordance with their responsibilities for carrying out the plan.

Funds for this program may be combined with other State or Federal funds provided the benefits to the developmentally disabled are proportional and the customary nonduplication provision is observed, i.e., Federal funds may not be used for matching purposes in obtaining Federal grants.

The legislation authorizes the Secretary of Health, Education and Welfare to set aside up to 10 percent of appropriated funds to be used for project grants of special national significance. These grants will cover up to 90 percent of the cost of projects which are of special significance because they will assist in meeting the needs of the disadvantaged with development disabilities, or will demonstrate new or improved techniques for provision of services for such persons.

State Plan Requirements

A State must submit an acceptable State plan in order to qualify for Federal assistance under the new formula grant program.

The State plan must provide for the establishment of an adequately staffed State planning and advisory council, to include representatives of each principal State agency, local agencies, and non-governmental organizations concerned with services to the developmentally disabled. At least one-third of the membership of the council must consist of consumer representatives. The council will be required to review and approve the State plan at least annually and submit necessary modifications to the Department of Health, Education and Welfare. (The requirement for the appointment of the advisory council may be waived by the Secretary of Health, Education and Welfare during fiscal year 1971.)

The State plan must describe the current status of Statewide facilities and services available to the developmentally disabled including services provided under related Federal programs, such as education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, comprehensive health, and mental health. The plan must indicate how grant funds will be used to complement and reinforce these existing programs.

The State plan must provide assurances that Federal funds will not be used to supplant State funds, that a portion of such funds will be made available to local public and nonprofit private agencies, and that the State government will participate to a reasonable degree in the cost of carrying out the State plan.

The State plan must provide for services for mentally retarded persons, specify other categories of disabilities (as approved by the Secretary) to be covered under the plan, and describe the quality, extent, and scope of services to be provided to eligible persons.

The State plan must provide assurances that all services meet Federally-established standards. (This provision may be waived by the Secretary during fiscal year 1971.

The State plan must provide for special financial and technical assistance to areas of urban or rural poverty.

The State plan must describe the methods to be used in assessing the effectiveness of efforts under the State plan.

The State plan must include a construction plan based on a Statewide inventory of need including funding priorities for such construction projects.

The State plan must specify the percentage of the State allotment for any year to be used for construction of facilities. In no case may a State use more than 50 percent of its annual allotment for construction. In addition, the Secretary is authorized to limit the percentage of a State's allotment which may be used for this purpose.

Finally, the State plan must provide assurances that other administrative requirements related to the expenditure and control of Federal funds maintenance of records, submission of required reports, and provision for an adequate hearing will be met.

National Advisory Council on Services and Facilities for the Developmentally Disabled

The legislation establishes, effective July 1, 1971, a National Advisory Council on Services and Facilities for the Developmentally Disabled which will advise the Secretary on regulations and will study and evaluate programs authorized by Title I of the legislation.

The Council will consist of twenty members who are not full-time employees of the Federal Government. They will be selected from among leaders in the field of service to the mentally retarded and other persons with developmental disabilities including leaders of State and local government, institutions of higher learning, and organizations representing consumers of services.

The Secretary of Health, Education and Welfare will appoint the council members to four-year terms except that five of the initial appointees will serve for three years, five for two years, and five for one year. The Secretary will designate one member to act as Chairman of the Council.

The Council may engage necessary technical assistance and the Department of Health, Education and Welfare will furnish secretarial, clerical and other staff assistance. Council members will be reimbursed for days spent on Council business.

Payments to States for Planning, Administration, and Services

States with approved plans under Title I will be reimbursed in advance for the Federal share of non-construction expenses. These funds may be used to support planning, direct services, administration, technical assistance, training, and demonstration costs associated with serving the developmentally disabled.

The Federal matching percentage for expenditures under this program will be 75 percent during fiscal years 1971 and 1972 and 70 percent during fiscal year 1973 except for projects in areas of urban and rural poverty where a State may qualify for 90 percent Federal matching during the first two years of the project and 80 percent during the third year.

For the purpose of determining the Federal share of the cost, expenditures by local jurisdictions and nonprofit groups will be regarded as State expenditures. As noted in the section on State plans, a State must participate reasonably in the cost of providing services called for under the State plan.

Approval of Construction Projects

The new legislation does not change to any significant extent the existing provisions governing the approval of construction projects. The maximum Federal matching ratio remains 90 percent in poverty areas and 66 2/3 percent in other areas.

Regulations

As soon as is practical, the Secretary is required to issue regulations prescribing:

- a) the kinds of services which are needed and which may be provided under a State plan and the categories of persons for whom such services may be provided;

- b) standards as to the scope and quality of services provided under a State plan;
- c) the general manner in which a State, in carrying out its plan, determines its priorities for services and facilities based on type of services, categories of persons to be served, and type of disability, with special consideration being given to the needs of such services and facilities in urban and rural poverty areas; and
- d) general standards of construction and equipment for facilities of different classes and in different types of location.

Definitions

The legislation defines the term "developmental disability" as "...a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition of an individual found by the Secretary to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals.

The disability must have originated before the age of eighteen and have continued or be expected to continue indefinitely and must constitute a substantial handicap to the individual in question.

The term "services for persons with developmental disabilities" is defined as meaning "...specialized services or special adaptations of

generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability..." The term includes "...diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with such disability and of his family, protective and other social and socio-legal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities.

Nonduplication

As in most Federal grant programs, Federal funds may not be used for matching purposes in obtaining other Federal grants. The former prohibition against using public health service construction funds to build retardation facilities while P.L. 88-164 funds are still available has been eliminated.

Effective Date

Title I of this legislation applies to all funds appropriated by the Congress after June 30, 1970. Funds appropriated before that date for construction of community facilities for the mentally retarded will remain available for obligation during fiscal year 1971. Funds for continuation of staffing grants awarded prior to June 30, 1970, will not be affected by the new legislation.

Construction, Demonstration, and Training Grants for University-Affiliated Facilities for Persons with Developmental Disabilities

Construction of University-Affiliated Facilities

Title I Part B of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, P.L. 88-164, authorized project grants for the construction of university-affiliated facilities for the mentally retarded. Title II of the new legislation, P.L. 91-517, extends this program for three additional years with authorization levels of \$20 million a year for fiscal years 1971, 1972, and 1973. The Federal share of the eligible costs of the construction project remains at 75 percent.

The university-affiliated facilities program is expanded to include the other developmental disabilities beside mental retardation covered by this legislation. The original 1963 legislation authorized these facilities to provide "clinical training of physicians and other specialized personnel." The new legislation replaces the term "clinical training" with the term "interdisciplinary training" to emphasize the cross-disciplinary nature of the university-affiliated training program.

Demonstration and Training Grants

Title II of P.L. 91-517 authorizes a new program of project grants to assist institutions operating university-affiliated facilities in contributing more effectively to the solution of complex health, education, and social problems of children and adults suffering from developmental disabilities.

The grants will be used to cover costs of administering and operating demonstration facilities and interdisciplinary training programs for personnel needed to render specialized services to persons with developmental disabilities, including established disciplines as well as new kinds of training to meet critical shortages in the care of the developmentally disabled. Priority will be given to applicants who have made arrangements for junior college participation in the project. The Federal share of the cost of all projects will be 100 percent of the approved grant.

Authorizations for the program are \$15 million for fiscal year 1971, \$17 million for fiscal year 1972, and \$20 million for fiscal year 1973.

Maintenance of Effort

All applications for construction, demonstration, and training grants must be supported by reasonable assurances that the grant will not result in any decrease in the level of State, local, and other non-Federal support.

Authorizations for Appropriations, 1971-1973

Table I

Millions of Dollars				
	Fiscal Years			Total
	1971	1972	1973	
Title I				
Grants to the States for Planning, Administration, Services and Construction of Facilities	60.0	105.0	130.0	295.0

Table I(cont.)

	1971	1972	1973	Total
Title II				
Construction of University-Affiliated Facilities	20.0	20.0	20.0	60.0
Demonstration and Training Grants	15.0	17.0	20.0	52.0
Total	95.0	142.0	170.0	407.0

MENTAL RETARDATION FACILITIES AND COMMUNITY MENTAL HEALTH
CENTERS CONSTRUCTION ACT OF 1963, P.L. 88-164

This legislation, enacted on October 31, 1963, established a five-year program of grants for: (a) construction of research centers and facilities related to mental retardation; (b) construction and establishment of community mental health centers; and (c) training of teachers of handicapped children. (The latter two programs are not relevant to the subject of this report and will not be discussed in further detail.)

Construction of research centers and facilities for the mentally retarded

Part A of Title I of P.L. 88-164 authorized project grants for the construction of public or nonprofit private centers for research that would develop new knowledge for preventing and combating mental retardation.

Part B of Title I authorized project grants to assist in the construction of public or nonprofit clinical facilities for the mentally retarded, associated with a college or university which facilities would : (1) provide, as nearly as practicable, a full range of inpatient and outpatient services;

(2) aid in demonstrating provision of specialized services for diagnosis, treatment, training, or care; and (3) aid in the clinical training of physicians and other specialized personnel needed for research, diagnosis, treatment, training, or care.

Part C authorized Federal grants to States to assist in the construction of specially designed public or nonprofit facilities to provide diagnosis, treatment, education, training, custodial (personal) care, and sheltered workshops for the retarded. The program was to be administered in each State by an officially designated State agency. Allotments to States were to be based on population, extent of need for facilities for the mentally retarded and financial need, with a minimum allotment of \$100,000 for any State.

MENTAL RETARDATION AMENDMENTS OF 1970, P.L. 90-170

The Mental Retardation Amendments of 1970, enacted on December 4, 1967, extended the programs established by P.L. 88-164 under which matching grants were made for the construction of university-affiliated mental retardation facilities and community mental retardation facilities, and in addition, established a new program for staffing community facilities for the mentally retarded.

P.L. 90-170 extended the program for construction of university-affiliated facilities for three additional years, through June 30, 1970.

The initial law was further amended to include persons with other neurological conditions that are related to mental retardation, to include research incidental or related to the program of the facility, and to authorize the use of up to 2 percent of funds appropriated to support university-affiliated facility program planning grants, not to exceed \$25,000 each nor more than 75 percent of the planning costs.

The 1967 amendments extended the authority for construction of community facilities for the mentally retarded for an additional two years, through fiscal year 1970. The law further authorized States to use up to 2 percent or \$50,000 of the funds appropriated for the construction of community mental retardation facilities to cover a portion of the cost of administering the program at the State level. The payment of funds for this purpose could not be approved if the States spent less than their 1967 level of funds for administration. The 1967 law required that effective July 1, 1969, State plans for community mental retardation facilities provide enforcement of minimum standards of operation of these facilities.

The 1967 Mental Retardation Amendments also authorized a new program of grants to meet a portion of the costs of professional and technical personnel for initial operation of new facilities or for new services in existing facilities for the mentally retarded. This new program was designed so that Federal funds would be used to supplement and increase, to extent practicable, the level of State, local, and other non-Federal funds for mental retardation purposes. The program provided for a declining Federal participation over a period of 4 years and 3 months, with 75 percent Federal share of the first 15 months, 60 percent for the next year, 45 percent for the next year, and 30 percent for the last year.

ACCOMPLISHMENTS (As described in H. Report 91-1277 on the Developmental Disabilities Services and Facilities Construction Act of 1970, July 6, 1970.)

Part A of Title I of P.L. 88-164 authorized a total of \$26 million in appropriations over a four-year period, of which the full authorized amount was appropriated, for construction of research centers. (See Table II for a history of the funding of P.L. 88-164 as amended) In all, 12 research centers were constructed under this program, and a number of these centers are fully operational.

Part B of Title I authorized appropriations totalling \$32.5 million for the first four years of the program, of which the full authorized amount was appropriated for the construction of university-affiliated facilities. P.L. 90-170 authorized \$50 million for fiscal years 1968, 1969, and 1970, of which a total of \$9.1 million was appropriated. A total of 18 grants have been approved under this program which upon completion will provide an annual service capacity of 12,187 individuals and an annual training capacity of 9,785 persons providing diagnosis or care for the mentally retarded.

Part C of Title I of P.L. 88-164, authorized a total of \$67.5 million for fiscal years 1965, 1966, 1967, and 1968, of which \$55.5 million was appropriated, for the construction of State and local facilities for the mentally retarded. The 1968 amendments authorized \$80 million for fiscal years 1969 and 1970, of which a total of \$18 million was appropriated (with \$1.8 million of the fiscal year 1970 appropriations being withheld). A total of 310 projects have been approved for construction under these authorizations, of which 104 are in operation, 105 are in process of construction, and 101 have been approved for construction. These facilities are presently serving approximately 45,000 mentally retarded individuals, with an additional 37,500 to be

served by additional facilities to be completed in the future, for a total of 82,500 mentally retarded persons served by this program.

MENTAL RETARDATION FACILITIES CONSTRUCTION ACT -- P.L. 88-164, TITLE I
AS AMENDED

Table II

History of Funding, Fiscal Year 1964-1970

millions of dollars								Total
	1964	1965	1966	1967	1968	1969	1970	1964-1970
Part A--Research Centers								
Authorization	\$6.0	\$8.0	\$6.0	\$6.0				\$26.0
Appropriation	6.0	8.0	6.0	6.0				26.0
Part B--University-affiliated facilities								
Authorization	5.0	7.5	10.0	10.0	10.0	20.0	20.0	82.5
Appropriation	5.0	7.5	10.0	10.0	0.0	9.1	0.0	41.6
Part C--Community facilities								
Authorization		10.0	12.5	15.0	30.0	30.0	50.0	147.5
Approp. as enacted		10.0	12.5	15.0	18.0	6.0	12.0	73.5
Approp. as administered		10.0	12.5	15.0	12.0	12.0	10.2	71.7
Part D--Staffing								
Initial Grants								
Authorization					7.0	10.0	14.0	31.0
Appropriation					0.0	7.4	8.4	15.8
Continuing Grants								
Authorization					(1)	(1)	(1)	(1)
Appropriation						0.0	3.6	3.6
TOTAL APPROPRIATION	11.0	25.5	28.5	31.0	12.0	29.5	21.2	158.7

(1) Such sums as may be necessary.