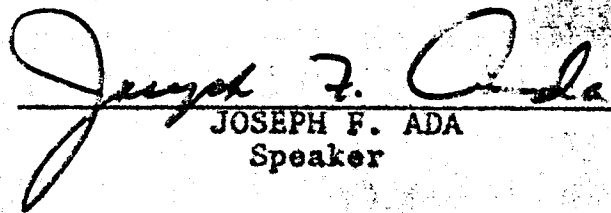



FOURTEENTH GUAM LEGISLATURE
1978 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

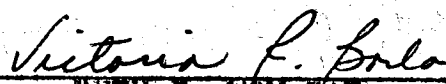
This is to certify that Bill No. 539, "An Act to repeal Chapter VIII of Title X of the Government Code and to replace it with a new Chapter VIII providing for a Territorial Health Planning Program including Certificate of Need for construction or modification of Health Care Facilities and Institutional Health Services", was on the 18th day of September, 1978, duly and regularly passed.


JOSEPH F. ADA
Speaker

ATTESTED:


ERNESTO M. ESPALDON
Legislative Secretary

This Act was received by the Governor this 4th day of October, 1978, at 8 o'clock P.M.


for RUTH F. WON PAT
Assistant Staff Officer
Governor's Office

APPROVED:

7a/ RICARDO J. BORDALLO
Governor of Guam

DATED: October 16, 1978
5:45 P.M.

Public Law 14-150

NOTE: This bill was delivered to Acting Governor's residence on Wednesday, October 4, 1978 at 8 p.m.

FOURTEENTH GUAM LEGISLATURE
1978 (SECOND) Regular Session

Bill No. 539
(As Amended by the
Committee on Health,
Welfare, & Ecology)

Introduced by E. M. Espaldon

AN ACT TO REPEAL CHAPTER VIII OF TITLE X OF THE
GOVERNMENT CODE AND TO REPLACE IT WITH A NEW
CHAPTER VIII PROVIDING FOR A TERRITORIAL HEALTH
PLANNING PROGRAM INCLUDING CERTIFICATE OF NEED
FOR CONSTRUCTION OR MODIFICATION OF HEALTH CARE
FACILITIES AND INSTITUTIONAL HEALTH SERVICES

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

1
2 Section 1. In order to establish a Territorial Health
3 Planning and Resources Development Program for the people of the
4 territory of Guam (hereinafter called the territory) in accordance
5 with and for full participation in U. S. Public Law 93-641 as it
6 may be from time to time amended or any future provision taking
7 its place, the National Health Planning and Resources Development
8 Act of 1974 as it may be from time to time amended or any future
9 provision taking its place, Chapter VIII of Title X of the Govern-
10 ment Code is hereby repealed in its entirety and a new Chapter
11 VIII is added to read as follows:

12 "SUBCHAPTER A

13 Health Planning and Resources Development

14 Section 9850. Statement of Finding and Purpose. The
15 achievement of equal access to quality health care at a
16 reasonable cost is high priority of the Government of Guam.
17 The infusion of Federal funds into the existing health care
18 system of Guam has contributed to inflationary increases in
19 the cost of health care and failed to produce an adequate
20 supply or distribution of health resources in the territory,
21 and consequently has not made possible equal access for all

1 the people of Guam to such resources. The many responses
2 to these problems by the Federal and territorial government
3 and the private sector have not resulted in a comprehensive,
4 rational approach to the present lack of uniformly effective
5 methods of delivering health care, maldistribution or inappro-
6 priate utilization of health care facilities and manpower,
7 and rapidly increasing cost of health care. Increases in the
8 cost of health care, particularly of hospital stays, have
9 been uncontrollable and inflationary, and there are presently
10 inadequate incentives for the use of appropriate alternative
11 levels of health care, and for the substitution of ambulatory
12 and intermediate care for inpatient hospital care.

13 Since the health care provider is one of the most impor-
14 tant participants in the territorial health care delivery
15 system, territorial health policy must address the legitimate
16 needs and concerns of the public and private providers in
17 the territory if it is to achieve meaningful results.
18 Finally, large segments of the public are lacking in basic
19 knowledge regarding proper personal health care and methods
20 for effective use of available health services.

21 In recognition of the problems described in this Section
22 and the urgency placed on their solution the Governor and
23 the Legislature find that there is an urgent need to facili-
24 tate, strengthen and coordinate planning for personal health
25 services, facilities and health care personnel development,
26 and to authorize financial assistance for the development
27 of needed health services. The Governor and the Legislature
28 further find that in order to provide for the protection and
29 promotion of the health of the inhabitants of the territory,

1 there is an urgent need to establish an agency of the Govern-
2 ment of Guam with central comprehensive responsibility and
3 authority for the development and administration of the
4 territory's policy with respect to hospitals and related
5 services, and all public (except Federal) and private
6 institutions, incorporated or not incorporated, profit or
7 non-profit, serving principally as facilities for the pre-
8 vention, diagnosis, treatment and rehabilitation of human
9 disease, illness, injury, deformity, physical or mental con-
10 dition.

11 With respect to the findings of this section, it is
12 hereby declared to be public policy of the territory that
13 institutional and related health care services of the
14 highest quality, of demonstrated need, efficiently provided
15 and properly utilized at a reasonable cost are of vital
16 concern to the public's health.

17 Section 9851. Guam Health Planning and Development
18 Agency. The Guam Health Planning and Development Agency
19 (hereinafter called the Agency) is hereby established as an
20 Agency of the executive branch of the government of Guam.
21 The Agency shall be administered by an Administrator. The
22 Administrator shall be appointed by the Governor with the
23 advice and consent of the Guam Legislature from nominations
24 submitted by the Guam Health Coordinating Council to the
25 Governor. All other positions shall be classified government
26 of Guam positions, subject to the rules, regulations and
27 procedures of the government of Guam. The Agency shall
28 administer the Territorial Health Planning activities in
29 accordance with U. S. Public Law 93-641 and appropriate
30 regulations or other subsequent Acts of Congress which may
31 amend, repeal or succeed Public Law 93-641.

1 Section 9852. Agency Functions. The Agency shall:

2 (1) Coordinate and conduct the health planning
3 activities of the territory to develop and implement
4 the Guam Health Plan which shall include the following
5 components:

6 (a) the status (and its determinants) of the
7 health of the residents of the territory;

8 (b) the status of the health care delivery
9 system in Guam and the use of that system by the
10 residents of the territory;

11 (c) the effect the territory's health care
12 delivery system has on the health of the residents
13 of the territory;

14 (d) the number, type, and location of the
15 territory's health resources, including health
16 services, manpower, and facilities;

17 (e) the patterns of utilization of the
18 territory's health resources; and

19 (f) the environmental and occupational expo-
20 sure factors affecting immediate and long-term
21 health conditions.

22 For the purpose of improving the health of the
23 residents of the territory, increasing the accessibility
24 (including overcoming geographic, architectural, and
25 transportation barriers), acceptability, continuity, and
26 quality of the services provided them, restraining in-
27 creases in the cost of providing them health services,
28 and preventing unnecessary duplication of health re-
29 sources, the Agency shall have as its primary responsi-
30 bility the provision of effecting health planning for

1 the territory and the promotion of the development within
2 the territory of health services, manpower, and facili-
3 ties which meet identified needs, reduce documented
4 inefficiencies and implement the Guam Health Plan.

5 (2) Serve as staff to and provide technical assis-
6 tance and substantive advice to the Guam Health Coordi-
7 nating Council in the preparation and establishment of
8 the Guam Health Plan and its review and revision as
9 necessary (but at least annually).

10 (3) Administer the Territorial Certificate of Need
11 Program.

12 (a) Make findings as to the need for institu-
13 tional health services proposed to be offered,
14 developed or altered within the territory under the
15 Certificate of Need Program.

16 (4) Review all institutional health services being
17 offered in the territory respecting the appropriateness
18 of such services and make public its findings. The first
19 review shall be completed within one (1) year of the
20 receipt of full designation as the Agency by the Secre-
21 tary of the Department of Health, Education, and Welfare,
22 and shall be updated not less than every five (5) years
23 thereafter.

24 (5) The Agency shall establish, annually review,
25 and amend as necessary an Annual Implementation Plan
26 (hereinafter referred to as the 'AIP') which describes
27 objectives which will achieve the goals of the Guam
28 Health Plan and priorities among the objectives. In
29 establishing the AIP, the Agency shall give priority to
30 those objectives which will maximally improve the health

1 of the residents of the territory, as determined on
2 the basis of the relation of the cost of attaining such
3 objectives to their benefits, and which are fitted to
4 the special needs of the territory. The Agency shall
5 develop and publish specific plans and projects for
6 achieving the objectives established in the AIP.

7 (5) The Agency shall implement the Guam Health
8 Plan and AIP, and in implementing the plans it shall
9 perform at least the following functions:

10 (a) The Agency shall seek to implement the
11 Guam Health Plan and AIP with the assistance of
12 individuals, public and private entities.

13 (b) The Agency may provide, in accordance
14 with the priorities established in the AIP, techni-
15 cal assistance to individuals and public and private
16 entities for the development of projects and pro-
17 grams which the Agency determines are necessary to
18 achieve the health systems described in the Guam
19 Health Plan.

20 (c) The Agency shall, in accordance with the
21 priorities established in the AIP, make grants to
22 public and nonprofit private entities; and enter
23 into contracts with individuals and public and
24 private entities to assist them in planning and
25 developing projects and programs which the Agency
26 determines are necessary for the achievement of
27 the health systems described in the Guam Health
28 Plan. Such grants and contracts shall be made from

1 the Area Health Services Development Fund of the
2 Agency established with funds provided through
3 grants as it may be from time to time amended or
4 any future provision taking its place under Section
5 1640 of U. S. Public Law 93-641. No grants or
6 contract under this subsection may be used (A) to
7 pay the costs incurred by the entity or individual
8 in the delivery of health services (as defined in
9 regulations by the Secretary of Health, Education
10 and Welfare), or (B) for the cost of construction or
11 modernization of medical health care facilities.
12 No single grant or contract made or entered into
13 under this paragraph shall be available for obliga-
14 tion beyond the one year period beginning on the
15 date the grant or contract was made or entered into.
16 If an individual or entity receives a grant or
17 contract under this paragraph for a project or
18 program, such individual or entity may receive only
19 one more such grant or contract for such project
20 or program.

21 (7) The Agency shall coordinate its activities with
22 all entities in the territory involved in general or
23 special purpose planning, development or regulation
24 which may have impact upon the health delivery systems
25 of the territory. The Agency shall, as appropriate,
26 secure data from them for use in the Agency's planning
27 and development activities, enter into agreements with
28 them which will assure that actions taken by such
29 entities which alter the territory's health system will
30 be taken in a manner which is consistent with the Guam
31 Health Plan and the AIP in effect and, to the extent
32 practicable, provide technical assistance to such
33 entities.

1 (8) The Agency shall review and approve or
2 disapprove each proposed use within the territory of
3 Federal Funds ---

4 (a) appropriated under the Public Health
5 Service Act, the Community Mental Health Centers
6 Act, or the Comprehensive Alcohol Abuse and Alco-
7 holism Prevention, Treatment, and Rehabilitation
8 Act of 1970, as it may be from time to time amended
9 or any future provision taking its place, or any
10 other Acts not excluded - included under this
11 Section, for grants, contracts, loans, or loan
12 guarantees for the development, expansion, or
13 support of health resources; or

14 (b) made available from an allotment to the
15 territory under the Acts referred to in clause (a)
16 for grants or contracts for the development, expan-
17 sion, or support of health resources.

18 The Agency shall not review and approve or
19 disapprove the proposed use of Federal Funds
20 appropriated for grants or contracts under Title IV,
21 VII, or VIII of the Public Health Service Act as it
22 may be from time to time amended or any future pro-
23 vision taking its place unless the grants or con-
24 tracts are to be made, entered into, or used to
25 support the development of health resources intended
26 for use in the territory or the delivery of health
27 services.

28 (9) The Agency shall require by regulation that
29 providers of health care doing business in the territory
30 shall make statistical and other reports of such informa-
31 tion prescribed as necessary by the Agency in such form

1 and manner as the Agency may prescribe on a regular
2 basis, which shall include but not be limited to:

3 (a) Periodic reports from holders of Certifi-
4 cate of Need respecting development of the proposal
5 for which Certificates have been issued.

6 (b) Master plan feasibility studies, and
7 other long range plans and studies.

8 (c) Financial information.

9 (d) Utilization information, and

10 (e) Manpower inventory.

11 Section 9853. Guam Health Coordinating Council. There
12 is established the Guam Health Coordinating Council (herein-
13 after called the Council) in accordance with Section 1524,
14 U. S. Public Law 93-641 as it may be from time to time amended
15 or any provision taking its place.

16 Section 9854. Council Functions. The Council shall:

17 (1) Prepare, and review and revise as necessary
18 (but at least annually), the Guam Health Plan. The plan
19 shall be developed in accordance with the requirements
20 and intent of U. S. Public Law 93-641 and the expecta-
21 tions of the Regional Health Administrator, U. S. Public
22 Health Service, San Francisco, and shall include separate
23 sections on the environment, health and economic develop-
24 ment, medical facilities, and cost/benefit analysis and
25 financial feasibility.

26 (2) Review applications submitted by the Agency
27 for grants under U. S. Public Law 93-641, Section 1516,
28 as it may be from time to time amended or any future
29 provision taking its place 'Planning Grants' and Section

1 1640, as it may be from time to time amended or any
2 future provision taking its place 'Development Grants
3 for Area Health Services Development Funds', and report
4 to the Regional Health Administrator its comments on
5 such applications.

6 (3) Review annually and approve or disapprove all
7 Territorial plans (and any revision of a Territorial
8 plan or any application) and any application submitted
9 to the Secretary of Health, Education and Welfare as a
10 condition to the receipt of Federal funds under allot-
11 ments made to the territory under the Public Health
12 Service Act, the Community Mental Health Centers Act, or
13 the Comprehensive Alcohol Abuse and Alcoholism Preven-
14 tion, Treatment, and Rehabilitation Act of 1970 as it
15 may be from time to time amended or any future provision
16 taking its place.

17 (4) Advise the Agency generally on the performance
18 of its functions.

19 (5) The Council shall review and comment on the
20 following before such actions are made final by the
21 Agency:

22 (a) the establishment, annual review, and
23 amendment of the Annual Implementation Plan (AIP)

24 (b) the development and publication of
25 specific plans and programs for achieving the
26 objectives established in the AIP.

27 (c) the making of grants and contracts from
28 the Area Health Services Development Fund.

1 (d) the making of findings as to the need for
2 institutional health services proposed to be offered
3 or changed in the territory.

4 (e) the making of findings as to the appro-
5 priateness of existing institutional health services
6 being offered in the territory.

7 (f) the approval or disapproval of each pro-
8 posed use of Federal funds within the territory from
9 allotment programs described in (3) of this section,
10 and section 9852, (3), 'Agency Functions'.

11 (6) Review and make recommendations to the Agency
12 on all Certificate of Need applications, as prescribed
13 under Subchapter B of this Act.

14 Section 9855. Funds. The Agency is hereby authorized
15 to receive and utilize Federal funds, individual and/or
16 private contributions provided for carrying out the functions
17 and activities of the Agency as thereto for provided by this
18 Act, except that the Agency shall not accept any funds or
19 contributions of services or facilities from an individual
20 or private entity which has a financial, fiduciary, or other
21 direct interest in the development, expansion, or support of
22 health resources unless, in the case of an entity, it is an
23 organization described in section 509 (a) of the Internal
24 Revenue Code of 1954, as it may be from time to time amended
25 or any future provision taking its place and is not directly
26 engaged in the provision of health care in the health services
27 area of the Agency. For the purpose of this paragraph, an
28 entity shall not be considered to have such an interest
29 solely on the basis of its providing (directly or indirectly)
30 health care for its employees.

SUBCHAPTER B

1
2 Section 9859. Certificate of Need. There is established
3 the Guam Certificate of Need program to be administered by
4 the Agency for the following reasons; uncontrolled installa-
5 tion, expansion, conversion or modification of health care
6 facilities and health services can be expected to result in
7 unnecessary duplication. Any duplication of health care
8 resources would subsequently encourage an increase in health
9 care costs because of relatively less intensive usage per
10 facility the health care consumers; moreover, service
11 capabilities would result in extreme competition for the
12 available professional manpower resources. In anticipation of
13 these adverse conditions and in order to comply with U. S.
14 Public Law 93-641, as it may be from time to time amended
15 or any future provision taking its place it is imperative
16 that a Guam Certificate of Need Program be established
17 and implemented.

18 The purpose of this subchapter is to establish the means
19 and procedures for health care providers to apply for and
20 obtain Certificate of Need as a condition precedent to under-
21 taking construction, expansion, alteration or conversion of
22 health care facilities, or development, expansion or modifica-
23 tion of certain health care services, including acquisition
24 of equipment, thereby providing for the development of
25 hospitals and certain other health care facilities of a
26 desirable and practicable size, location and commitment to
27 the health care needs of the territory.

1 Section 9860. Definitions. Certificate of Need Pro-
2 gram:

3 (1) 'Applicant or proponent' means any person or
4 collective entity (institution, group, agency) who
5 applies for a Certificate of Need under this sub-part.

6 (2) 'Certificate of Need' means a written authori-
7 zation, when required pursuant to section 9861, to
8 construct, expand, alter, or convert a health care
9 facility or to develop, expand, or modify a health care
10 service or organization.

11 (3) The term 'to develop', when used in connection
12 with health services, means to undertake those activities
13 which upon their completion will result in the establish-
14 ment of a new institutional health service or the in-
15 curring of a financial obligation in relation to the
16 offering of such service.

17 (4) The term 'financial obligation' when used in
18 connection with development of health services, means
19 any costs incurred in the construction, establishment,
20 expansion, alteration, or conversion of health care
21 facilities or development, expansion, or modification of
22 certain health care services, including acquisition of
23 equipment thereby providing for the development of
24 hospitals and certain other health care facilities.

25 (5) The term 'health care facility' is defined to
26 include hospitals, psychiatric hospitals, tuberculosis
27 hospitals, skilled nursing facilities, kidney disease
28 treatment centers (including freestanding hemodialysis
29 units), intermediate care facilities, ambulatory

1 surgical facilities, and home health agencies, but does
2 not include Christian Science sanitoriums operated, or
3 listed and certified, by the First Church of Christ
4 Scientist, Boston, Massachusetts. Such definitions
5 also provide that:

6 (a) the term 'hospital' means any institution
7 which is primarily engaged in providing to inpa-
8 tients, by or under the supervision of physicians,
9 diagnostic services and therapeutic services for
10 medical diagnosis, treatment and care of injured,
11 disabled, or sick persons, or rehabilitation
12 services for the rehabilitation of injured, dis-
13 abled, or sick persons. Such term does not include
14 psychiatric and tuberculosis hospitals.

15 (b) The term 'psychiatric hospital' means an
16 institution which is primarily engaged in providing
17 to inpatients, by or under the supervision of a
18 physician, psychiatric services for the diagnosis
19 and treatment of mentally ill persons.

20 (c) The term 'tuberculosis hospital' means
21 an institution which is primarily engaged in pro-
22 viding to inpatients, by or under the supervision
23 of a physician, medical services for the diagnosis
24 and treatment of tuberculosis.

25 (d) The term 'skilled nursing facility' means
26 an institution or a distinct part of an institution
27 which is primarily engaged in providing to in-
28 patients skilled nursing care and related services
29 for patients who require medical or nursing care,
30 or rehabilitation services for the rehabilitation
31 of injured, disabled, or sick persons.

1 (e) The term 'intermediate care facility'
2 means an institution which provides; on a regular
3 basis, health-related care and services to individ-
4 uals who do not require the degree of care and
5 treatment which a hospital or skilled nursing
6 facility is designed to provide, but who, because
7 of their mental or physical condition, require
8 health-related care and services (above the level
9 of room and board).

10 (f) The term 'ambulatory surgical facility'
11 means a facility, not a part of a hospital, which
12 provides surgical treatment to patients not requir-
13 ing hospitalization.

14 Such term shall include the offices of private
15 physicians or dentists, whether for individual or
16 group practice.

17 (g) The term 'home health agency' means a
18 public agency or private organization, or a sub-
19 division of such an agency or organization, which
20 is primarily engaged in providing to individuals
21 who are under the care of a physician, on a
22 visiting basis in the places of residence used
23 as such individual's homes, one or more of the
24 following services or items:

25 (i) Part-time or intermittent nursing
26 care provided by or under the supervision of a
27 registered professional nurse;

28 (ii) physical, occupational, or speech
29 therapy;

1 (iii) medical social services under the
2 direction of a physician;

3 (iv) part-time or intermittent services
4 of a home health aide;

5 (v) medical supplies (other than drugs
6 and biologicals), and the use of medical
7 appliances; or

8 (vi) medical services provided by an
9 intern or resident-in-training of a hospital
10 under a teaching program of such hospital.

11 (5) The term 'health maintenance organization'
12 means a public or private organization, organized under
13 the laws of the territory, which:

14 (a) Provides or otherwise makes available to
15 enrolled participants health care services, in-
16 cluding at least the following basic health care
17 services; usual physician services, hospitalization,
18 laboratory, x-ray, emergency and preventive
19 services, and out-of-area coverage;

20 (b) Is compensated (except for co-payments)
21 for the provisions of the basic health care services
22 listed in paragraph (5) (a) of this section to
23 enrolled participants on a predetermined periodic
24 rate basis; and

25 (c) Provides physicians' services primarily:

26 (i) directly through physicians who
27 are either employees or partners of such
28 organization, or

1 (ii) through arrangements with individual
2 physicians or one or more groups of physicians
3 (organized in a group practice or individual
4 practice basis).

5 (7) The term 'health services' means clinically
6 related (i.e., diagnostic, treatment, or rehabilitative)
7 services, and includes alcohol, drug abuse, and mental
8 health services.

9 (8) The term 'institutional health services' means
10 health services provided in or through health care
11 facilities or health maintenance organizations and in-
12 cludes the entities in or through which such services
13 are provided.

14 (9) The term 'to offer', when used in connection
15 with health services, means that the health care faci-
16 lity, or health maintenance organization holds itself
17 out as capable of providing, or as having the means for
18 the provision of, specified health services.

19 (10) The term 'person' means an individual, a trust
20 or estate, a partnership, a corporation (including
21 associations, joint stock companies, and insurance com-
22 panies), Government of Guam, or a political subdivision
23 or instrumentality of the territory.

24 (11) 'Consumer' means any person whose occupation
25 is other than the administration of health activities
26 or the provision of health services, who has no fiduciary
27 obligation to a health care facility or other health
28 agency, and who has no material or financial interest in
29 the rendering of health services.

1 (12) 'Change in services', means a change in kind
2 or degree of service, such as the addition of a clini-
3 cally related (i.e., diagnostic, treatment, or rehabili-
4 tative) service not previously provided or the termina-
5 tion of such a service which had previously been pro-
6 vided, or a change in the volume of service to be
7 offered.

8 Section 9861. Certificate of Need. Notwithstanding
9 any contrary provision of the law, no person or agency whether
10 public or private, profit or non-profit, excluding federal
11 facilities, shall make capital expenditures for construction
12 of a health care facility or change the services of such
13 facility unless there is a determination by the Agency that
14 there is a need therefor.

15 A Certificate of Need shall be required for:

16 (1) The development of all new institutional health
17 services such as the construction, development or other
18 establishment of a new health care facility or health
19 maintenance organization; and

20 (2) Any capital expenditure by or on behalf of a
21 health care facility or health maintenance organization
22 in excess of \$50,000, excluding expenditures for site
23 acquisitions and acquisitions of existing health care
24 facility and health maintenance organization; and where
25 a person makes an acquisition by or on behalf of a
26 health care facility or health maintenance organization
27 under lease or comparable arrangement, or through dona-
28 tion, which would have required review if the acquisition
29 had been by purchase, such acquisition should be deemed
30 a capital expenditure subject to review; and

1 (3) Health services which are offered in or
2 through a health care facility or health maintenance
3 organization and which were not offered on a regular
4 basis in or through such health care facility or health
5 maintenance organization within the twelve-month period
6 prior to the time such services would be offered.

7 (4) Any change in distribution, relocation, or the
8 number of beds or types of services available in any
9 health care facility or health maintenance organization,
10 irrespective of cost, but which changes would include
11 ten (10) or more beds, or ten percent (10%), whichever
12 is less.

13 (5) Predevelopment activity expenditures in excess
14 of \$50,000 for the offering of new institutional health
15 services to include expenditures for preliminary health
16 studies, surveys, site acquisitions, architectural
17 designs, plans, working drawings, and specifications and
18 any arrangement or commitment made for financing the
19 offering or development of the new institutional health
20 service. Certificate of Need issued under this subpart
21 shall be for predevelopment activities and shall not
22 authorize the offering or development or establishment
23 of the new institutional health service with respect
24 to which such predevelopment activities are proposed.

25 Section 9862. Application for Certificate of Need: Any
26 person or agency, whether public (excluding federal agencies)
27 or private, profit or nonprofit, shall be directed to apply
28 for a Certificate of Need if the proposed project comes with-
29 in the scope of the conditions set forth in Section 9861.

1 Original applications for Certificate of Need shall be
2 filed (along with the required number of copies) with the
3 Agency and shall be in such form and contain such information
4 as the Agency may prescribe, publish and revise as necessary.
5 The Agency shall, upon request and to the extent practicable,
6 provide technical assistance to any and all persons, or
7 agencies, whether public (excluding federal agencies) or
8 private, profit or nonprofit.

9 Section 9863. Dissemination and publication of the
10 Territory's Certificate of Need Program. Upon establishment
11 of a Certificate of Need Program and any revisions thereof,
12 the Agency shall disseminate to all health care facilities
13 and health maintenance organizations within the territory and
14 shall publish in at least one or more newspapers of general
15 circulation the scope of coverage of the Certificate of Need
16 Program, as required in Sections 9859, 9861 and 9865 of
17 this Act.

18 Section 9864. The Review Criteria.

19 (1) The Agency shall adopt, utilize and revise,
20 by rules and regulations, review criteria necessary for
21 the administration of its Certificate of Need Program
22 found under Section 9859 of this subchapter.

23 (2) Prior to the adoption and revision of review
24 criteria, the Agency shall give interested persons an
25 opportunity to offer written comments on the proposed
26 review criteria or any revisions thereof as follows:
27

1 (a) The Agency shall distribute copies of
2 its own proposed review criteria and proposed
3 revisions thereof to health organizations and any
4 agency which establishes rates for health care
5 facilities or health maintenance organizations in
6 the territory.

7 (b) The Agency shall publish in one or more
8 newspapers of general circulation in the territory,
9 a notice stating that review criteria, or revisions
10 thereof, have been proposed for adoption and are
11 available at specified addresses for inspection and
12 copying by interested persons.

13 (3) The Agency shall distribute copies of its
14 adopted review criteria and any revisions thereof to
15 health organizations and any agency which establishes
16 rates for health care facilities or health maintenance
17 organizations in the territory, and to the Secretary of
18 Health, Education and Welfare and shall provide such
19 copies to other persons upon request.

20 (4) The Agency shall adopt and utilize criteria
21 which shall, from time to time, be reevaluated and
22 revised accordingly to meet requirements of both local
23 and federal laws for conducting reviews covered by
24 this Act.

25 Section 9865. The Review Procedure.

26 (1) The Agency shall adopt, utilize and revise,
27 by rules and regulations, review processes and procedures
28 necessary for the administration of its Certificate of
29 Need Program found under Section 9859 of this subchapter.

1 (2) Prior to the adoption and revision of review
2 procedures, the Agency shall give interested persons
3 an opportunity to offer written comments on the proposed
4 review procedures or any revisions thereof as follows:

5 (a) The Agency shall distribute copies of its
6 proposed review procedures and proposed revisions
7 thereof to health organizations, the Council, and
8 any agency which establishes rates for health
9 care facilities or health maintenance organizations
10 in the territory.

11 (b) The Agency shall publish in one or more
12 newspapers of general circulation in the territory
13 a notice stating that review procedures, or revi-
14 sions thereof, have been proposed for adoption and
15 are available at specified addresses for inspection
16 and copying by interested persons.

17 (3) The Agency shall distribute copies of its
18 adopted review procedures, and any revisions thereof,
19 to the agencies and organizations specified in paragraph
20 (2) (a) of this section and to the Secretary of Health,
21 Education and Welfare and shall provide such copies
22 to other persons upon request.

23 (4) Review procedures adopted, utilized, or re-
24 vised by the Agency in conducting reviews may vary
25 according to the purpose for which a particular review is
26 being conducted or the type of health services being
27 reviewed.

1 (5) The Agency shall adopt and utilize, review
2 processes and procedures which shall, from time to time,
3 be reevaluated and revised accordingly to meet require-
4 ments of both local and federal laws for conducting
5 reviews covered by this Act.

6 Section 9866. Exception to Review Procedures. Prior to
7 adoption and publication of substitute review criteria and
8 procedures as provided under Section 9865, for the issuance
9 of Certificate of Need, or for non-substantive reviews for
10 those applications for which the procedures set forth in
11 Section 9865 would be unfeasible because of emergency or
12 other unusual circumstances, the Agency, shall request from
13 the Secretary of Health, Education and Welfare an exception
14 to the rules adopted and published by the Agency as provided
15 in Section 9865. Such request shall be in writing and shall
16 contain a detailed explanation of the reasons for the request
17 and of the substitute review procedures that the Agency in-
18 tends to follow and shall be accompanied by copies of all
19 written comments submitted under Section 9865. Adoption and
20 publication of substitute review procedures for the issuance
21 of Certificate of Need, or for non-substantive reviews for
22 those applications for which the procedures set forth in
23 Section 9865 would be unfeasible because of emergency or
24 other unusual circumstances, shall be made only upon approval
25 granted by the Secretary of Health, Education and Welfare.

26 Section 9867. Exemptions from Certificate of Need.
27 Nothing in this subchapter or rules adopted thereunder with
28 respect to the requirement for Certificate of Need applies to:

1 (1) Dispensaries and first aid stations located
2 within businesses or industrial establishments maintained
3 solely for the use of employees; provided such facilities
4 do not regularly provide inpatient or resident beds for
5 patients or employees on a daily twenty-four hour basis;

6 (2) Dispensaries or infirmaries in correctional
7 or educational facilities;

8 (3) Dwelling establishments such as hotels, motels,
9 and rooming or boarding houses that do not regularly
10 provide health facilities or health care services; and

11 (4) Christian Science sanatorium operated, or
12 listed and certified, by the First Church of Christ
13 Scientist, Boston, Massachusetts.

14 Section 9858. Certificate of Need Review Board. The
15 Guam Health Coordinating Council is hereby designated Certifi-
16 cate of Need Review Board (hereinafter called the Board) in
17 the Agency.

18 Section 9869. Board Functions. The Board shall advise
19 the Agency on the administration of the Certificate of Need
20 Program and shall make recommendations to the Agency on its
21 findings as to the need for institutional health services pro-
22 posed to be offered or changed in the territory and findings
23 as the appropriateness of existing institutional health
24 services offered in the territory.

25 The Board shall make recommendations for adoption and
26 amendment of rules, regulations, and review procedures and
27 criteria in accordance with all specification in this sub-
28 chapter and all appropriate Federal Regulations to effectuate
29 the provisions and purposes of the Territorial Certificate of
30 Need Program as provided for in this subchapter and required
31 by U. S. Public Law 93-641, as it may be from time to time
32 amended or any future provision taking its place.

1 Section 9870. Issuance of Certificate of Need. After
2 the Agency has performed its duties as provided for in this
3 Act, the Agency shall issue a Certificate of Need to the
4 applicant if the Agency has determined that the proposed
5 health facility, service or organization is needed in the
6 interest of the public health, safety, and welfare and,
7 further, that the proposed project is in compliance with the
8 Guam Health Plan and Annual Implementation Plan and the
9 review criteria as set forth in Sections 9852, 9864 and 9865
10 of this Act.

11 No permit or license shall be issued by any Territorial
12 Officer or government agency (other than the Agency) for the
13 development, construction, expansion, alteration, conversion,
14 institution, or modification of a health care facility or
15 health care service or for the operation of a new health care
16 facility or health care service unless there is submitted
17 in connection with the application for such a permit or
18 license a current Certificate of Need issued by the Agency
19 or a statement issued by the Agency that the health care
20 facility or health care service is not required to hold a
21 Certificate of Need as required under Section 9861 of this
22 subchapter.

23 Each Certificate of Need shall be valid for a period of
24 up to one year from the date of issuance by the Agency.

25 Section 9871. Conditional Certification. The Agency
26 may, by rules adopted, provide for conditional certification
27 of those proposals which, by modification of specific items
28 of the proposal, would successfully meet the criteria for

1 approval. The Agency shall require a statement from the
2 applicant certifying that the required changes have been
3 made before a Certificate of Need is issued.

4 Section 9372. Denial of applications. Appeals proce-
5 dure. If an application for a Certificate of Need is denied,
6 the Agency shall advise the applicant, in writing, of the
7 grounds for denial in not less than sixty days nor more than
8 ninety days from the date of filing.

9 An applicant who considers himself aggrieved by the
10 denial shall be given up to thirty (30) days after such
11 determination, to appeal the decision of the Agency and the
12 matter shall be heard in the manner prescribed in the Adminis-
13 tration Adjudication Law, Chapter II, Sections 24100 to 24142
14 of Volume II, Government Code of Guam, for as long as such
15 statute does not conflict with applicable Federal regulations.

16 Moreover, the hearing shall be:

17 (1) Open to the public and shall be publicized
18 through local newspaper and public information channels.

19 (2) The appellant, the Agency, and others who
20 participated in the Certificate of Need application re-
21 view, and other interested parties (including representa-
22 tives of consumers of health services) shall be permitted
23 to give testimony and present arguments at the hearing.

24 (3) A record of the proceedings shall be kept in
25 accordance with the requirement of Title XXV, Chapter II
26 of the Government Code of Guam, and copies of such
27 record together with copies of all documents received in
28 evidence, shall be available to the public for inspection
29 and copying, provided that any person who requests copies
30 of such material shall be required to bear the costs
31 thereof.

1 Section 9873. Penalties. Any person who violates any
2 provision of this part, or rules or regulations thereunder,
3 with respect to the requirement for Certificate of Need
4 and Section 9852 (7) of Subchapter A shall be guilty of a
5 misdemeanor for each seven-day period or fraction thereof
6 that the violation continues. Each subsequent seven-day
7 period shall constitute a separate offense.

8 Section 9874. Suspension. Grounds for suspension in-
9 clude, but are not limited to, suspicion of fraud, misrep-
10 sentation, false statements, misleading statements, evasion,
11 or suppression of material facts in the application for a
12 Certificate of Need or on any of its supporting materials.

13 A Certificate of Need may be suspended when, prior to
14 the commencement of construction, factors upon which the
15 Certificate of Need was issued have changed or new factors
16 have been discovered which significantly alter the need for
17 the project, or significantly alter the facts and circum-
18 stances which justifies issuance of the original Certificate
19 of Need.

20 When the Agency issues an order of suspension, it shall
21 be in writing and shall state the reasons for such suspen-
22 sion. A suspension of a Certificate shall not exceed 120
23 days. At the end of this period or sooner, a review of the
24 suspension shall be made and the Certificate reinstated or
25 revoked.

26 An applicant whose Certificate of Need has been suspended
27 and shall be afforded an opportunity for an administrative
28 hearing in accordance with Section 9872.

1 Section 9875. Revocation. Grounds for revocation in-
2 clude, but are not limited to, fraud, misrepresentation, false
3 statements, misleading statements, evasions, or suppression
4 of material facts in the application of a Certificate of Need
5 or in any of its supporting materials.

6 A Certificate of Need may be revoked after six (6)
7 months if the applicant has not shown continuing progress to-
8 wards commencement of construction.

9 When the Agency issues an order of revocation, it shall
10 be in writing and shall state the reasons for such revoca-
11 tion.

12 An applicant whose Certificate of Need has been revoked
13 may reapply for a Certificate by submitting whatever infor-
14 mation is required by the Agency.

15 An applicant whose Certificate of Need has been revoked
16 shall be afforded an opportunity, for an administrative
17 hearing in accordance with Section 9872.

18 Section 9876. Injunctive Relief. The Agency shall, in
19 the name of the people of the territory, through the Attorney
20 General of the territory, apply for an injunction in any
21 court of competent jurisdiction to enjoin any person that has
22 not received a Certificate of Need; and upon the filing of
23 a verified petition in the court, the court or any judge
24 thereof, if satisfied by affidavit or otherwise, that the
25 person is or has been proceeding with an action covered under
26 Section 9861 of this Subchapter without notice or bond, will
27 enjoin the defendant from further action. A copy of the
28 verified complaint shall be served upon the defendant and
29 the proceedings shall be thereafter be conducted as in other
30 civil cases. If it is established that the defendant has

1 been or is proceeding with an action covered under Section
2 9861 without a Certificate of Need, the court or any judge
3 thereof may enter a decree enjoining the defendant from further
4 action. In case of violation on any injunction issued under
5 this section, the court may summarily try and punish the
6 offender for contempt of court. The injunction proceeding
7 shall be in addition to, and not in lieu of, all penalties
8 and other remedies provided in this subchapter.

9 Section 9877. Letter of Intent. A person proposing
10 a construction project shall submit to the Agency a letter
11 of intent in such detail as may be necessary to inform the
12 Agency of the scope and nature of the project at the earliest
13 possible opportunity in the course of planning such project.

14 Section 9878. Separability of applications. When an
15 application is for a multi-element or multi-phased project,
16 the Agency may take individual action on severable portions
17 of the application.

18 The issuance of a Certificate of Need for a specific
19 project in a health care service's long range plan shall
20 not constitute a guarantee that all future proposals con-
21 tained in that long-range plan will receive a Certificate
22 of Need; however, the existence of previously certified
23 projects which reduce the overall cost of future projects
24 shall be taken into account by the Agency in reviewing sub-
25 sequent proposals.

26 Section 9879. Non-transferability. Certificate of Need
27 is not transferable without the written approval of the
28 Agency.

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SUBCHAPTER C

Section 9880. Guam Medical Facilities Plan. The Agency shall develop, publish, and review annually the Guam Medical Facilities Plan which shall at a minimum set forth:

(1) the number and type of medical facility beds and medical facilities needed to provide adequate in-patient care to the people of Guam and a plan for the distribution of such beds and facilities on the island.

(2) the number and type of outpatient and other health care facilities needed to provide adequate public health services and outpatient care to people residing in Guam and a plan for the distribution of such facilities throughout the island; and,

(3) the extent to which existing health care facilities in Guam are in need of modernization or conversion to new uses.

Section 9881. Facilities Construction Grant and Loan Program.

(A) The Agency shall administer a medical facilities construction grant and loan program which shall:

(1) be consistent with the Guam Medical Facilities Plan;

(2) indicate the type of assistance which should be made available to each project;

(3) set forth priorities for the provision of assistance; and

(4) provide minimum requirements for the maintenance and operation of facilities which receive assistance under this Section.

1 Pursuant to Title XVI, Section 1604, of U. S. Public
2 Law 93-641 as it may from time to time amended or any
3 future provision taking its place and subsequent amend-
4 ments, the Agency shall apply to the Secretary of Health,
5 Education and Welfare for financial assistance for
6 priority projects included in the Guam Medical Facilities
7 Plan.

8 (B) To facilitate administration of the program
9 under this Section, the Agency shall by regulation:

10 (1) prescribe the general manner of
11 determining priority among projects within the
12 territory of Guam for which assistance is available;

13 (2) prescribe for health care facilities pro-
14 jects assisted under this Section, general standards
15 of construction, modernization, and equipment for
16 health care facilities of different classes and
17 different types of location;

18 (3) prescribe criteria for determining the
19 extent to which existing health care facilities
20 are in need of modernization;

21 (4) prescribe criteria for determining the
22 need for medical facility beds and need for health
23 care facilities, and for developing plans for
24 distribution of such beds and facilities;

25 (5) prescribe the general manner in which
26 each entity which receives financial assistance
27 under Title XVI or Title VI (Hill-Burton) of the
28 Public Health Services Act as it may be from time
29 to time amended or any future provision taking its
30 place shall be required to comply with the assur-
31 ances required to be made at the time such assist-
32 ance was received and the means by which such entity

1 shall be required to demonstrate compliance with
2 such assurances.

3 An entity subject to the requirements pre-
4 scribed pursuant to paragraph (5) respecting
5 compliance with assurances made in connection with
6 receipt of financial assistance shall submit period-
7 ically to the Secretary of Health, Education and
8 Welfare data and information which reasonably sup-
9 ports the entity's compliance with such assurances.

10 Section 9882. Validity. If any provision of this Act,
11 or the application thereof to any person or circumstances is
12 held invalid, the invalidity does not affect other provisions
13 or applications of this Act with which be given effect with-
14 out the invalid provision or application, and to this end
15 the provisions of this Act are severable.

16 Section 9885. Individual Liability. No individual who
17 as a member of employee of the Agency shall, by reason of
18 his performance of any duty, function, or activity required
19 of, or authorized to be undertaken by, the Agency under this
20 Act and in accordance with U. S. Public Law 93-641 and
21 appropriate regulations or other subsequent Acts of Congress
22 which may amend, repeal, or succeed U. S. Public Law 93-641,
23 be liable for payment of damages under any law of the United
24 States, or the territory if he has acted within the scope of
25 such duty, function or activity, has exercised due care,
26 and has acted with respect to that performance, without malice
27 toward any person affected by it.

28 Section 9884. Enactment. This Act shall take effect
29 immediately following enactment by the Legislature and
30 signing by the Governor except that all arrangements and

1 actions necessary and appropriate to enable this Act to
2 become fully operative on such date shall be made as promptly
3 as possible as though this Act were effective and operative
4 immediately. Furthermore, a moratorium is hereby declared
5 on any new services or developments requiring a Certificate
6 of Need as prescribed by Section 9861 of this Act until one
7 hundred twenty (120) days after passage of this Act or until
8 the Agency's review standards and criteria prescribed by
9 Sections 9864 and 9865 herein have been adopted, whichever
10 comes first.

11 Whereas, the deferred operations of this Act would tend
12 to defeat its purpose, which is to provide forthwith for
13 the appropriate allocation of certain resources for the pro-
14 visions of health care facilities, services, and organizations
15 in the territory of Guam, therefore, it is hereby declared
16 to be an emergency law, necessary for the immediate pre-
17 servation of the public health, safety, and convenience."

18 Section 2. The sum of One Thousand Five Hundred Dollars
19 (\$1,500) is appropriated from the General Fund to the Civil
20 Service Commission for the purpose of compensating members of the
21 Guam Civil Service Commission Board. Said compensation shall cover
22 the period from April 1978 through June 1978.

23 Section 3. The sum of Twelve Thousand Dollars (\$12,000) is
24 appropriated from the General Fund for the construction of restroom
25 facilities at the Mangilao baseball park.

26 Section 4. The sum of Fourteen Thousand Dollars (\$14,000) is
27 appropriated from the General Fund for the resurfacing and renova-
28 tion of the multi-purpose court at the Toto Low-Rent Housing Area.

1 Section 5. The sum of Fifty Thousand Dollars (\$50,000) is
2 appropriated from the General Fund for the installation of lighting
3 facilities at the joint Piti Community - New Piti Elementary School
4 baseball field.

5 Section 6. The sum of Six Thousand Dollars (\$6,000) is
6 appropriated from the General Fund for the installation of public
7 sewer lines on the access road to Lot 95, in Mongmong.

8 Section 7. The sum of Fifty Thousand Dollars (\$50,000) is
9 appropriated from the General Fund for the installation of lighting
10 facilities at the Agana public tennis court.

11 Section 8. The sum of Fifty Thousand Dollars (\$50,000) is
12 appropriated from the General Fund for the installation of lighting
13 facilities at the joint Dededo Community - Dededo Jr. High School
14 baseball field.

15 Section 9. The sum of One Hundred Thousand Dollars (\$100,000)
16 is appropriated from the Territorial Highway Fund to the Right-of-
17 Way Division of the Department of Public Works for the acquisition
18 of privately owned properties for roadways, sewer lines and public
19 utility easements in the municipalities of Umatac, Merizo, Inarajan
20 and Agat.

21 Section 10. Section VI-12 of Part Two of Public Law 13-132
22 is amended to read:

23 "12. Secondary Education

24 a. Personnel Services (not to	
25 exceed 724 positions)	\$9,574,183
26 b. Personnel Benefits	\$1,009,630
27 c. Travel and Transportation	\$ 264,600
28 d. All other (of which \$16,200	
29 is for the purchase of three	
30 (5) drivers education vehicles)	\$1,075,720".

1 Section 11. The sum of One Hundred Twenty Thousand Dollars
2 (\$120,000) is appropriated from the General Fund to the Department
3 of Parks and Recreation for the purpose of purchasing in Baza
4 Gardens the following properties:

5 (1) Lots 2 and 3, Block 13, single family subdivision
6 3 (total area: 11,210 square feet, and the improvements there-
7 on consisting primarily of a concrete building of approxi-
8 mately 4,300 square feet in area); and

9 (2) A two (2) acre parcel adjacent to Lots 2 and 3
10 within the area presently designated school/park on the P.U.D.
11 Master Plan.

12 Section 12. The sum of Eighty Thousand Dollars (\$80,000) is
13 appropriated from the General Fund to the Department of Parks and
14 Recreation for the purpose of constructing parks and remodeling
15 as a recreation center the building on the land purchased pursuant
16 to Section 11 of this Act.

17 Section 13. The sum of Seven Hundred Fifty Thousand Dollars
18 (\$750,000) is appropriated from the Territorial Highway Fund to
19 be apportioned as follows:

- 20 (a) To pave roads in Salas One and Salas
21 Two subdivisions in the municipality
22 of Yigo \$150,000
- 23 (b) To improve the streets in Machananao
24 (Agafa Gumas) within the municipality
25 of Yigo \$300,000
- 26 (c) To improve the roads within South
27 Acres Government Subdivision within
28 the municipality of Dededo \$300,000

1 Section 14. Part One, Section 1, A.3.a. of Public Law 14-132
2 is amended to read:

3 "A. General Fund

4 3. Federal Grants

5 a. Federal Grants-in-Aid \$15,808,000".

6 Section 15. Part Two, Section 1, III, XI, and XII of Public
7 Law 14-132 are amended to add new subsections to read:

8 "III. For Public Health

9 E. Mental Health & Substance Abuse

10 Agency

11 a. Personnel Services \$170,000

12 b. Personnel Benefits \$ 23,170

13 c. Travel & Transportation \$ - 0 -

14 d. All Others \$192,849

15 XI. For Rental of Office Space

16 17. Mental Health & Substance

17 Abuse Agency \$ 26,000

18 XII. For Utilities

19 26. Mental Health & Substance

20 Abuse Agency \$ 13,950".

21 Section 16. Part Three, Section 1, III of Public Law 14-132
22 is amended to add a new Subsection C to read:

23 "C. Mental Health & Substance Abuse Agency

24 a. Alcohol Formula Grant 13.257 -0- \$35,000

25 b. Drug Abuse Prevention
26 Formula Grant 13.269 -0- \$30,000".

27 Section 17. Positions in the classified service shall be
28 established for the Mental Health & Substance Abuse Agency pur-
29 suant to Section 4107 of the Government Code. The Civil Service

1 Commission shall establish these positions to be effective July 1,
2 1979. Said positions shall be filled in accordance with personnel
3 rules and regulations governing the filling of vacancies.

4 Section 18. The Public Utility Agency of Guam (PUAG) is
5 hereby authorized to carry out a program wherein water lines are
6 to be constructed to provide water service to private residences
7 on the island.

8 (a) The construction program shall be limited to those
9 individuals who have registered a need for water services for
10 their primary private residences, and who have demonstrated
11 an inability to provide water services out of their own
12 resources.

13 (b) The PUAG is authorized to promulgate such regula-
14 tions which may be necessary to effectively carry out the
15 intention of this program.

16 (c) The water services connection program should be
17 generally based upon the initial survey carried out by PUAG
18 through August 2, 1977; provided, however, that the particular
19 details of the program may be waived as exigencies arise so
20 long as the intention of this program is accomplished.

21 (d) The sum of One Million One Hundred Fifty-Four
22 Thousand Nine Hundred Fifty-Two Dollars (\$1,154,952) is here-
23 by appropriated to PUAG through June 30, 1979, to be expended,
24 for water services connections, as follows:

25	Materials	\$606,499.00
26	Labor and Equipment	\$548,453.00

27 Section 19. There is hereby appropriated from the General
28 Fund the sum of Fifty Thousand Dollars (\$50,000) to the Department
29 of Parks and Recreation for the purpose of installing appropriate
30 lighting facilities at the Jose U. Atoigue baseball park in Chalan
31 Pago.

1 Section 20. The sum of Two Hundred Fifty Thousand Dollars
2 (\$250,000) is appropriated from the Tourist Attraction Fund to
3 the Guam Visitors Bureau for the design and construction of a
4 Resort Area Police Sub-Station to serve as a joint use facility by
5 the Department of Public Safety as a sub-station to maintain a
6 motorcycle police patrol of the beach, monitor hotel security pro-
7 cedures and maintain patrol activities along San Victores Road in
8 Tumon and by the Guam Visitors Bureau as an organizational head-
9 quarters and travelers aid station.

10 Section 21. The Department of Land Management shall obtain a
11 minimum forty (40) foot wide easement for an access road to be
12 constructed in Yona on the bullcart trail which begins at Route
13 4 and runs to the temporary road which intersects the trail at
14 the southern boundary of Lot 114-6. The Department of Land
15 Management shall obtain waivers of the owners of dominant estates
16 of the surcharge on the bullcart trail easement for the construc-
17 tion of the access road. Provided, however, Lots 96-1 and 96-R
18 shall be exempted from the forty (40) foot requirements as long
19 as a thirty (30) foot easement for the access road is obtained.

20 Section 22. The sum of One Hundred Thousand Dollars
21 (\$100,000) is appropriated from the Territorial Highway Fund for
22 the purpose of constructing an access road to be constructed in
23 Yona on the bullcart trail beginning at Route 4 and running to the
24 temporary road which intersects the trail at the southern boundary
25 of Lot 114-6. Provided, however, such road construction shall not
26 begin until the Department of Land Management has obtained ease-
27 ments for the construction of the road as required in Section 21
28 of this Act.