



Territory of Guam
Territorial Seal

OFFICE OF THE GOVERNOR
C. FISINANI MAGA'LAMI
AGANA, GUAM 96910 USA

SEP 21 1988

The Honorable Franklin J.A. Quitugua
Speaker, Nineteenth Guam Legislature
Post Office Box CB-1
Agana, GU 96910

Dear Mr. Speaker:

Transmitted herewith is Bill 904, which I have signed into law this date as Public Law 19-22.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank F. Blas", with a long horizontal stroke extending to the right.

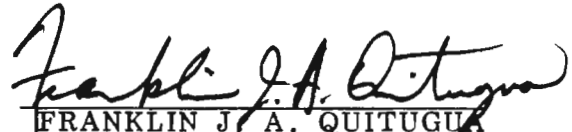
FRANK F. BLAS
Governor of Guam,
Acting



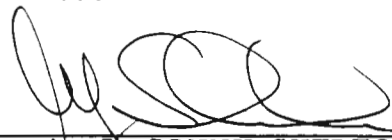
NINETEENTH GUAM LEGISLATURE
1988 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR


This is to certify that Bill No. 904 (LS), "AN ACT TO ADD CHAPTER 41, TO TITLE 11, GUAM CODE ANNOTATED, DESIGNATING THE DEPARTMENT OF REVENUE AND TAXATION AS THE STATE WAGE INFORMATION AND COLLECTION AGENCY," was on the 15th day of September, 1988, duly and regularly passed.


FRANKLIN J. A. QUITUGUA
Speaker

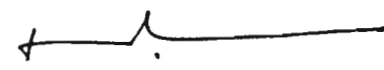
Attested:


A. J. SONY SHELTON
Senator and Acting Legislative Secretary

This Act was received by the Governor this 20th day of Sept., 1988,
at 10:27 o'clock A.m.


Assistant Staff Officer
Governor's Office

APPROVED:


FRANK F. BLAS
Governor of Guam
Acting

Date: September 21, 1988

Public Law No. 19-22

NINETEENTH GUAM LEGISLATURE
1988 (SECOND) Regular Session

Bill No. 904 (LS)

Introduced by:

H. D. Dierking
J. G. Bamba
T. S. Nelson

E. P. Arriola
M. Z. Bordallo
E. R. Duenas
E. M. Espaldon
F. J. Gutierrez
M. K. Hartsock
P. C. Lujan
M. D. A. Manibusan
D. Parkinson
F. J. A. Quitugua
J. M. Rivera
M. C. Ruth
F. R. Santos
A. J. Shelton

AN ACT TO ADD CHAPTER 41 TO TITLE 11,
GUAM CODE ANNOTATED, DESIGNATING
THE DEPARTMENT OF REVENUE AND
TAXATION TO SERVE AS THE STATE WAGE
INFORMATION AND COLLECTION AGENCY.

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

2 Section 1. Purpose. The purpose of this enactment is to comply with
3 the requirements of Section 2651 of the Deficit Reduction Act of 1984
4 (Public Law 98-369) and, in doing so, reduce the possibility of fraud,
5 abuse and incorrect payments in both federally funded and locally funded
6 social services programs.

7 Section 2. A new Chapter 41 is added to Title 11, Guam Code
8 Annotated, to read:

9 "CHAPTER 41

10 STATE WAGE INFORMATION AND COLLECTION AGENCY

11 'Section 41101. Definitions. Within this Chapter, the following
12 terms have the following meanings.

13 (a) 'Employer' means any sole proprietorship, partnership,
14 corporation or other business association which pays wages to

1 private individuals who work on behalf of the employer, perform
2 domestic service on behalf of the employer and who are not in a
3 consultant relationship.

4 (b) 'Employee' means a person who is employed or
5 self-employed and receiving compensation subject to federal
6 employment taxes.

7 (c) 'Calendar Quarter' means any of the following four
8 periods of three months each: January 1st through March 31st;
9 April 1st through June 30th; July 1st through September 30th;
10 October 1st through December 31st.

11 (d) 'Income and Eligibility Verification System (IEVS)'
12 means a system of information acquisition and exchange for
13 purposes of income and eligibility verification which meets the
14 requirements of Section 1137 of the Social Security Act.

15 (e) 'Act' means the Deficit Reduction Act of 1984 (Public
16 Law 98-369) as amended.

17 (f) 'Social Service Programs' includes but is not limited to
18 the Food Stamps Program, the Aid to Families and Dependent
19 Children Program, Aid to the Aged, Blind and Disabled Programs,
20 Medicaid Program, the IV-D Program and any other Social Service
21 Programs administered by the Department of Public Health and
22 Social Services for which federal and local laws require
23 crossmatching of information for the prevention of program fraud
24 and abuse.

25 (g) 'State Wage Information Collection Agency (SWICA)'
26 means the State agency administering the State unemployment
27 compensation law, any agency administering a quarterly wage
28 reporting system, or a State agency administering an alternative
29 system which has been determined by the Secretary of Labor, in
30 consultation with the Secretary of Agriculture and the Secretary
31 of Health and Human Services, to be as effective and timely in
32 providing employment related income and eligibility data as the
33 two just mentioned agencies."

1 Section 41102. Designation as State Wage Information and
2 Collection Agency (SWICA). The Department of Revenue and Taxation
3 shall be the State Wage and Information Collection Agency (SWICA) as
4 required by the Act. The SWICA shall comply with all the
5 requirements found in the Act; all of the federal regulations
6 concerning State Wage Information Agencies as adopted by the U.S.
7 Department of Health and Human Services, the U.S. Department of
8 Agriculture and the U.S. Department of Labor; and any other
9 requirements on it by law.

10 Section 41103. Coordination with Department of Public Health and
11 Social Services. SWICA shall implement a program of wage information
12 collection in conjunction with Department of Public Health and Social
13 Services. Such program shall crossmatch employee wage information
14 with information from Social Service programs administered by the
15 Department of Public Health and Social Services. The wage information
16 collection program shall meet all federal and local requirements and
17 shall be implemented within one hundred twenty (120) days from the
18 enactment of this Chapter.

19 Section 41104. Quarterly Reports. Within ninety (90) days of
20 the enactment of this Chapter, every employer on Guam, including the
21 government of Guam, shall file quarterly wage reports with SWICA
22 concerning each of its employees by the thirtieth (30th) day following
23 the end of each calendar quarter as defined herein. Quarterly reports
24 shall include but are not limited to the full name and address of each
25 employee and employer, taxpayers identification number (social security
26 number/employer identification number); gross earnings and gross
27 federal taxes withheld for the calendar quarter.

28 (a) Certain reports must be filed on magnetic media.

29 (1) In the case of any employer who is required to file
30 quarterly reports with respect to more than 50 employees for
31 any calendar quarter, all reports shall be on magnetic media.

32 (2) Subsection (1) shall not apply to any person for
33 any period if such person establishes to the satisfaction of

1 SWICA that its application to such person for such period
2 would result in undue hardship.

3 Section 41105. Penalty.

4 (a) Failure to file on time. If an employer fails to file the
5 information required under this Chapter on or before the date
6 prescribed, unless such failure is due to reasonable cause, there
7 shall be imposed on the employer a penalty of one hundred dollars
8 (\$100) per employee for the first thirty (30) days after the
9 prescribed due date and fifty dollars (\$50) for each additional
10 thirty (30) days or a fraction thereof thereafter.

11 (b) Furnishing false, misleading, or fraudulent information.
12 In addition to any other penalty provided by this Chapter, any
13 employer who willfully furnishes a false, misleading or fraudulent
14 statement or willfully fails to furnish such statement in the
15 manner required may be fined fifty dollars (\$50) for each offense
16 per month.

17 Section 41106. Disclosure of Wage Information to the Department
18 of Public Health and Social Services. SWICA shall, upon written
19 request, disclose current return information for the purpose of, and to
20 the extent necessary for, determining eligibility for, or the correct
21 amount of, benefits under a program listed in Section 41101(f).

22 (a) Requirements governing the release of wage information.

23 (1) Purpose of the request.

24 (2) Identification of all Department of Public Health
25 and Social Services employees, by position with authority to
26 request information.

27 (3) Methods and timing of the requests for
28 information, including the machine readable format to be
29 used, the period of time needed to furnish the requested
30 information and the basis for establishing this period.

31 (4) The type of information and reporting periods for
32 which information will be provided.

33 (b) Safeguarding wage information. The Department of
34 Public Health and Social Services shall limit the use of disclosure

1 information concerning applicants and recipients to purposes
2 directly connected with:

3 (1) Establishing eligibility, determining amount of
4 assistance, and providing services for applicants and
5 recipients.

6 (2) Any investigation, prosecution, or criminal or civil
7 proceeding conducted in connection with the administration of
8 any such plans or programs.

9 (3) Publicize provisions governing the confidential
10 nature of information about applicants and recipients,
11 including the legal sanctions imposed for improper disclosure
12 and use, and will make these provisions available to
13 applicants and recipients and to other persons to whom
14 information is disclosed.

15 (4) The wage information obtained pursuant to SWICA
16 will be stored and processed so that no unauthorized
17 personnel can acquire or retrieve the information by any
18 means.

19 (5) All persons with access to information obtained
20 pursuant to SWICA will be advised of the circumstances
21 under which access is permitted and the sanctions imposed
22 for illegal use or disclosure of the information.

23 Section 41107. SWICA's Quarterly Reports. Not later than sixty
24 (60) days from the end of each calendar quarter, SWICA shall
25 crossmatch employee information as obtained pursuant to Section 41104
26 with Social Service program information held by the Department of
27 Public Health and Social Services. Such crossmatching shall be done
28 in a manner which does not compromise the privacy of employers,
29 employees or public welfare beneficiaries.

30 Section 41108. Funding. The sum of Four Hundred Thousand
31 Dollars (\$400,000) is hereby reappropriated from the appropriations
32 made to the Executive Branch for FY'88 pursuant to Public Law 19-10.
33 These funds are to be used to fund the implementation of the State
34 Wage Information Collection Agency (SWICA) Program.

1 Section 41109. Regulations. The Departments of Revenue and
2 Taxation and of Public Health and Social Services shall adopt
3 regulations to facilitate the administration of the State Wage Information
4 and Collection Agency (SWICA) in accordance with the Administrative
5 Adjudication Law.

6 Section 41110. Severability. If any of the provisions of this
7 Chapter, or the application thereof to any person or circumstance, is
8 held invalid, such invalidity shall not affect any other provision or
9 application of this Chapter which can be given effect without the
10 invalid provision or application, and to this end the provisions of this
11 Chapter are severable."

NINETEENTH GUAM LEGISLATURE

ROLL CALL SHEET

Bill No. 904

DATE: 9-15-88

Res. No. _____

QUESTION: _____

SENATOR	AYE	NAY	NCT VOTING	ABSENT
<u>E. P. Arriola</u>				✓
<u>J. G. Bamba</u>	✓			
<u>M. Z. Bordallo</u> ✓		✓		
<u>H. D. Dierking</u>	✓			
<u>E. R. Duenas</u>	✓			
<u>E. M. Espaldon</u>	✓			
<u>F. J. Gutierrez</u>				✓
<u>M. K. Hartsock</u>	✓			
<u>A. C. Lamonica III</u>				
<u>P. C. Lujan</u>				✓
<u>M. D. A. Manibusan</u>	✓			
<u>J. G. Miles</u>		✓		
<u>T. S. Nelson</u>	✓			
<u>D. Parkinson</u>				✓
<u>J. P. Quijano</u>				
<u>F. J. Quitugua</u>	✓			
<u>J. M. Rivera</u>	✓			
<u>M. C. Ruth</u>	✓			
<u>J. T. San Agustin</u>		✓		
<u>F. R. Santos</u> ✓	✓			
<u>A. J. Shelton II</u>	✓			
	12	3		4



SENATOR

HERMINIA D. DIERKING

GUAM LEGISLATURE



COMMITTEES:

CHAIRWOMAN
Ways & Means

VICE-CHAIRWOMAN
General Governmental
Operations

MEMBER:

Economic Development
& Banking

Energy, Utilities &
Consumer Protection

Federal, Foreign &
Legal Affairs

Health, Welfare &
Ecology

Housing & Community
Development

Justice, Judiciary &
Criminal Justice

Rules

Tourism, Transportation
& Communications

Youth, Senior Citizens,
Cultural Affairs &
Human Resources

June 16, 1988

The Honorable Franklin J.A. Quitugua
Speaker
Nineteenth Guam Legislature
P.O. Box CB-1
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Ways and Means, to which Bill 904 was referred, wishes to report its findings and recommendations.

The Committee's voting record is as follows:

TO DO PASS	<u>-4-</u>
NOT TO PASS	<u>-1-</u>
TO REPORT OUT ONLY	<u>-2-</u>
ABSTAIN	<u>-0-</u>
OFF-ISLAND	<u>-1-</u>

A copy of the Committee Report and all pertinent documents are attached.

Sincerely yours,

HERMINIA D. DIERKING

Attachments

NINETEENTH GUAM LEGISLATURE
COMMITTEE ON WAYS AND MEANS
COMMITTEE REPORT

ON

BILL NO. 904 - "AN ACT DESIGNATING THE
THE DEPARTMENT OF REVENUE AND TAXATION TO
SERVE AS THE STATE WAGE INFORMATION AND
COLLECTION AGENCY"

MEMBERS	TO PASS	TO NOT PASS	ABSTAIN	OFF- ISLAND	TO REPORT OUT ONLY	TO PLACE IN INACTIVE FILE
<i>H. Dierking</i> SEN. H.D. DIERKING, CHAIRPERSON	✓					
<i>T. S. Nelson</i> SEN. T.S. NELSON, VICE-CHAIRPERSON	✓					
<i>E. P. Arriola</i> SEN. E.P. ARRIOLA	✓					
SEN. A.C. LAMORENA III						
<i>P.C. Lujan</i> SEN. P.C. LUJAN		<i>off. island</i>		✓		
<i>Manibusan</i> SEN. M.D.A. MANIBUSAN				off. island	✓ <i>ndm</i>	
<i>D. Parkinson</i> SEN. D. PARKINSON						
<i>J.F. Quan</i> SEN. J.F. QUAN		<i>off. island</i>		✓		
<i>M.C. Ruth</i> SEN. M.C. RUTH					✓ <i>6/15/88</i>	
<i>J.T. San Agustin</i> SEN. J.T. SAN AGUSTIN						
<i>J.B. Bamba</i> SEN. J.B. BAMBA	✓					
<i>F.R. Santos</i> SEN. F.R. SANTOS	✓					
<i>M.Z. Bordallo</i> SEN. M.Z. BORDALLO	✓					
SPKR. F.J. QUITUGUA, EX-OFFICIO						

COMMITTEE ON WAYS AND MEANS

COMMITTEE REPORT ON BILL NO. 904

"AN ACT DESIGNATING THE DEPARTMENT OF REVENUE
AND TAXATION TO SERVE AS THE STATE WAGE
INFORMATION AND COLLECTION AGENCY"

The Committee on Ways and Means conducted a public hearing on Bill No. 904 on Thursday, June 2, 1988 at 9:30 a.m. in the Legislative Session Hall. Present were: Chairperson H.D. Dierking; Vice Chairperson T.S. Nelson; Sen. F.R. Santos; Sen. J.G. Bamba; Sen. M.D.A. Manibusan; and Sen. M.C. Ruth.

Testifying on the proposed measure were: Ms. Eloise Baza, President, Guam Chamber of Commerce; Mr. Bill Gibson, Executive Director, Guam Employers' Council; Mr. Joseph Bamba, Taxpayer Service Administrator, Department of Revenue and Taxation; and Ms. Julia Berg, Program Coordinator, Bureau of Economic Security Administration, Division of Public Welfare, Department of Public Health and Social Services.

TESTIMONY

Ms. Baza presented written testimony indicating that the Guam Chamber of Commerce would like to forward comments to the Committee in a few days after hearing from its members on the proposed legislation, and after working on an alternative to the proposed reporting mechanism contained in the bill.

Mr. Gibson gave oral testimony echoing the same sentiments as

that of the Guam Chamber of Commerce. He expressed some concern as to the further confidentiality of tax information which his members normally provide to Revenue and Taxation only. The Guam Employers' Council does not oppose the measure, but wonders where this legislation has been, since the Deficit Reduction Act was passed in 1984. The proposed bill reads, "like a boilerplate of federal legislation which says have your local legislature pass this measure." He also expressed reservations about the penalties contained in the measure. He stated that changes to an employer's payroll system such as these would normally be made over a transition period of six (6) months to a year. He cited as an example of a business that may have difficulties in complying with the reporting requirements, "a small business with five (5) employees and the employer's wife does the books." A transition period, combined with an educational period, would be necessary for many businesses. Mr. Gibson also pointed out that employers are already required to file SS941s on a quarterly basis - this may be the alternative Ms. Baza is referring to in her testimony - and this report has much of the same information as the report to be filed with SWICA. He stated that many small businesses do not have PCs, nor do they avail themselves of the payroll systems being offered by Bank of Guam or Bank of Hawaii. The requirement for use of magnetic media may be difficult to comply with in these cases. He recommended that along those lines that an alternative system be considered which would not impact on small companies. He testified that GovGuam agencies and departments are also

subject to the reporting requirements, and if they should be assessed penalties, the taxpayers would ultimately be paying those penalties. He concluded his testimony by requesting that he be allowed to submit comments at a later date so that he could get input from his members. He also suggested that the Child Support Enforcement Unit of Public Health be involved in the use of this wage information.

QUESTIONS

Senator Bamba asked Mr. Gibson if the information to be provided under the proposed measure was already being provided in the SS941s? Mr. Gibson replied that it is similar information, but being sent to someplace else. Couldn't the same information on the SS941s be transposed onto the form to be used for SWICA's purposes? Mr. Gibson answered that the required information is not exactly the same, and that there may be a problem with the ~~compatibility of the equipment being used by both the employers and the government.~~ Senator Bamba asked if there exists a need to cross-check, cross-tab the information on wages to reduce the welfare fraud and abuse? Mr. Gibson replied that the need is there to prevent these things from happening. He added that if an alternative system of reporting can be agreed to, there may be no need for the \$400,000 appropriation in the bill.

Senator Ruth asked Ms. Baza if the need to poll her members on an alternative reporting system means that she doesn't agree with the proposed reporting system? Ms. Baza answered that the Chamber's concern was to ensure that the reporting system would

not be too cumbersome on its members. She went on to say that if an alternative system exists which can be used to obtain the same information required by federal law, then the need to create a new system will be waived. The intended goal of the reporting requirement is to obtain current wage information, so as to reduce the amount of dollars paid out by error to assistance programs recipients.

Senator Bamba interrupted the questioning by saying that he does not understand the Chamber's position on the bill, since the information is already required to be provided by all businesses filing quarterly FICA and withholding statements. He went on to say that if a business does not have a computer, there is a provision in the bill that waives the requirement for filing on magnetic media. Ms. Baza advised the Committee that the Chamber would be meeting with the Revenue and Taxation officials the following day to try and identify an alternative reporting system.

TESTIMONY

Mr. Joseph Bamba presented written testimony on behalf of Mr. Joaquin G. Blaz, Chairperson, State Wage Information and Collection Agency (SWICA), in favor of Bill No. 904. Mr. Bamba stated that the 1984 Deficit Reduction Act, more commonly known as the Gramm-Rudman Act, authorized the matching of Federal employee files against AFDC and Medicaid files to determine instances of Government employees receiving welfare benefits. The Act further requires that all states administering Social Services programs

must implement Income Eligibility Verification Systems (IEVS) to match recipients' wage information with Social Security Administration, Internal Revenue Service, and SWICA to verify their eligibility. Governor Ada issued Executive Order 88-10 designating the Department of Revenue and Taxation to collect information on employment and wages on a quarterly basis and to provide this wage information to the Department of Public Health and Social Services upon the application of a person for program benefit eligibility. He stressed the fact that his department has minimal control on security of their tax information, since the Data Processing Division, Department of Administration houses the computer used to store such information. This very sensitive information could be better secured if the department had its own in-house computer system. The SWICA component would again emphasize the need for the acquisition of an in-house system, which could also be used to mechanize the manual processing of taxes such as Gross Receipts Tax and Income Tax. Mr. Bamba concluded his testimony by stating that the SWICA would save GovGuam a tremendous amount of money, and would also increase the effectiveness of the department's administration in the processing, monitoring, assessments, and collection activities on all taxes.

Ms. Julia Berg presented written testimony on behalf of Dr. Leticia Espaldon, Vice Chairperson, State Wage Information and Collection Agency, in favor of Bill No. 904. Ms. Berg testified on the need for having access to wage information of applicants

for program benefits. Such wage information would assist the department in reducing the amount of money which may be paid out in error, reduce fraud and abuse in the application for program benefits, and avoid a high percentage of disallowed costs which may be borne by the local government. She cited as an example the Aid to Families with Dependent Children (AFDC) program which experienced an 11.46% error rate during FY'86. This represents an estimated \$457,828 in erroneous payments, or \$114,457 of local funds. She further illustrated the need for a system such as proposed in the bill by indicating that over 60% of the payments paid in error are because recipients failed to report or reported incorrectly their wages and salaries. If such a system is not in place by October 1, 1988, she cited several steps which the federal government might take to curb such overpayments. These steps are:

1. ~~Impose a penalty by forcing the disallowance of Administrative funds, and making GovGuam liable to match the portions of funds being disallowed.~~

2. Continued error payments over the tolerance level acceptable in any given program will result in a penalty of forcing disallowance of Administrative Funds up to 35% of the federal share in each program so affected. GovGuam may be liable for up to 85% of the cost instead of the 50% it normally contributes. In the case of the AFDC program the funds disallowed will be within the annual \$3.3 million federal share.

Ms. Berg closed her testimony by emphasizing the need to

comply with the federal requirement to establish a wage reporting system.

QUESTIONS

Senator Nelson asked why it had taken so long for the legislation to be initiated to respond to the federal requirement? Ms. Berg answered that her department had received the federal rules and regulations in 1985, and the emphasis was to develop the matching of information with the Social Security Administration and the Internal Revenue Service. Public Health and Social Services did not have a computer system either, and so the program was not developed in-house till now. Now that a system is to be obtained, the requirement to match information against the SWICA can be addressed.

Senator Bamba inquired as to the type of information Public Health would need to determine eligibility? Ms. Berg replied that the key is the social security number which would be used to cross-tab the applicant's wage information against other supporting information from the previously mentioned federal agencies. Can Public Health use the Social Security numbers only when requesting wage information on an applicant? "Yes," said Ms. Berg. Senator Bamba indicated that his main concern is to keep confidential the tax information stored by Revenue and Taxation. He asked Mr. Bamba if any tax laws regarding the disclosure of tax information would be compromised? Mr. Bamba replied that once an agreement is reached by both departments, only the information agreed to be released to Public Health will be disclosed. Of

course, the applicant must consent to having his/her social security number used to request for such tax information to be disclosed. Ms. Berg interjected that the IEVS regulations contain specific policies regarding the safeguarding of tax information disclosed for purposes of determining the eligibility of an applicant.

Senator Ruth asked how much money has been lost due to payment errors and what level of error has been experienced by Public Health? Ms. Berg referred to Attachment B of the package and reiterated her earlier remarks on the AFDC program's error rate and the dollar amounts lost.

Senator Nelson asked if the military is to be involved in the wage collection? Does the local government have jurisdiction? Ms. Berg stated that the federal regulations requires information from the military and federal civil service to be provided to the SWICA. She admitted that her department has been having a hard time in obtaining this information, in spite of the federal mandate. Mr. Bamba added that the federal government does not file detailed listings of employees or other wage information with his department, but a gross dollar total and employee count. Revenue and Taxation is working on establishing an agreement with the federal government to obtain such wage information for SWICA's purposes. Senator Nelson asked again if the local government has access to such records? Mr. Bamba replied that unless authorized. And this is strictly a voluntary basis at this time.

Chairperson Dierking stated that earlier testimony by the

Guam Chamber of Commerce had brought up a concern about having all employees wage information accessed by Public Health. She asked Ms. Berg if the wage information would be requested for only those employees applying for program benefits? Ms. Berg indicated that this is the intention of her department.

Chairperson Dierking indicated that written testimony in favor of Bill No. 904 has been received from Mr. Jesus Q. Torres, General Manager Guam Airport Authority.

There being no further questions, the hearing was adjourned.

COMMITTEE FINDINGS

1. The Committee finds that there is a significant number of payments made in error due to the absence of a wage reporting system which could cross-check an applicant's statement of wages/salaries earned.

2. The Committee finds that the establishment of such a wage reporting system, or using an existing alternative system, must be accomplished no later than October 1, 1988.

3. The Committee finds that the Department of Revenue and Taxation is a suitable agency to be charged with the collection of wage information, since it is already tasked with the receiving of tax information from employers.

4. The Committee finds that GovGuam, and specifically the Department of Public Health and Social Services, will be liable for disallowed costs incurred as a result of a high error rate on payments made, and the subsequent loss of federal funds for continued error rates over the acceptable tolerance levels for

. each social services program.

5. The Committee finds that the establishment of a wage reporting system, or the use of an existing alternative system, will save GovGuam money, as well as increase the effectiveness of the Department of Revenue and Taxation's administration of processing, monitoring, assessments, and collection activities on all taxes.

COMMITTEE RECOMMENDATION

The Committee recommends that Bill No. 904 be reported out with the recommendation to do pass.

FISCAL NOTE
BUREAU OF BUDGET & MANAGEMENT RESEARCH

BBMR-F7

Bill No. 904(LS) Date Received April 19, 1988
 Mandatory Bill Yes ☐ No ☒ Date Reviewed May 24, 1988
 Department/Agency Affected: Public Health and Social Services & Revenue and Taxation
 Department/Agency Head: Leticia V. Espaldon, Joaquin Blaz
 Total Fiscal Year Appropriation: \$26,984,239
 Bill Title (concise): An Act designating the Department of Revenue and Taxation to serve
as the State Wage Information and Collection Agency.

Change in Law: N/A

Bill Attempts to:

Bill is for:

- | | |
|---|--|
| <input type="checkbox"/> Increase Program Funding | <input checked="" type="checkbox"/> Operations |
| <input type="checkbox"/> Decrease Program Funding | <input type="checkbox"/> Capital Improvement |
| <input type="checkbox"/> Reallocate Present Program Funding | <input type="checkbox"/> Other |

FINANCIAL/PROGRAM IMPACT

<u>PROGRAM CATEGORIES</u>	<u>Minimum Estimated Required Funds (For Five Years)</u>		
	<u>GENERAL FUND</u>	<u>FEDERAL</u>	<u>OTHER</u>
Public Health/Government-Wide	SEE COMMENTS		
Support			
GRAND TOTAL			

ESTIMATED MULTI-YEAR FUND REQUIREMENTS

<u>SOURCES</u>	<u>1st</u>	<u>2nd</u>	<u>3rd</u>	<u>4th</u>	<u>5th</u>
General Fund		SEE COMMENTS			
Federal Fund					
Other Fund					
GRAND TOTAL					

ESTIMATED MULTI-YEAR REALIZED REVENUES

<u>SOURCES</u>	<u>1st</u>	<u>2nd</u>	<u>3rd</u>	<u>4th</u>	<u>5th</u>
General Fund		SEE COMMENTS			
Federal Fund					
Other Fund					
GRAND TOTAL					

Stephen J. Guerrero
STEPHEN J. GUERRERO
PROGRAM ANALYST

Michael J. Retdy
MICHAEL J. RETDY
DIRECTOR

Date Review Terminated: May 24, 1988

COMMENTS:

COMMENTS ON BILL NO. 904(LS)

Bill No. 904 proposes to create a State Wage Information and Collection Agency (SWICA) to be administered by the Department of Revenue and Taxation. The Bill also appropriates the sum of Four Hundred Thousand Dollars (\$400,000) for the implemenetation of the project.

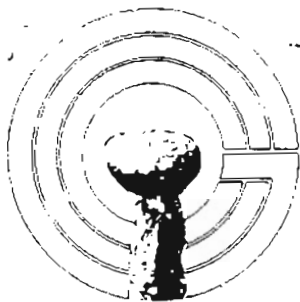
The establishment of SWICA is to comply with the requirements of Section 2651 of the Deficit Reduction Act of 1984 (Public Law 98-369). Such legislation requires all states and territories which receives federal financial assistance establish a SWICA with the goal of reducing the possibility of fraud, abuse and incorrect payments in all social services programs such as Medicaid, Food Stamp, Public Assistance, etc. A total of Four Hundred Thousand Dollars (\$400,000) is being appropriated to fund the first year operation of the program.

The breakdown is as follows:

Purchase of Computer System	\$365,524
Personnel Cost (July-Sept. FY88)	30,006
Supplies & Equipment	<u>4,470</u>
TOTAL	\$400,000

Based on the above analysis, the amount appropriated in the bill would be adequate to fund the SWICA project.


MICHAEL J. REIDY



GUAM CHAMBER OF COMMERCE
PARTNERS IN PROGRESS

June 2, 1988

Senator Herminia Dierking
Chairwoman
Committee on Ways and Means
Nineteenth Guam Legislature
P.O. Box CB-1
Agana, Guam 96910

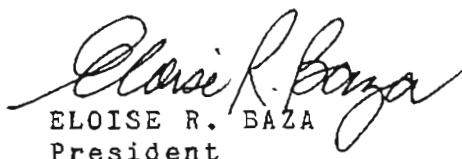
Dear Senator Dierking:

We thank you for seeking the Chamber's views on Bill 904.

Since we learned of today's public hearing on the bill less than two days ago, we request the opportunity to forward our comments to the committee within the next few days. This will provide us with the time necessary to consult our members particularly on the reporting requirements proposed in the bill and work with the Department of Revenue and Taxation and the Department of Public Health and Social Services on a workable alternative to the reporting mechanism proposed in the measure.

Thank you.

Sincerely yours,


ELOISE R. BAZA
President

BLACK CONSTRUCTION CORPORATION

GENERAL CONTRACTORS

Phone: 646-4861/2/3/4/5
P.O. Box 24667 G.M.F.
Guam, M.I. 96921

Telex: 7216110
Cable: "BLACKGUAM"

June 2, 1988

Senator Herminia D. Dierking
Guam Legislature
P.O. Box CB-1
Agana, Guam 96910

Re: Bill No. 904(LS)

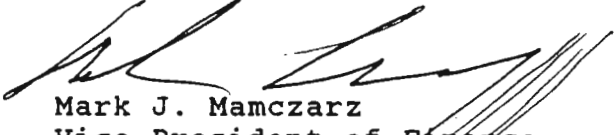
Dear Ms. Dierking:

We object to Bill No. 904 as it creates undo financial burden on the employer. Preparation of this information on a quarterly basis will increase the cost of doing business on Guam.

A second area of concern is the use of 'magnetic media' for reporting for companies with more than 50 employees. During 1987 the S.S.I. reporting system attempted to switch to a magnetic media approach for later employees. The federal government began planning and notifying employers in 1986. To date the bugs have not been worked out of the system and many of Guam employers have not converted to the new system. We do not believe that such a system can be implemented within 90 days.

Finally, similar information is prepared by the employer on an annual basis under the W-2 reporting system. Active basis should provide a significant deterrent to fraud and other abuses of welfare oriented systems. We appeal to you not to create another bureaucratic papermill nightmare.

Very truly yours,


Mark J. Mamczarz
Vice President of Finance
Black Construction Corporation

MJM/jb



cc: Mike
FYI m
Bill
904



GUAM AIRPORT AUTHORITY

(ATURIDAT PUETTON BATKON AIREN GUAHAN)

P.O. BOX 8770/Tamuning, Guam 96911/Telephone: 646-0300, 646-0301, 646-0302
Telex: 6456 GUMARPT GM
FAX: (671) 646-8823

June 1, 1988

Senator Herminia D. Dierking
Chairperson
Committee on Ways and Means
19th Guam Legislature
Post Office Box CB-1
Agana, Guam 96910

Dear Senator Dierking:

In behalf of the Guam Airport Authority, we want to thank you and members of your august committee for giving us the opportunity to comment on Bill No. 904, to wit:

"AN ACT DESIGNATING THE DEPARTMENT OF REVENUE AND TAXATION TO
SERVE AS THE STATE WAGE INFORMATION AND COLLECTION AGENCY"

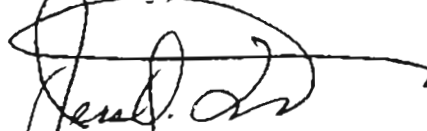
In reviewing the measure, the Authority supports the intent of Bill 904 which are:

- A) "to comply with the requirements of Section 2651 of the Deficit Reduction Act of 1984 (Public Law 98-369) ...; and
- B) "... reduce the possibility of fraud, abuse and incorrect payments in both federally funded to locally funded social services program.

Operationally, the measures as written will not affect the Authority.

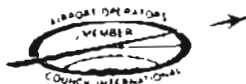
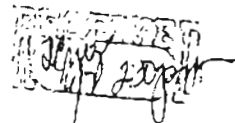
Thank you again for the opportunity to comment on Bill NO. 904.

Sincerely,



JESS Q. TORRES
Executive Manager

cc: Board Members
Legal Counsel
Lou Pangelinan & Dee Reyes, Gov's Office



NINETEENTH GUAM LEGISLATURE
1988 (SECOND) Regular Session

MAY 12 '88

Bill No. 904 (LS)

Introduced by:

H.D. DIERKING *HD*

J.G. BAMBA *JB*

At the Request of the Governor

AN ACT DESIGNATING THE DEPARTMENT OF
REVENUE AND TAXATION TO SERVE AS THE STATE
WAGE INFORMATION AND COLLECTION AGENCY.

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

2 Section 1. Purpose. The purpose of this enactment is to comply
3 with the requirements of Section 2651 of the Deficit Reduction Act of
4 1984 (Public Law 98-369) and, in doing so, reduce the possibility of
5 fraud, abuse and incorrect payments in both federally funded and
6 locally funded social services programs.

7 Section 2. A new 11 GCA Chapter XLI is added to read:

8 "Section 1. Definitions. Within this Chapter, the
9 following terms have the following meanings.

10 (a) "Employer" means any sole proprietorship, partnership,
11 corporation or other business association which pays wages to
12 private individuals who work on behalf of the employer,
13 perform domestic service on behalf of the employer and who are
14 not in a consultant relationship.

15 (b) "Employee" means a person who is employed or self-
16 employed and receiving compensation subject to federal
17 employment taxes.

1 (c) "Calendar Quarter" means any of the following four
2 periods of three months each: January 1st through March 31st;
3 April 1st through June 30th; July 1st through September 30th;
4 October 1st through December 31st.

5 (d) "Income and Eligibility Verification System (IEVS)"
6 means a system of information acquisition and exchange for
7 purposes of income and eligibility verification which meets
8 the requirements of Section 1137 of the Social Security Act.

9 (e) "Act" means the Deficit Reduction Act of 1984 (Public
10 Law 98-369) as amended.

11 (f) "Social Service Programs" includes but is not limited
12 to the Food Stamps Program, the Aid to Families and Dependent
13 Children Program, Aid to the Aged, Blind and Disabled
14 Programs, Medicaid Program, the IV-D Program and any other
15 Social Service Programs administered by the Department of
16 Public Health and Social Services for which federal and local
17 laws requires crossmatching of information for the prevention
18 of program fraud and abuse.

19 (g) "State Wage Information Collection Agency (SWICA)"
20 means the State agency administering the State unemployment
21 compensation law, any agency administering a quarterly wage
22 reporting system, or a State agency administering an
23 alternative system which has been determined by the Secretary
24 of Labor, in consultation with the Secretary of Agriculture
25 and the Secretary of Health and Human Services, to be as
26 effective and timely in providing employment related income

1 and eligibility data as the two just mentioned agencies."

2 "Section 2. Designation as State Wage Information and
3 Collection Agency (SWICA). The Department of Revenue and
4 Taxation shall be the State Wage and Information Collection
5 Agency (SWICA) as required by the Act. The SWICA shall comply
6 with all the requirements found in the Act; all of the federal
7 regulations concerning State Wage Information Agencies as
8 adopted by the U.S. Department of Health and Human Services,
9 the U.S. Department of Agriculture and the U.S. Department of
10 Labor; and any other requirements on it by law."

11 "Section 3. Coordination with Department of Public
12 Health and Social Services. SWICA shall implement a program
13 of wage information collection in conjunction with Department
14 of Public Health and Social Services. Such program shall
15 crossmatch employee wage information with information from
16 Social Service programs administered by the Department of
17 Public Health and Social Services. The wage information
18 collection program shall meet all federal and local
19 requirements and shall be implemented within one hundred
20 twenty (120) days from the enactment of this statute."

21 "Section 4. Quarterly Reports. Within ninety (90) days
22 of the enactment of this statute, every employer on Guam,
23 including the government of Guam, shall file quarterly wage
24 reports with SWICA concerning each of its employees by the
25 thirtieth (30th) day following the end of each calendar
26 quarter as defined herein. Quarterly reports shall include

1 and not limited to the full name and address of each employee
2 and employer, taxpayers identification number (social security
3 number/employer identification number); gross earnings and
4 gross federal taxes withheld for the calendar quarter.

5 (a) Certain reports must be filed on magnetic media.

6 (1) In the case of any employer who is required to
7 file quarterly reports with respect to more than 50
8 employees for any calendar quarter, all reports shall be
9 on magnetic media.

10 (2) Subsection (1) shall not apply to any person for
11 any period if such person establishes to the satisfaction
12 of SWICA that its application to such person for such
13 period would result in undue hardship.

14 Section 6. Penalty.

15 (a) Failure to file on time. If an employer fails to
16 make and file the information required under this section
17 on or before the date prescribed, unless such failure is
18 due to reasonable cause, there shall be imposed on the
19 employer a penalty of one hundred dollars (\$100.00) per
20 employee for the first thirty (30) days after the
21 prescribed due date and fifty (\$50.00) dollars for each
22 additional thirty (30) days or a fraction thereof
23 thereafter.

24 (b) Furnishing false, misleading, or fraudulent
25 information. In addition to any other penalty provided by
26 this Act, any employer who willfully furnishes a false,

1 misleading or fraudulent statement or willfully fails to
2 furnish such statement in the manner required may be fined
3 fifty dollars (\$50.00) for each offense per month.

4 Section 7. Disclosure of Wage Information to the
5 Department of Public Health and Social Services. SWICA shall,
6 upon written request, disclose current return information for
7 the purpose of, and to the extent necessary in, determining
8 eligibility for, or the correct amount of, benefits under a
9 program listed in Section 2 (f).

10 (a) Requirements governing the release of wage information.

11 (1) Purpose of the request.

12 (2) Identification of all Department of Public Health
13 and Social Services employees, by position with authority
14 to request information.

15 (3) Methods and timing of the requests for
16 information, including the machine readable format to be
17 used, the period of time needed to furnish the requested
18 information and the basis for establishing this period.

19 (4) The type of information and reporting periods for
20 which information will be provided.

21 (b) Safeguarding wage information. The Department of
22 Public Health and Social Services shall limit the use of
23 disclosure information concerning applicants and recipients to
24 purposes directly connected with:

25 (1) Establishing eligibility, determining amount of
26 assistance, and providing services for applicants and

1 recipients.

2 (2) Any investigation, prosecution, or criminal or
3 civil proceeding conducted in connection with the
4 administration of any such plans or programs.

5 (3) Publicize provisions governing the confidential
6 nature of information about applicants and recipients,
7 including the legal sanctions imposed for improper
8 disclosure and use, and will make these provisions
9 available to applicants and recipients and to other
10 persons to whom information is disclosed.

11 (4) The Wage information obtained pursuant to SWICA
12 will be stored and processed so that no unauthorized
13 personnel can acquire or retrieve the information by any
14 means.

15 (5) All persons with access to information obtained
16 pursuant to SWICA will be advised of the circumstances
17 under which access is permitted and the sanctions imposed
18 for illegal use or disclosure of the information.

19 Section 8. SWICA's Quarterly Reports. Not later than
20 sixty (60) days from the end of each calendar quarter, SWICA
21 shall crossmatch employee information as stated in section
22 4 with Social Service program information held by Public
23 Health. Such crossmatching shall be done in a manner which
24 does not compromise the privacy of employers, employees or
25 public welfare beneficiaries.

26 Section 9. Funding. The sum of Four Hundred Thousand

1 Dollars (\$400,000) is hereby reappropriated from the
2 appropriations made to the Executive Branch for FY'88 pursuant
3 to Public Law 19-10. These funds are to be used to fund the
4 implementation of the State Wage Information Collection Agency
5 (SWICA) Program.

6 Section 10. Regulations. The Department of Revenue and
7 Taxation and Public Health shall adopt regulations to
8 facilitate the administration of the State Wage Information
9 and Collection Agency (SWICA) in accordance with the
10 Administrative Adjudication Law.

11 Section 11. Severability. If any of the provisions of
12 this Act, or the application thereof to any person or
13 circumstance, is held invalid, such invalidity shall not
14 affect any other provision or application of this Act which
15 can be given effect without the invalid provision or
16 application, and to this end the provisions of this Act are
17 severable."



JOSEPH F. ADA
Governor

FRANK F. BLAS
Lieutenant Governor

DEPARTMENT OF

REVENUE & TAXATION

GOVERNMENT OF GUAM

JOAQUIN G. BLAZ, Director • V.M. CONCEPCION, Deputy Director

Madam Chairperson and Members of the Committee:

My name is Joseph Bamba, I am the Taxpayer Service Administrator representing Mr. Joaquin Blaz, Director of the Department of Revenue and Taxation, and Chairman of State Wage Information Collection Agency by virtue of Executive Order 88-10.

I am here to testify in favor of Bill 904, relative to the designation of Department of Revenue and Taxation as the State Wage Information Collection Agency (SWICA).

BACKGROUND

In 1984, U.S. Congress enacted the Deficit Reduction Act (DEFRA), commonly known as the Gramm Rudman Act. The purpose of the Act was to

~~impose greater fiscal austerity on the Federal Government. Title 42 U.S.C.~~

~~impose stringent new requirements in the administration of certain social~~

service programs. These new requirements apply to all States and Territories including Guam.

Each year roughly 3.8 million families receive \$7.8 billion through the federally funded Aid to Families with Dependent Childred (AFDC) Program and 20 million persons receive \$11 billion in Food Stamps. As these figures will attest, the administrative responsibilities associated with the management and control of these programs are staggering. Prior to the passage of the Guam Rudman Act, Congress authorized "Project Match" which compared Federal employee files against AFDC and Medicaid files to

determine instances of Government employees receiving welfare benefits. Data from 26 states were examined, and 9,000 individuals were identified as receiving welfare payments for which they were not entitled.

As a result of the "Project Match" and other congressional investigations, Congress determined that they wanted applicants and recipients alike to be constantly aware that Congress does not and will not tolerate any refusal to disclose earnings accurately.

As a result, the law requires that all states administering these Social Services programs must implement Income Eligibility Verification System (IEVS). Under IEVS regulations, all federally funded Social Services programs must match recipient's information with (A) Social Security Administration (B) Internal Revenue Services (C) SWICA to verify their eligibility.

In complying with the requirement, the Governor has issued Executive Order 88-10 designating SWICA under the Department of Revenue and Taxation to collect information on employment and wages on a quarterly basis, Department of Revenue and Taxation will provide such information to the Social Services Programs administered by Public Health & Social Services.

Department of Revenue and Taxation has always look into obtaining its own computer system. The main reason is the control and security of Tax Information. We currently have minimal control on security with Department of Administration, Data Processing Division; and without full control,

disclosure is possible without our knowledge. The growth on automation of other tax systems can be addressed more effectively with the control of our own computer system.

With the implementation of SWICA, Department of Revenue and Taxation will enhance its capability in monitoring compliance of tax obligations.

The following major revenue generating taxes that are currently processed manually can be inter-related with the implementation of SWICA:

1. Income Tax Withholding which generates about 85 million dollars in revenue.
2. Gross Receipts Tax which generates about 60 million dollars in revenue.

Gross matching of SWICA data to these systems will detect if Employers and employees are filing and paying taxes more accurately.

SWICA not only will save Government of Guam tremendous amount of money in

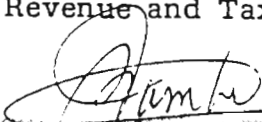
~~part of the Social Services Programs administered by the Department of Public Health and Social Services; it will also increase the effectiveness of this~~

Department's administration in the processing, monitoring, assessments, and collection activities on all taxes. The SWICA Project compliments the current administration's direction to build a better financial management while simultaneously maintain cost effectiveness.

I will now turn the floor over to the Vice Chairman of SWICA committee to present information on the Social Services Programs affected by DEFRA ACT.

JOAQUIN G. BLAZ
Director, Department of
Revenue and Taxation

By:


JOSEPH D.M. BAMBA
Administrator, Taxpayer Service



DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES

GOVERNMENT OF GUAM
P. O. BOX 2816
AGANA, GUAM 96910



Madam Chairperson and Members of the Committee:

My name is Julia Berg, I am the Program Coordinator for Bureau of Economic Security Administration, Division of Public Welfare, Department of Public Health and Social Services. I am representing Dr. Leticia Espaldon, Director of Public Health and Social Services and Vice Chairman of SWICA committee. I am here to testify on behalf of Bill 904, a bill which will authorize the Department of Public Health and Social Services to match recipient reported information with SWICA at Department of Revenue and Taxation.

GUAM'S SOCIAL SERVICE PROGRAMS AFFECTED BY IEVS

The Department of Public Health and Social Services administers the majority of the Social Services Programs which are covered by IEVS. These programs are the Food Stamp, Public Assistance and Medicaid Programs.

There are currently 4,000 households which consists of over 10,000 participants in the Guam Food Stamp Program; In the Public Assistance Program, we have 2,700 households which comprise of 6,700 recipients; Of 2,700 household, approximately 2,000 are under AFDC which comprise of over 5,000 dependents. All recipients of federally funded programs are the beneficiaries of the Medicaid Programs.

These programs require the performance of Quality Control Review to identify payment errors. The tolerance levels are 5% for Food Stamp and 4% for Public Assistance Programs. Guam has consistently exceeded these levels over the last five years. For example on attachment (A), the error rate for AFDC program in Fy 86 was 11.46%. This represents an estimated \$457,828 in erroneous payments, of which \$114,457 are territory

funds. This program is not alone in suffering large amount of money loses. Attachment B is provided for your reference.

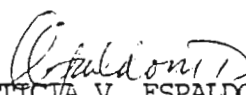
On an average, over 60% of the payments paid out in error are because recipients failed to report or reported incorrectly their wages and salaries. Once SWICA match is implemented, the errors of this type will be reduced to a minimum. The Implementation of SWICA will not only minimize error payments, but it will also prevent fraud and abuse in the Social Services Programs.

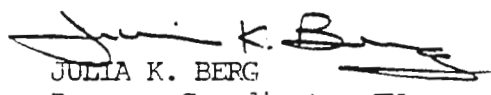
CONSEQUENCES FOR FAILURE TO IMPLEMENT SWICA

By not having SWICA in place by October 1, 1988, Guam stands to lose funds in two (2) way:

- 1) Failure to comply with the requirement will result in federal sanction. This means that federal will impose penalty by forcing the disallowance of Administrative Funds. Thus, Government of Guam will be liable to match the portions of funds being disallowed.
- 2) Continued on erroneous payments beyond the tolerance level will result in federal sanction. This means that for any error beyond the tolerance level, federal will impose penalty by forcing disallowance of Administrative Funds up to 35% of the federal share in each of the Social Services Programs. Thus, Government will be liable for up to 85% of the cost instead of 50% as it is in the current procedures in the Food Stamp Program. Similar sanction will be applied to Guam in the AFDC program, except that the funds will be disallowed within the \$3.3 million annual federal share. Federal policy on sanctions is attached for your reference.

The passage of this Bill is greatly needed in order for the Government of Guam to comply with the Federal requirement. Thank you madam chairperson and members of committee for giving the SWICA Committee the opportunity to testify in favor of Bill 904.


LETICIA V. ESPALDON M.D.
Director, Department of
Public Health & Social Services


JULIA K. BERG
Program Coordinator IV.
Bureau of Economic Security
Administration, Division of
Public Welfare, PH & SS.



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U.S.A.

EXECUTIVE ORDER NO. 88-10

CREATION OF THE STATE WAGE INFORMATION
COLLECTION AGENCY (SWICA)
AND THE SWICA COMMITTEE

WHEREAS, Section 2651 of the U.S. Deficit Reduction Act of 1984 (DEFRA), commonly known as the Gramm-Rudman Act, mandates that all 50 states and U.S. territories, including the Territory of Guam designate a State Wage Information Collection Agency (SWICA) to implement, by October 1, 1988, stringent provisions and procedures to require all employers to file quarterly wage reports for each individual employee; and

WHEREAS, failure to implement these SWICA provisions shall result in Federally-imposed sanctions on Federally and locally funded social and welfare service programs administered by the Department of Public Health & Social Services (DPHSS) which would aggravate the Territory's existing deficit of over \$170 million; and

WHEREAS, the employment related income information provided shall be utilized to re-verify income and eligibility requirements of program participants in order to reduce the possibility of fraud and incorrect payments in the DPHSS Welfare and Public Assistance Social Services Programs such as: Food Stamps, Aid to Families with Dependent Children (AFDC), Old Age Assistance, Aid to the Blind, Aid to the Permanently and Totally Disabled and Medicaid; and

WHEREAS, the benefits derived from implementing these SWICA provisions would be to:

- (1) substantially reduce and control the historically excessive payment error rate payments.
- (2) Provide a more efficient and updated system for on-line verification of employment and wage information.
- (3) Quarterly, instead of annual, cross-verification of employer and employee wage information.
- (4) Detect non-compliance of employers and employees with the respective reporting requirements.

WHEREAS, there is a need for the existing SWICA Committee to continue its work in assisting the designated SWICA agency in the development, coordination and implementation of these SWICA provisions and procedures by October 1, 1988.



NOW THEREFORE, I, JOSEPH F. ADA, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, do hereby order the following:

The Department of Revenue and Taxation shall be the designated SWICA agency for the Territory of Guam; and,

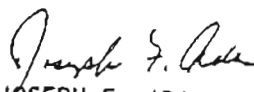
The membership of the SWICA Committee shall consist of designated representatives from the following departments:

- (1) Chairman - Department of Revenue & Taxation
- (2) Vice-Chairman - Dept. of Public Health & Social Services
- (3) Member - Bureau of Planning
- (4) Member - Department of Commerce
- (5) Member - Department of Labor
- (6) Member - Office of the Governor
- (7) Member - Department of Administration
- (8) Member - Bureau of Budget & Management Research

The SWICA Committee shall meet at the call of the chairman, or at the request of a majority of the members, or at the request of the Governor. A majority of the members of the Committee constitutes a quorum for the transaction of business. The Committee shall receive support and legal assistance from the Office of the Attorney General. All administrative and clerical assistance required by the Committee shall be furnished by the Department of Revenue & Taxation with the assistance of the Department of Public Health and Social Services.

The duties and responsibilities of the Director of the Department of Revenue and Taxation and the SWICA Committee shall be to insure compliance with all the legal and program requirements for a State Wage Information Collection Agency found in Section 2051 of the U.S. Deficit Reduction Act of 1984 and all of the Federal regulations concerning State Wage Information Collection Agencies adopted by the U.S. Department of Health & Human Services, the U.S. Department of Agriculture and the U.S. Department of Labor and any other requirements on it imposed by Federal and local laws and this act.

SIGNED AND PROMULGATED, at Agana, Guam this 29th day of
MARCH, 1988.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:


FRANK F. BLAS
Lieutenant Governor of Guam

STATE WAGE INFORMATION COLLECTION AGENCY (SWICA)
SUMMARY REPORT, May 1988

I. INTRODUCTION

In 1984, Congress enacted the Deficit Reduction Act of 1984 (DEFRA), commonly known as the Gramm-Kudman Act. The purpose of the Act was to impose greater fiscal austerity on the Federal Government.

Section 2651 of DEFRA, which corresponds to Title 42 U.S.C. 1320B-7, imposes stringent new requirements on all states and some of the territories which administer certain social services programs. The major requirement of Section 2651 is that all the states administering these programs must implement the Income Eligibility Verification System (IEVS).

IEVS necessitates the utilization of automated computer systems which contain information on earned income, unearned benefit, employment and other related financial informations for persons eligible for the AFDC program, the Food Stamp program, Supplemental Security Income, Medicaid, Old Age Assistance, Aid to the Blind, Aid to the Permanently and Totally Disabled and Unemployment Compensation.

Under the IEVS system, computer matching methods will be utilized to verify recipients' eligibility concerning Earned Income and Unearned Income information with:

- a) Food Stamp, Public Assistance and Medicaid programs,
- b) Internal Revenue Services,
- c) Social Security Administration,
- d) Unemployment Compensation Agency, and
- e) State Wage Information Collection Agency (SWICA).

II. CURRENT STATUS:

The Department of Public Health and Social Services (DPHSS) has taken the following steps in complying with IEVS requirements:

- 1) Establishment of common data elements for Food Stamp, Public Assistance and Medicaid Programs completed as of June 1987. Computer information matching procedures have been successfully implemented among these programs and the activity is on going.
- 2) Establishment of agreement with Internal Revenue Services (IRS) as of April 1987. The agreement authorizes DPHSS to match recipient reported information concerning Unearned Income, such as savings and bonds, interests, dividends, and gambling winnings with IRS. DPHSS has submitted the first tape to IRS for Matching as of September 11, 1987.

- 3) Establishment of agreement with Social Security Administration (SSA) as of April 1986. The agreement authorizes DPHSS to match recipient reported information concerning Earned Income and Social Security Benefits with SSA. The activity in matching information with SSA began September 1986 and has been on going.
- 4) The provision concerning SWICA cannot be implemented since Guam does not have a Wage Information Collection Agency.

In order to comply the following actions must be taken:

- a) Guam must pass a law to require all employers to report earnings of each individual employee on a quarterly basis. The information must include Name and address of Employer, Name of Employee, Social Security Numbers of each employee, and the amount earned by each employee during the quarter.
- b) This legislation must state which government agency shall administer the computer system as Guam's SWICA.
- c) It is suggested that since Department of Revenue and Tax is the only agency currently has income information; it may be the best choice to be a SWICA with minor changes to expand its collecting system from yearly to quarterly.
- 5) On July 9, 1987, the department formed a committee to develop implementation plans for the provisions concerning SWICA. The following are the committee members:

Name	Dept./Agency	Remarks
Julia M. Ben	DPH & SS	Chairperson
Joe Bamba	Rev. & Tax	Co-Chairperson
Frank Bigler	Rev. & Tax	Member
Ladd Bell	Bureau of Planning	Secretary
Allan Wang	Dept. of Labor	Member
Jim Hutcherson	Dept. of Commerce	Member
Bill Carpo	Dept. of Administration	Member
George Palican	Governor's Office	Member
Ann Benavente	DPH & SS	Alternate Member
Nora Cuevas	Rev. & Tax	Alternate Member
Lola Sablan	Rev. & Tax	Alternate Member
Vance Guerena	Attorney General's off.	Consultant
Richard Taitano	Data Management.	Consultant

III. OBJECTIVE OF SWICA TASK FORCE COMMITTEE:

1. Develop Implementation Plan for SWICA
2. Implement SWICA by October 1, 1988.

IV. ADVANTAGES

A. Department of Public Health and Social Services

1. Reduce errors in expenditures in all Social Services programs including Public Assistance, Food Stamp and Medicaid Programs.
2. Minimize Federal Sanction on Quality Control Error Rate of Public Assistance and Food Stamp Programs.
3. Prevention of Fraud and Abuses in improving efficiency of program operations and promote program integrately.
4. Enabling programs in the application of Federal Enhanced Funding.

The following table shows total amount of benefits issued, amount of over issuances and the error rate for the last five fiscal years, (Fy 1983 to 1987), in each of the Social Services Program.

1. Public Assistance Programs:

<u>Fiscal Year</u>	<u>Benefits Issued</u>	<u>Dollar in Error</u>	<u>Error Rate (%)</u>
1983	\$4,700,093	\$606,312	12.9%
1984	5,297,266	482,052	9.1%
1985	5,721,819	514,964	9.0%
1986	5,763,711	709,513	12.3%
1987	5,112,858	419,254	8.2%
Total:	\$26,595,747	\$2,732,095	(average 10.3%/year)

2. Food Stamp Programs:

<u>Fiscal Year</u>	<u>Benefits Issued</u>	<u>Dollar in Error</u>	<u>Error Rate (%)</u>
1983	\$18,028,704	\$1,388,210	7.7%
1984	17,984,000	953,152	5.3%
1985	18,406,511	975,545	5.3%
1986	16,981,788	765,879	4.5%
1987	16,025,358	\$1,137,800	7.1%
Total:	87,426,361	\$5,220,586	(average 6.0%/year)

3. Medicaid Programs:

<u>Fiscal Year</u>	<u>Benefits Issued</u>	<u>Dollar in Error</u>	<u>Error Rate (%)</u>
1983	\$2,789,765	\$ 229,499	8.2%
1984	3,636,578	447,299	12.3%
1985	2,758,498	248,264	9.0%
1986	2,389,733	217,466	9.1%
1987	2,170,411	279,983	12.9%
Total:	\$13,753,985	\$1,422,511	(average 10.3%/year)

Note: Error Rate for Medicaid Program is based on the error rate reported for Public Assistance Program.

B. Department of Revenue and Taxation

1. Enhance capability in Collection of Revenues and Taxes.
2. Enhance Monitoring and Compliance of Tax Obligations.
3. Enhance Automated Data Processing for Department of Revenue Tax and Improve efficiency in Department's Operation in collection and compliance of tax obligations.

V. Consequences for failure to implement SWICA will result in the following:

A. Federal Program Section in Administrative Funding.

The Department experienced Federal Sanction due to failure to implement Wage Matching requirement timely. The total Federal Sanction in Administrative Funding amounted to \$46,368.38 was disallowed in Food Stamp Program from fiscal year 1983 to fiscal year 1986. In any event, failure implement Federal requirement, Federal Official has authority to impose sanction and compel disallowance in Federal funding.

B. Federal Program Section on Quality Control Error Rate.

The Department has received formal warning for fiscal sanction for FY 1986 both for Food Stamp and Public Assistance programs due to excess Quality Control Error Rate. The Federal tolerance level of error rate is 5% and 4% respectively. (See attached).

C. Continued Program Liability in Federal Programs

The Department incurred liability which is due to Federal Government resulted from administrative error and household's error in failure to report actual circumstance. The following provides a table of program's liability for FY 1983 to FY 1987 in Food Stamp program which are paid or becomes due to Federal Government:

<u>Fiscal year</u>	<u>Liability Amount</u>	<u>Status</u>
1983	\$ 46,757.75	paid
1984	45,454.00	paid
1985	66,698.00	paid
1986	80,992.00	paid
1987	39,649.00	paid
Total		

In addition to the above liabilities, the Department is also charged with the amount of \$800,000 due to fraud and abuses of Evidente, etc, case which the department was held liable.

VI. Cost to Implement SWICA:

1. Department of Public Health:

There will be no additional cost for Social Services Programs to implement SWICA except for regular administrative cost which is included in the budget for FY 1988.

2. Department of Revenue and Taxation

Computerization Enhancement and staffing:

Estimate total of \$520,000.00 is needed to develop the computer program and purchase hardware.

MAY 12 '88

NINETEENTH GUAM LEGISLATURE
1988 (SECOND) Regular Session

Bill No. 904(LS)

Introduced by:

H.D. DIERKING *HD*

J.G. BAMBA *JB*

At the Request of the Governor

AN ACT DESIGNATING THE DEPARTMENT OF
REVENUE AND TAXATION TO SERVE AS THE STATE
WAGE INFORMATION AND COLLECTION AGENCY.

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

2 Section 1. Purpose. The purpose of this enactment is to comply
3 with the requirements of Section 2651 of the Deficit Reduction Act of
4 1984 (Public Law 98-369) and, in doing so, reduce the possibility of
5 fraud, abuse and incorrect payments in both federally funded and
6 locally funded social services programs.

7 Section 2. A new 11 GCA Chapter XLI is added to read:

8 "Section 1. Definitions. Within this Chapter, the
9 following terms have the following meanings.

10 (a) "Employer" means any sole proprietorship, partnership,
11 corporation or other business association which pays wages to
12 private individuals who work on behalf of the employer,
13 perform domestic service on behalf of the employer and who are
14 not in a consultant relationship.

15 (b) "Employee" means a person who is employed or self-
16 employed and receiving compensation subject to federal
17 employment taxes.

1 (c) "Calendar Quarter" means any of the following four
2 periods of three months each: January 1st through March 31st;
3 April 1st through June 30th; July 1st through September 30th;
4 October 1st through December 31st.

5 (d) "Income and Eligibility Verification System (IEVS)"
6 means a system of information acquisition and exchange for
7 purposes of income and eligibility verification which meets
8 the requirements of Section 1137 of the Social Security Act.

9 (e) "Act" means the Deficit Reduction Act of 1984 (Public
10 Law 98-369) as amended.

11 (f) "Social Service Programs" includes but is not limited
12 to the Food Stamps Program, the Aid to Families and Dependent
13 Children Program, Aid to the Aged, Blind and Disabled
14 Programs, Medicaid Program, the IV-D Program and any other
15 Social Service Programs administered by the Department of
16 Public Health and Social Services for which federal and local
17 laws requires crossmatching of information for the prevention
18 of program fraud and abuse.

19 (g) "State Wage Information Collection Agency (SWICA)"
20 means the State agency administering the State unemployment
21 compensation law, any agency administering a quarterly wage
22 reporting system, or a State agency administering an
23 alternative system which has been determined by the Secretary
24 of Labor, in consultation with the Secretary of Agriculture
25 and the Secretary of Health and Human Services, to be as
26 effective and timely in providing employment related income

1 and eligibility data as the two just mentioned agencies."

2 "Section 2. Designation as State Wage Information and
3 Collection Agency (SWICA). The Department of Revenue and
4 Taxation shall be the State Wage and Information Collection
5 Agency (SWICA) as required by the Act. The SWICA shall comply
6 with all the requirements found in the Act; all of the federal
7 regulations concerning State Wage Information Agencies as
8 adopted by the U.S. Department of Health and Human Services,
9 the U.S. Department of Agriculture and the U.S. Department of
10 Labor; and any other requirements on it by law."

11 "Section 3. Coordination with Department of Public
12 Health and Social Services. SWICA shall implement a program
13 of wage information collection in conjunction with Department
14 of Public Health and Social Services. Such program shall
15 crossmatch employee wage information with information from
16 Social Service programs administered by the Department of
17 Public Health and Social Services. The wage information
18 collection program shall meet all federal and local
19 requirements and shall be implemented within one hundred
20 twenty (120) days from the enactment of this statute."

21 "Section 4. Quarterly Reports. Within ninety (90) days
22 of the enactment of this statute, every employer on Guam,
23 including the government of Guam, shall file quarterly wage
24 reports with SWICA concerning each of its employees by the
25 thirtieth (30th) day following the end of each calendar
26 quarter as defined herein. Quarterly reports shall include

1 and not limited to the full name and address of each employee
2 and employer, taxpayers identification number (social security
3 number/employer identification number); gross earnings and
4 gross federal taxes withheld for the calendar quarter.

5 (a) Certain reports must be filed on magnetic media.

6 (1) In the case of any employer who is required to
7 file quarterly reports with respect to more than 50
8 employees for any calendar quarter, all reports shall be
9 on magnetic media.

10 (2) Subsection (1) shall not apply to any person for
11 any period if such person establishes to the satisfaction
12 of SWICA that its application to such person for such
13 period would result in undue hardship.

14 Section 6. Penalty.

15 (a) Failure to file on time. If an employer fails to
16 make and file the information required under this section
17 on or before the date prescribed, unless such failure is
18 due to reasonable cause, there shall be imposed on the
19 employer a penalty of one hundred dollars (\$100.00) per
20 employee for the first thirty (30) days after the
21 prescribed due date and fifty (\$50.00) dollars for each
22 additional thirty (30) days or a fraction thereof
23 thereafter.

24 (b) Furnishing false, misleading, or fraudulent
25 information. In addition to any other penalty provided by
26 this Act, any employer who willfully furnishes a false,

misleading or fraudulent statement or willfully fails to furnish such statement in the manner required may be fined fifty dollars (\$50.00) for each offense per month.

Section 7. Disclosure of Wage Information to the Department of Public Health and Social Services. SWICA shall, upon written request, disclose current return information for the purpose of, and to the extent necessary in, determining eligibility for, or the correct amount of, benefits under a program listed in Section 2 (f).

(a) Requirements governing the release of wage information.

(1) Purpose of the request.

(2) Identification of all Department of Public Health and Social Services employees, by position with authority to request information.

(3) Methods and timing of the requests for information, including the machine readable format to be used, the period of time needed to furnish the requested information and the basis for establishing this period.

(4) The type of information and reporting periods for which information will be provided.

(b) Safeguarding wage information. The Department of Public Health and Social Services shall limit the use of disclosure information concerning applicants and recipients to purposes directly connected with:

(1) Establishing eligibility, determining amount of assistance, and providing services for applicants and

1 recipients.

2 (2) Any investigation, prosecution, or criminal or
3 civil proceeding conducted in connection with the
4 administration of any such plans or programs.

5 (3) Publicize provisions governing the confidential
6 nature of information about applicants and recipients,
7 including the legal sanctions imposed for improper
8 disclosure and use, and will make these provisions
9 available to applicants and recipients and to other
10 persons to whom information is disclosed.

11 (4) The Wage information obtained pursuant to SWICA
12 will be stored and processed so that no unauthorized
13 personnel can acquire or retrieve the information by any
14 means.

15 (5) All persons with access to information obtained
16 pursuant to SWICA will be advised of the circumstances
17 under which access is permitted and the sanctions imposed
18 for illegal use or disclosure of the information.

19 Section 8. SWICA's Quarterly Reports. Not later than
20 sixty (60) days from the end of each calendar quarter, SWICA
21 shall crossmatch employee information as stated in section
22 4 with Social Service program information held by Public
23 Health. Such crossmatching shall be done in a manner which
24 does not compromise the privacy of employers, employees or
25 public welfare beneficiaries.

26 Section 9. Funding. The sum of Four Hundred Thousand

1 Dollars (\$400,000) is hereby reappropriated from the
2 appropriations made to the Executive Branch for FY'88 pursuant
3 to Public Law 19-10. These funds are to be used to fund the
4 implementation of the State Wage Information Collection Agency
5 (SWICA) Program.

6 Section 10. Regulations. The Department of Revenue and
7 Taxation and Public Health shall adopt regulations to
8 facilitate the administration of the State Wage Information
9 and Collection Agency (SWICA) in accordance with the
10 Administrative Adjudication Law.

11 Section 11. Severability. If any of the provisions of
12 this Act, or the application thereof to any person or
13 circumstance, is held invalid, such invalidity shall not
14 affect any other provision or application of this Act which
15 can be given effect without the invalid provision or
16 application, and to this end the provisions of this Act are
17 severable."