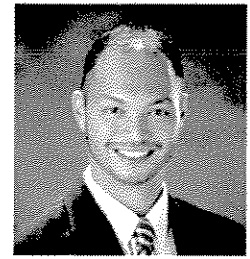




# Senator Michael F.Q. San Nicolas

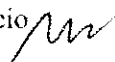
Chairman - Committee on Finance & Taxation,  
General Government Operations, and Youth Development  
*I Mina'trentai Tres Na Liheslaturan Guåhan* | 33<sup>rd</sup> Guam Legislature



APR 28 2015

The Honorable Judith T. Won Pat, Ed.D.  
Speaker  
*I Mina'trentai Tres na Liheslaturan Guåhan*  
155 Hesler Place  
Hagatna, Guam 96910

2015 APR 28 PM 2:47

VIA: The Honorable Rory J. Respicio   
Chairman  
Committee on Rules, Federal, Foreign & Micronesian Affairs,  
Human & Natural Resources, Election Reform, and Capitol District

**RE: Committee Report on Bill 60-33 (COR), As Amended by the Committee on Finance & Taxation, General Government Operations, and Youth Development**

Dear Speaker Won Pat,

*Håfa adai!* Transmitted herewith is the Committee Report on Bill 60-33 (COR), As Amended on Finance & Taxation, General Government Operations, and Youth Development -- "AN ACT TO REPEAL AND REENACT CHAPTER 11, TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM TAX COMMISSION."

Committee votes are as follows:

- 1   TO DO PASS
- TO NOT PASS
- 1   TO REPORT OUT ONLY
- TO ABSTAIN
- TO PLACE IN INACTIVE FILE

Respectfully,

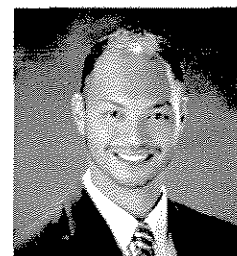
  
MICHAEL F.Q. SAN NICOLAS



## Senator Michael F.Q. San Nicolas

Chairman – Committee on Finance & Taxation,  
General Government Operations, and Youth Development  
*I Mina'trentai Tres Na Liheslaturan Guåhan* | 33<sup>rd</sup> Guam Legislature

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## COMMITTEE REPORT

### **Bill 60-33 (COR)**

**As Amended by the Committee on Finance & Taxation, General  
Government Operations, and Youth Development**

**Introduced by Senator Michael San Nicolas, Vice Speaker Benjamin Cruz,  
Senator Tom Ada, Senator Nerissa Underwood, Ph. D., Senator Mary  
Torres, and Senator James Espaldon.**

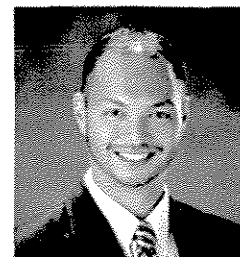
**“AN ACT TO *REPEAL* AND *REENACT*  
CHAPTER 11, TITLE 2, GUAM CODE  
ANNOTATED, RELATIVE TO  
ESTABLISHING THE GUAM TAX  
COMMISSION.”**



# Senator Michael F.Q. San Nicolas

Chairman - Committee on Finance & Taxation,  
General Government Operations, and Youth Development  
*I Mina'trentai Tres Na Liheslaturan Guåhan* | 33<sup>rd</sup> Guam Legislature

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**APR 28 2015**

## MEMORANDUM

**TO:** All Members  
Committee on Finance & Taxation, General  
Government Operations, and Youth Development

**RE:** **Committee Report on Bill 60-33 (COR), As Amended by the Committee on Finance & Taxation, General Government Operations, and Youth Development**


*Håfa adai!* Transmitted herewith is the Committee Report on Bill 60-33 (COR), as Amended by the Committee on Finance & Taxation, General Government Operations, and Youth Development – “AN ACT TO *REPEAL AND REENACT* CHAPTER 11, TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM TAX COMMISSION.”

This report includes the following:

- Vote Sheet
- Committee Report Digest
- Copy of Bill 60-33 (COR), As Introduced
- Copy of Bill 60-33 (COR), As Amended by the Committee on Finance & Taxation, General Government Operations, and Youth Development
- Public Hearing Sign-in Sheet
- Written Testimony
- Fiscal Note Requirement
- Copy of COR Referral of Bill 60-33 (COR)
- Notices of Public Hearing
- Copy of the Public Hearing Agenda
- Chairman’s Analysis of Written Testimony

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact my office.

Respectfully,

  
**MICHAEL F.Q. SAN NICOLAS**



# Senator Michael F.Q. San Nicolas

Chairman - Committee on Finance & Taxation,  
General Government Operations, and Youth Development  
| *Mina'trentai Tres Na Liheslaturan Guåhan* | 33<sup>rd</sup> Guam Legislature



## COMMITTEE VOTE SHEET

**Bill 60-33 (COR) – “AN ACT TO REPEAL AND REENACT CHAPTER 11, TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM TAX COMMISSION.”** – as Amended by the Committee on Finance & Taxation, General Government Operations, and Youth Development

|   | SIGNATURE | TO DO PASS   | TO NOT PASS | TO REPORT OUT ONLY | TO ABSTAIN | TO PLACE IN INACTIVE FILE |
|---|-----------|--------------|-------------|--------------------|------------|---------------------------|
| Senator Michael F.Q. San Nicolas<br>Chairman  |           | ✓<br>4/27/15 |             |                    |            |                           |
| Senator Mary C. Torres<br>Vice Chairman       |           | ✓<br>4/28/15 |             |                    |            |                           |
| Speaker Judith T. Won Pat, Ed.D.<br>Member    |           | ✓<br>4/28/15 |             |                    |            |                           |
| Vice Speaker Benjamin J.F. Cruz<br>Member     |           |              |             |                    |            |                           |
| Senator Tina R. Muña Barnes<br>Member         |           |              |             |                    |            |                           |
| Senator Rory J. Respicio<br>Member            |           | ✓<br>4-28-15 |             |                    |            |                           |
| Senator Thomas C. Ada<br>Member               |           | ✓            |             |                    |            |                           |
| Senator Dennis G. Rodriguez, Jr.<br>Member    |           |              |             |                    |            |                           |
| Senator Frank B. Aguon, Jr.<br>Member         |           |              |             | ✓                  |            |                           |
| Senator Nerissa B. Underwood, Ph.D.<br>Member |           | ✓            |             |                    |            |                           |
| Senator James V. Espaldon<br>Member           |           | ✓            |             |                    |            |                           |

## **COMMITTEE REPORT DIGEST**

### **I. OVERVIEW**

Bill 60-33 (COR) was introduced on March 25, 2015, by Senator Michael San Nicolas, Vice Speaker Benjamin Cruz, Senator Tom Ada, Senator Nerissa Underwood, Ph. D., Senator Mary Torres, and Senator James Espaldon. The bill was subsequently referred by the Committee on Rules to the Committee on Finance & Taxation, General Government Operations, and Youth Development on March 25, 2015.

The Committee on Finance & Taxation, General Government Operations, and Youth Development convened a public hearing on April 23, 2015, at 6 p.m. in *I Liheslatura's* Public Hearing Room. Among the items on the hearing agenda was Bill 60-33 (COR). The hearing convened hearing convened at 7:04 p.m. and was adjourned at 7:17 p.m.

### **Public Notice Requirements**

Public Hearing notices were disseminated via electronic mail to all senators and all main media broadcasting outlets on April 16, 2015, and again on April 21, 2015. Notice was also posted on *I Liheslatura's* website beginning on April 16, 2015.

### **Senators Present**

Senator Michael F.Q. San Nicolas, Committee Chairman  
Senator Mary C. Torres, Committee Vice Chairwoman  
Senator Thomas C. Ada, Committee Member  
Vice Speaker Benjamin J.F. Cruz, Committee Member  
Speaker Judi Won Pat, Committee Member  
Senator Tommy A. Morrison

### **Oral Testimony**

Jackie Marati, Legislative and Public Relations Committee Chair, Guam Women's Chamber of Commerce

### **Written Testimony**

Jackie Marati, Guam Women's Chamber of Commerce  
Bobby A. Shringi  
Albert Perez, Chief Economist, Bureau of Statistics and Plans  
Jose S. Calvo, Acting Director, Bureau of Budget and Management Research  
Anthony C. Blaz, Acting Director, Department of Administration  
John Camacho, Director, Department of Revenue and Taxation  
Jason Katigbak, President, Guam Society of Certified Public Accountants

## II. TESTIMONY & DISCUSSION

**Chairman Michael San Nicolas:** The Committee on Finance & Taxation, General Government Operations, and Youth Development now convenes this hearing, in accordance with the Open Government Law, public notices for today's proceedings were sent to the media on Thursday, April 16, 2015 and again on Tuesday, April 21, 2015. For the record, today is Thursday 23<sup>rd</sup>, 2015 and the time is now 7:04 in the evening. The Committee will hear and accept written testimony, both oral and written, on the following items:

Bill number 60-33 (COR), introduced by myself, by Vice Speaker BJ Cruz, Senator Tom Ada, Senator Nerissa Underwood, Ph. D, Senator Mary Torres, and Senator Jim Espaldon. An act to repeal and reenact Chapter 11, Title 2, Guam Code Annotated, relative to establishing the Guam Tax Commission.

We'll also be hearing Bill number 58-33 (LS), introduced by our Speaker Judi Won Pat and co-sponsored by Senator Tommy Morrison and our Legislative Secretary Tina Rose Muña-Barnes. An act to amend § 23111 (b) and § 23111 (e)(3) of Chapter 23, Division 2, Title 5, Guam Code Annotated, relative to the use of government travel mileage benefits for off-island travel involving academic, sports, and cultural activities.

We'll also be hearing Bill 76-33, introduced by Senator Dennis Rodriguez, Jr., an act to amend § 3201.1 (a) of Chapter 3, Division 1, Title 10, Guam Code Annotated, to provide for the qualifications of the Territorial Epidemiologist of the Department of Public Health and Social Services.

And last on the agenda, we have Bill 64-33 (COR), introduced by Senator Morrison, co-sponsored by Senator Tony Ada and our Legislative Secretary Tina Rose Muña-Barnes. An act to add a new Article 3 to Chapter 40 of 5GCA relative to providing public broadband internet services in village community centers.

I would like to take a moment to acknowledge the senators who are joining me this evening: to my immediate right is the Vice Chair of the Committee Senator Torres, to her immediate right is Vice Speaker BJ Cruz, and to his immediate right is Speaker Judi Won Pat. To my immediate left is Senator Tom Ada, and to his immediate left is Senator Tommy Morrison. Thank you very much senators for joining the Committee this evening for this public hearing.

We'll go ahead and begin public testimony for Bill 60-33. I'll go ahead and offer an opening statement on the bill and we'll be calling individuals who signed up to testify with respect to 60-33. Thank you Tom.

And just for the benefit of the Committee members, as well as the listening audience in the community present here today. We have received written testimony from Mr. Bobby Shringi, we have received written testimony from Mr. Albert Perez, and written testimony from Jose Calvo, as well as John Camacho. Mr. Camacho is the Director of Rev and Tax, Mr. Calvo is the [Acting] Director of BBMR, Mr. Perez the Chief Economist of Bureau of Statistics and Plans, and Mr. Shringi is writing in his individual capacity as a citizen. And signed up to testify we

have Ms. Jackie Marati from the Guam Women's Chamber of Commerce. Ms. Marati, please join us. Thank you. Before I recognize you for your testimony, I'll go ahead and give a brief overview of why we're introducing Bill 60-33.

The original legislation that's on the books right now that's Chapter 11, the Legislative Tax Review Commission. And there's two things that jumped out of us when we were reviewing this original piece of legislation or this original public law. And that is, on page three, the duties of the Commission was kind of vague and it didn't explicitly spell out what the Commission was seeking to accomplish. That is the predominant change that we are proposing here on this bill, on page seven all the way to page eight.

We spell out the duties in Bill 60 of the Tax Commission and those duties include first to compile all the records, all the work products of the previous commissions. We have executive orders in 1986, 1987, 2003 that had so much work done by these previous commissions but when it comes time to actually review where we've been and where we've gone with respect to the work of these commissions, it's very difficult to actually get that information. So, the first order of business is to be able to compile all the records and work products of all the previous commissions.

The next objective would be to review Guam's tax structures and tax policies including tax exemptions and credits which may include a comparative analysis of those policies in relation to other jurisdictions in the United States. We'll also seek to review the procedure and policy options available to the Government of Guam with regard to delinking with the US Revenue Code under § 1271 of Public Law 514. This is actually the crux of why these commissions have been formed overall these years in the past, was to explore the delinking option. But the actual procedure for us to explore that was not enumerated in the law.

We'll also review estimates of the fiscal impacts of any potential changes to the tax structure and would develop any informational reports or recommendations regarding Guam's tax structure and policies, procedures, and tax policy options available to the government with regard to delinking from the Internal Revenue Code as deemed appropriate by the Commission. The Commission would also work then on the Uniform Tax Code on Guam and transmit a copy of all these reports and all of this work and recommendations as adopted by the Commission regarding tax policy to the Governor and Speaker of the Legislature for actual consideration for the elected leaders of the island.

So, these duties and responsibilities were not spelled out in the existing law. But by spelling it out, it kind of gives us this clear sense of direction of what we want the Tax Commission to accomplish.

And the second, perhaps, one of the biggest changes we're making, and most important, is we're adding a section here in the membership for the Guam Women's Chamber of Commerce. And the Guam Women's Chamber was not formed at the time the original law was enacted but they are formed now and they're very active in our community and they provide a woman's leadership perspective to the conversation that I think is going to be incredibly valuable to the work of the Commission. So, those are two of the major changes here in the bill. The

enumeration of duties and the inclusion of a women representative from the Women's Chamber as part of the membership of the Commission.

And just for the benefit of the listening audience, the membership is going to make up of senators, of course, in the Legislature, to include the minority leader, there will be representation from both parties. It will include an economist, a certified public accountant, a banking professional, a business owner selected from the Chamber of Commerce, a business owner selected from the Women's Chamber of Commerce, an attorney specializing in tax law, and an individual designated by the Governor of Guam. So we cover all the bases; we tried to get as many perspectives as possible and the work is going to be basically look at our tax code and see if there is a way for us to delink from the Federal tax code and adopt a tax code on Guam that is going to be advantageous to the circumstances and conditions that we have here on the island that are unique as compared to the overall United States.

Right now, in the current tax code, we mirror the US tax code. So, anytime the US makes any changes to their tax code, it automatically changes our tax policy here. We all know when the Congress is considering changes to their tax code, they're considering it in the greater interest of the country without any real consideration of the impact to our territory out here in the Pacific.

So, the Tax Commission needs to do the work of trying to figure out exactly what kind of tax policy would be advantageous for us out here and lead us down that path. And that's the intent of 60-33. It's to update existing law so we can kick start that process and create historical background of where we've been, where we want to go, and get the work going on a regular basis. So, with that I invite the public to read the written testimonies that were submitted because there are some suggestions that were incorporated there. I would now like to turn it over to Ms. Jackie Marati who does have some testimony she would like to provide this evening. Thank you for joining us.

**Ms. Jackie Marati:** *Buenas and hafa adai!* [Reads written testimony. See attached document]. Thank you and *Si Yu'os Ma'se*.

**Chairman Michael San Nicolas:** Thank you Ms. Marati, do any of my colleagues have any questions for the individual at the panel. Thank you so much for your testimony.

**Ms. Jackie Marati:** Thank you very much.

**Chairman Michael San Nicolas:** And just to close, this bill number 60-33 is introduced by a bipartisan coalition of senators. And I'm excited we may be able to get additional support from my colleagues. But I would like to recognize the co-sponsors: Vice Speaker BJ Cruz, Senator Tom Ada, Senator Nerissa Underwood, Senator Mary Torres, and Senator Espaldon. All have signed on in the introduction of Bill number 60-33.

If there are no other individuals who are interested in testifying with respect to the bill, we'll go ahead and conclude the hearing on Bill 60-33. Thank you very much.



### III. FINDINGS AND RECOMMENDATIONS







To address the concerns raised by the Department of Administration, the Bureau of Budget and Management Research, and the Department of Revenue and Taxation, please see addendum of Chairman Michael San Nicolas's analysis of the departments' submitted testimony. The Committee on Finance & Taxation, General Government Operations, and Youth Development hereby reports out Bill 60-33 (COR), as Amended by the Committee on Finance & Taxation, General Government Operations, and Youth Development, with the recommendation

TO DO PASS.

**I MINA'TRENTAI TRES NA LIHESLATURAN GUÁHAN**  
**2015 (FIRST) Regular Session**

**Bill No.** 60-33 (COR)

Introduced by:

Michael F.Q. San Nicolas   
B.J.F. Cruz   
Thomas C. Ada   
N.B. Underwood, Ph.D.   
M.C. Torres   
J.V. Espaldon 

**AN ACT TO REPEAL AND REENACT CHAPTER 11,  
TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO  
ESTABLISHING THE GUAM TAX COMMISSION**

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

2 **Section 1. Short Title.** This Act *shall* be cited as the “Guam Tax  
3 Commission Act.”

4 **Section 2. Creation of the Guam Tax Commission.** Chapter 11 of Title 2,  
5 Guam Code Annotated, *is hereby repealed and reenacted*, to read:

**“CHAPTER 11**

**GUAM TAX COMMISSION**

6  
7  
8  
9 § 11101. Legislative Findings and Intent.

10 § 11102. Creation.

11 § 11103. Definitions.

12 § 11104. Membership.

13 § 11105. Subcommittees.

14 § 11106. Duties.

15 § 11107. Authority.

2015-03-01  
Sgt. J. V. Espaldon

1 § 11108. Administration.

2 § 11109. Dissolution.

3 § 11110. Severability.

4  
5 **§ 11101. Legislative Findings and Intent.**

6 *I Liheslaturan Guåhan* finds that since 1950, under the Organic Act of  
7 Guam, the government of Guam has administered a Guam Territorial  
8 Income Tax which mirrors the U.S. Federal Income Tax (48 USC  
9 §1421i(a)). The Organic Act further provides under §1421i(a) that, in  
10 addition to the mirror tax, the Legislature of Guam is authorized to “levy a  
11 separate tax on all taxpayers in an amount not to exceed 10 per centum of  
12 their annual income tax obligation to the Government of Guam.”

13 *I Liheslaturan Guåhan* further finds that in the Tax Reform Act of  
14 1986, Public Law 99-514 §1271, the United States Congress authorized the  
15 government of Guam to “[enact] laws (which shall apply in lieu of the  
16 mirror system) with respect to income— (1) from sources within, or  
17 effectively connected with the conduct of a trade or business within, any  
18 such possession, or (2) received or accrued by any resident of such  
19 possession.” In order to implement this Section of law, an implementing  
20 agreement must be in effect between the United States and Guam. Such an  
21 agreement was drafted and signed by the Governor of Guam, the Director of  
22 Revenue and Taxation and the Assistant Secretary of the United States by  
23 April 5, 1989, but is not in effect pursuant to Public Law 20-181. Once such  
24 an agreement is entered into and a local tax code created, revenue, adjusted  
25 for inflation, shall not be less than was received by Guam the fiscal year  
26 preceding the implementation year.

1            *I Liheslaturan Guåhan* finds that the government of Guam has  
2 implemented a number of taxes to provide revenue. These taxes include the  
3 Documents Tax found in 11 GCA Chapter 20, the Annual Excise and  
4 Admission Taxes found in 11 GCA Chapter 22, Real Property Tax found in  
5 11 GCA Chapter 24, the Business Privilege Tax found in 11 GCA Chapter  
6 26 Article 2, the Alcohol Beverage Tax found in 11 GCA Chapter 26 Article  
7 3, the Liquid Fuel Tax found in 11 GCA Chapter 26 Article 4, the  
8 Automotive Surcharges found in 11 GCA Chapter 26 Article 5, the Tobacco  
9 Tax found in 11 GCA Chapter 26 Article 6, the Use Tax found in 11 GCA  
10 Chapter 28, and the Hotel Occupancy Tax found in 11 GCA Chapter 30.

11            *I Liheslaturan Guåhan* finds that Governor Ricardo J. Bordallo  
12 established a Guam Tax Advisory Committee pursuant to Executive Order  
13 1986-09, that Governor Joseph F. Ada established the Guam Tax Reform  
14 Commission in Executive Order 87-6, and that Governor Felix P. Camacho  
15 established the Tax Conversion and Reform Commission in Executive Order  
16 2003-04. Each of these commissions were formed to review and propose  
17 changes to Guam's tax structure and/or policies.

18            *I Liheslaturan Guåhan* further finds that the *I Liheslatura* has  
19 established a number of Commissions to review and make recommendations  
20 on tax policy, including the Guam Tax Code established by Public Law 20-  
21 181, the Guam Finance Commission established by Public Law 22-74, and  
22 the Legislative Tax Review Commission established by Public Law 27-56.

23            *I Liheslaturan Guåhan* finds that the Legislative Tax Review  
24 Commission and the previous commissions served a useful role in allowing  
25 policy makers and interested members of the community to review the tax  
26 structure and policies on Guam and develop proposals for their reform.  
27 Efforts at reforming Guam's tax system must continue. Systematically

1 reviewing the major components of Guam's tax code with members of the  
2 community can grant policy makers the ability to focus on the larger picture  
3 of what a reformed tax code can deliver for the people of Guam. A  
4 systematic review would cover not only provisions that narrowly affect a  
5 few businesses or a particular industry but also how the code is structured to  
6 promote economic efficiency, equity, simplicity, enforceability,  
7 accountability, and social responsibility.

8 It is therefore the intent of *I Liheslaturan Guåhan* to establish the  
9 Guam Tax Commission to improve Guam's tax structure and policies,  
10 promoting economic efficiency, equity, simplicity, enforceability,  
11 accountability, and social responsibility.

12 **§ 11102. Creation.**

13 There is hereby created a Guam Tax Commission, which shall have  
14 the duties and powers as prescribed by the provisions of this Chapter.

15 **§ 11103. Definitions.**

16 As used in this Chapter, unless the context in which they are used  
17 requires a different meaning:

18 (a) 'Commission' means the Guam Tax Commission.

19 (b) 'Chairperson' means the chairperson of the Commission.

20 **§11104. Membership.**

21 (a) Members. There shall be ten (10) members of the Commission,  
22 which are:

23 (1) The chairperson of the committee in *I Liheslaturan Guåhan*  
24 with jurisdiction over tax policy matters or his/her designee from  
25 among the members of *I Liheslatura*, who shall serve as Chairperson  
26 of the Commission;

1 (2) the chairperson of the committee in *I Liheslatura* with  
2 jurisdiction over budgetary matters or, if such chairperson also has  
3 jurisdiction over tax policy matters, then the Speaker of *I Liheslatura*  
4 shall designate a member of the majority to serve, who shall serve as  
5 vice chairperson;

6 (3) the minority leader in *I Liheslatura* or his/her designee;

7 (4) an economist, selected by the Chairperson, with a master's  
8 degree or doctorate in economics from an institution of higher  
9 learning accredited by an accreditation agency recognized by the U.S.  
10 Secretary of Education;

11 (5) a Certified Public Accountant selected by the Chairperson,  
12 from among three (3) names submitted by the Guam Society of  
13 Certified Public Accountants of currently licensed Certified Public  
14 Accountants in good standing with the Guam Board of Accountancy;

15 (6) a banking professional selected by the Chairperson from  
16 among three (3) names submitted by the Guam Bankers Association;

17 (7) a business owner selected by the Chairperson from among  
18 three (3) names submitted by the Chamber of Commerce;

19 (8) a business owner selected by the Chairperson from among  
20 three (3) names submitted by the Women's Chamber of Commerce;

21 (9) an attorney specializing in tax laws selected by the  
22 Chairperson from among three (3) names submitted by the Guam Bar  
23 Association; and

24 (10) an individual designated by *I Maga'lahaen Guåhan*.

25 (b) Ex Officio Members. The Commission shall have ex officio  
26 members, which are:

27 (1) the Speaker of *I Liheslatura*;

- 1 (2) the Public Auditor;
- 2 (3) the Attorney General;
- 3 (4) the Director of the Department of Revenue and Taxation;
- 4 (5) the Director of the Department of Administration;
- 5 (6) the Director of the Bureau of Budget Management and
- 6 Research;
- 7 (7) the Administrator of the Guam Economic Development
- 8 Authority;
- 9 (8) the Chief Economist of the Guam Department of Labor
- 10 and/or the Bureau of Statistics and Plans; and
- 11 (9) additional individuals appointed by the Chairperson who
- 12 may provide expertise and knowledge relative to the Commission's
- 13 duties.

14 (c) The Chairperson shall within thirty (30) days, solicit the selection  
15 of three (3) names from each organization listed in items (5), (6), (7), (8),  
16 and (9) of subsection (a) of this section to serve on the Commission. The  
17 Chairperson shall appoint an individual from the three (3) names provided  
18 by each such organization at his/her earliest convenience.

19 (d) Commission members shall receive no compensation but may be  
20 reimbursed by *I Liheslatura* for actual expenses incurred in the performance  
21 of their duties, subject to submission of documentation by the Chairperson  
22 and approval by the Chairperson of Committee on Rules of *I Liheslatura*.

23 (e) Each member appointed to serve in the Commission shall serve  
24 from the date of appointment until the Commission is dissolved pursuant to  
25 §11109 of this Chapter. If any vacancy occurs in the appointed membership  
26 of the Commission prior to the dissolution of the Commission pursuant to

1 §11109 of this Chapter, the Chairperson shall appoint such replacement  
2 members in accordance with this Section.

3 **§11105. Subcommittees.**

4 The Chairperson shall establish such subcommittees as deemed  
5 appropriate to facilitate the work of the Commission. The Chairman shall  
6 select members and appoint a chairperson to any subcommittee formed  
7 pursuant to this section.

8 **§11106. Duties.**

9 The Commission shall:

10 (a) compile the records and work products of previous commissions,  
11 to include to the commissions formed under Executive Orders 1986-09,  
12 1987-06, and 2003-04 and Public Laws 20-181, 22-74, and 27-56;

13 (b) review Guam's tax structure and tax policies, including tax  
14 exemptions and credits, which may include a comparative analysis of such  
15 policies in relation to other jurisdictions within the United States;

16 (c) review the procedure and policy options available to the  
17 government of Guam with regard to de-linking from the U.S. Internal  
18 Revenue Code under §1271 of Public Law 99-514;

19 (d) review estimates of the fiscal impact of potential changes to  
20 Guam's tax structure and policies;

21 (e) develop informational reports and/or recommendations regarding  
22 Guam's tax structure and tax policies, procedure and policy options  
23 available to the government of Guam with regard to de-linking from the U.S.  
24 Internal Revenue Code as deemed appropriate by the Commission, and the  
25 fiscal impacts of potential changes to Guam's tax structure and policies;

26 (f) develop a uniform tax code for Guam; and



1 (g) transmit a copy of any such reports and/or recommendations as  
2 adopted by the Commission regarding tax policy to *I Maga'lahañ Guåhan*  
3 and the Speaker of *I Liheslaturan Guahan*.

4 **§11107. Authority.**

5 Government of Guam agencies and departments, including  
6 autonomous entities, shall make available to the Commission in a timely  
7 manner such data and technical support as is necessary for it to perform its  
8 duties as provided in this Chapter. The Commission shall be authorized to:

9 (a) receive and compile the records and work products of previous  
10 commissions from agencies and instrumentalities of the government of  
11 Guam, to include to the commissions formed under Executive Orders 1986-  
12 09, 1987-06, and 2003-04 and Public Laws 20-181, 22-74, and 27-56;

13 (b) request and receive reports from the Department of Revenue and  
14 Taxation relating to the application of provisions of Guam's tax law, to  
15 include the tax laws under Title 11 of the Guam Code Annotated and the  
16 Guam Territorial Income Tax administered under Title 48 U.S.C. §1421i,  
17 including the use of tax exemptions, tax deductions, and tax credits by Guam  
18 taxpayers;

19 (c) receive copies of and review such documents as exist in the  
20 government of Guam relating to de-linking from the U.S. Internal Revenue  
21 Code under §1271 of Public Law 99-514;

22 (d) communicate with the U.S. Federal Government regarding  
23 Guam's tax system, relevant domestic and international tax laws, tax  
24 treaties, and agreements which may bear upon the present and future  
25 relationship between the United States and Guam relative to taxes, and  
26 propose modifications of such tax laws, tax treaties, and agreements which  
27 may benefit Guam's economy and/or government;

1 (e) communicate with the U.S. Department of Treasury with regard to  
2 the issue of de-linking from the U.S. Internal Revenue Code under §1271 of  
3 Public Law 99-514, to ascertain the procedure and guidelines that should be  
4 followed for such a policy change and the impacts to local and federal tax  
5 authority from such a policy change;

6 (f) request and receive estimates from the Department of Revenue and  
7 Taxation and/or the Bureau of Budget and Management Research of the  
8 fiscal impact of potential changes to Guam's tax structure and policies;

9 (g) examine any document, report or data, including programs and  
10 data files, held by any agency or instrumentality of the government of  
11 Guam, which agencies are required to cooperate with the Commission and  
12 its employees in any such examination, except as provided by United States  
13 and Guam law regarding the confidentiality of specific tax return  
14 information;

15 (h) to issue subpoenas, to compel attendance of witnesses and the  
16 production of electronic and/or physical books, records, papers, accounts,  
17 reports, and documents, as necessary to achieve the mandates of the  
18 Commission;

19 (i) administer oaths relative to testimony and documents provided to  
20 the Commission;

21 (j) meet from time to time, as determined by the Chairperson, to  
22 execute its duties; and

23 (k) solicit information and advice from various sources on the present  
24 tax structure and recommended changes, which may include local and  
25 national non-governmental organizations, and agencies of the government of  
26 Guam.

27 **§ 11108. Administration.**

1           For administrative purposes, clerical support and necessary funding,  
2           the Commission shall be accommodated as necessary by *I Liheslaturan*  
3           *Guåhan*. Should data and technical support necessary to accomplish its  
4           duties as provided in this Chapter be unavailable from government of Guam  
5           entities and/or personnel, *I Liheslatura* may enter into contractual  
6           agreements with private consultants as it deems necessary to perform those  
7           duties, giving preference to those currently licensed to do business in Guam.  
8           *I Liheslatura* shall approve the funding of the Commission consistent with  
9           its standing rules.

10        **§ 11109. Dissolution.**

11           The Commission shall dissolve at the end of each legislative term, to  
12           be reconstituted and reconvened by the chairperson in the following  
13           legislative term, pursuant to §11104 of this Chapter.

14        **§ 11110. Severability.** If any provision of this Chapter or its application to  
15           any person or circumstance is found to be invalid, or contrary to law, such  
16           invalidity shall not affect other provisions or applications of this Chapter which  
17           can be given effect without the invalid provision or application, and to this end the  
18           provisions of this Chapter are severable.”

19        **Section 3. Effective Date.** This Act shall be effective upon enactment,  
20           except that, for the current Guam Legislature, the chairperson of the committee in *I*  
21           *Liheslaturan Guåhan* with jurisdiction over tax policy matters shall designate the  
22           Chairperson of the Commission pursuant to 2 GCA §11104(a)(1) as reenacted in  
23           §2 of this Act within ninety (90) days of the enactment of this Act.

*I MINA'TRENTAI TRES NA LIHESLATURAN GUÁHAN*  
2015 (FIRST) Regular Session

**Bill No. 60-33 (COR)**

As Amended by the Committee on Finance & Taxation, General Government Operations, and Youth Development.

Introduced by:

Michael F.Q. San Nicolas  
B.J.F. Cruz  
Thomas C. Ada  
N.B. Underwood, Ph.D.  
M.C. Torres  
J.V. Espaldon

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**AN ACT TO REPEAL AND REENACT CHAPTER 11,  
TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO  
ESTABLISHING THE GUAM TAX COMMISSION**

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

2 **Section 1. Short Title.** This Act *shall* be cited as the “Guam Tax  
3 Commission Act.”

4 **Section 2. Creation of the Guam Tax Commission.** Chapter 11 of Title 2,  
5 Guam Code Annotated, *is hereby repealed and reenacted*, to read:

6 **“CHAPTER 11**

7 **GUAM TAX COMMISSION**

8

9 § 11101. Legislative Findings and Intent.

10 § 11102. Creation.

11 § 11103. Definitions.

12 § 11104. Membership.

13 § 11105. Subcommittees.

14 § 11106. Duties.

- 1 § 11107. Authority.
- 2 § 11108. Administration.
- 3 § 11109. Dissolution.
- 4 § 11110. Severability.

5

6 **§ 11101. Legislative Findings and Intent.**

7 *I Liheslaturan Guåhan* finds that since 1950, under the Organic Act of  
8 Guam, the government of Guam has administered a Guam Territorial  
9 Income Tax which mirrors the U.S. Federal Income Tax (48 USC  
10 §1421i(a)). The Organic Act further provides under §1421i(a) that, in  
11 addition to the mirror tax, the Legislature of Guam is authorized to “levy a  
12 separate tax on all taxpayers in an amount not to exceed 10 per centum of  
13 their annual income tax obligation to the Government of Guam.”

14 *I Liheslaturan Guåhan* further finds that in the Tax Reform Act of  
15 1986, Public Law 99-514 §1271, the United States Congress authorized the  
16 government of Guam to “[enact] laws (which *shall* apply in lieu of the  
17 mirror system) with respect to income— (1) from sources within, or  
18 effectively connected with the conduct of a trade or business within, any  
19 such possession, or (2) received or accrued by any resident of such  
20 possession.” In order to implement this Section of law, an implementing  
21 agreement must be in effect between the United States and Guam. Such an  
22 agreement was drafted and signed by the Governor of Guam, the Director of  
23 Revenue and Taxation and the Assistant Secretary of the United States by  
24 April 5, 1989, but is not in effect pursuant to Public Law 20-181. Once such  
25 an agreement is entered into and a local tax code created, revenue, adjusted  
26 for inflation, *shall* not be less than was received by Guam the fiscal year  
27 preceding the implementation year.

1            *I Liheslaturan Guåhan* finds that the government of Guam has  
2 implemented a number of taxes to provide revenue. These taxes include the  
3 Documents Tax found in 11 GCA Chapter 20, the Annual Excise and  
4 Admission Taxes found in 11 GCA Chapter 22, Real Property Tax found in  
5 11 GCA Chapter 24, the Business Privilege Tax found in 11 GCA Chapter  
6 26 Article 2, the Alcohol Beverage Tax found in 11 GCA Chapter 26 Article  
7 3, the Liquid Fuel Tax found in 11 GCA Chapter 26 Article 4, the  
8 Automotive Surcharges found in 11 GCA Chapter 26 Article 5, the Tobacco  
9 Tax found in 11 GCA Chapter 26 Article 6, the Use Tax found in 11 GCA  
10 Chapter 28, and the Hotel Occupancy Tax found in 11 GCA Chapter 30.

11            *I Liheslaturan Guåhan* finds that Governor Ricardo J. Bordallo  
12 established a Guam Tax Advisory Committee pursuant to Executive Order  
13 1986-09, that Governor Joseph F. Ada established the Guam Tax Reform  
14 Commission in Executive Order 87-6, and that Governor Felix P. Camacho  
15 established the Tax Conversion and Reform Commission in Executive Order  
16 2003-04. Each of these commissions were formed to review and propose  
17 changes to Guam’s tax structure and/or policies.

18            *I Liheslaturan Guåhan* further finds that the *I Liheslatura* has  
19 established a number of Commissions to review and make recommendations  
20 on tax policy, including the Guam Tax Code established by Public Law 20-  
21 181, the Guam Finance Commission established by Public Law 22-74, and  
22 the Legislative Tax Review Commission established by Public Law 27-56.

23            *I Liheslaturan Guåhan* finds that the Legislative Tax Review  
24 Commission and the previous commissions served a useful role in allowing  
25 policy makers and interested members of the community to review the tax  
26 structure and policies on Guam and develop proposals for their reform.  
27 Efforts at reforming Guam’s tax system must continue. Systematically

1 reviewing the major components of Guam’s tax code with members of the  
2 community can grant policy makers the ability to focus on the larger picture  
3 of what a reformed tax code can deliver for the people of Guam. A  
4 systematic review would cover not only provisions that narrowly affect a  
5 few businesses or a particular industry but also how the code is structured to  
6 promote economic efficiency, equity, simplicity, enforceability,  
7 accountability, and social responsibility.

8 It is therefore the intent of *I Liheslaturan Guåhan* to establish the  
9 Guam Tax Commission to improve Guam’s tax structure and policies,  
10 promoting economic efficiency, equity, simplicity, enforceability,  
11 accountability, and social responsibility.

12 **§ 11102. Creation.**

13 There is hereby created a Guam Tax Commission, which *shall* have  
14 the duties and powers as prescribed by the provisions of this Chapter.

15 **§ 11103. Definitions.**

16 As used in this Chapter, unless the context in which they are used  
17 requires a different meaning:

18 (a) ‘Commission’ means the Guam Tax Commission.

19 (b) ‘Chairperson’ means the chairperson of the Commission.

20 **§11104. Membership.**

21 (a) Members. There *shall* be ten (10) members of the Commission,  
22 which are:

23 (1) The chairperson of the committee in *I Liheslaturan Guåhan*  
24 with jurisdiction over tax policy matters or his/her designee from  
25 among the members of *I Liheslatura*, who *shall* serve as Chairperson  
26 of the Commission;

1 (2) the chairperson of the committee in *I Liheslatura* with  
2 jurisdiction over budgetary matters or, if such chairperson also has  
3 jurisdiction over tax policy matters, then the Speaker of *I Liheslatura*  
4 *shall* designate a member of the majority to serve, who *shall* serve as  
5 vice chairperson;

6 (3) the minority leader in *I Liheslatura* or his/her designee;

7 (4) an economist, selected by the Chairperson, with a master's  
8 degree or doctorate in economics from an institution of higher  
9 learning accredited by an accreditation agency recognized by the U.S.  
10 Secretary of Education;

11 (5) a Certified Public Accountant selected by the Chairperson,  
12 from among three (3) names submitted by the Guam Society of  
13 Certified Public Accountants of currently licensed Certified Public  
14 Accountants in good standing with the Guam Board of Accountancy;

15 (6) a banking professional selected by the Chairperson from  
16 among three (3) names submitted by the Guam Bankers Association;

17 (7) a member ~~business owner~~ selected by the Chairperson from  
18 among the names of three (3) active members ~~names~~ submitted by the  
19 Guam Chamber of Commerce;

20 (8) a member ~~business owner~~ selected by the Chairperson from  
21 among the names of three (3) active members ~~names~~ submitted by the  
22 Women's Chamber of Commerce;

23 (9) an attorney specializing in tax laws selected by the  
24 Chairperson from among three (3) names submitted by the Guam Bar  
25 Association; and

26 (10) an individual designated by *I Maga'lahaen Guåhan*.



1 (b) Ex Officio Members. The Commission *shall* have ex officio  
2 members, which are:

3 (1) the Guam's Congressional Delegate or his/her designee;

4 (2) the Speaker of *I Liheslatura*;

5 (3)(2) the Public Auditor;

6 (4)(3) the Attorney General;

7 (5)(4) the Director of the Department of Revenue and Taxation;

8 (6)(5) the Director of the Department of Administration;

9 (7)(6) the Director of the Bureau of Budget Management and  
10 Research;

11 (8)(7) the Administrator of the Guam Economic Development  
12 Authority;

13 (9)(8) the Chief Economist of the Guam Department of Labor  
14 and/or the Bureau of Statistics and Plans; and

15 (10)(9) additional individuals appointed by the Chairperson  
16 who *may* provide expertise and knowledge relative to the  
17 Commission's duties.

18 (c) The Chairperson *shall* within thirty (30) days, solicit the selection  
19 of three (3) names from each organization listed in items (5), (6), (7), (8),  
20 and (9) of subsection (a) of this section to serve on the Commission. The  
21 Chairperson *shall* appoint an individual from the three (3) names provided  
22 by each such organization at his/her earliest convenience.

23 (d) Commission members *shall* receive no compensation but *may* be  
24 reimbursed by *I Liheslatura* for actual expenses incurred in the performance  
25 of their duties, subject to submission of documentation by the Chairperson  
26 and approval by the Chairperson of Committee on Rules of *I Liheslatura*.

1 (e) Each member appointed to serve in the Commission *shall* serve  
2 from the date of appointment until the Commission is dissolved pursuant to  
3 §11109 of this Chapter. If any vacancy occurs in the appointed membership  
4 of the Commission prior to the dissolution of the Commission pursuant to  
5 §11109 of this Chapter, the appointing authority Chairperson *shall* appoint  
6 such replacement members in accordance with this Section and shall serve  
7 until the Commission is dissolved pursuant to §11109 of this Chapter, except  
8 that if the vacancy is of an individual selected by an organization pursuant to  
9 Items (5), (6), (7), (8), or (9) of Subsection (a) of this Section, then one (1)  
10 of the remaining individuals selected shall be appointed to serve until the  
11 Commission is dissolved pursuant to §11109 of this Chapter.

12 **§11105. Subcommittees.**

13 The Chairperson *shall* establish such subcommittees as deemed  
14 appropriate to facilitate the work of the Commission. The Chairman *shall*  
15 select members and appoint a chairperson to any subcommittee formed  
16 pursuant to this section.

17 **§11106. Duties.**

18 The Commission *shall*:

19 (a) compile the records and work products of previous commissions,  
20 to include to the commissions formed under Executive Orders 1986-09,  
21 1987-06, and 2003-04 and Public Laws 20-181, 22-74, and 27-56;

22 (b) review Guam's tax structure and tax policies, including tax  
23 exemptions and credits, which *may* include a comparative analysis of such  
24 policies in relation to other jurisdictions within the United States;

25 (c) review the procedure and policy options available to the  
26 government of Guam with regard to de-linking from the U.S. Internal  
27 Revenue Code under §1271 of Public Law 99-514;

1 (d) review estimates of the fiscal impact of potential changes to  
2 Guam's tax structure and policies;

3 (e) develop informational reports and/or recommendations regarding  
4 Guam's tax structure and tax policies, procedure and policy options  
5 available to the government of Guam with regard to de-linking from the U.S.  
6 Internal Revenue Code as deemed appropriate by the Commission, and the  
7 fiscal impacts of potential changes to Guam's tax structure and policies;

8 (f) develop a uniform tax code for Guam; and

9 (g) transmit a copy of any such reports and/or recommendations as  
10 adopted by the Commission regarding tax policy to *I Maga'lahaen Guåhan*  
11 and the Speaker of *I Liheslaturan Guahan*.

12 **§11107. Authority.**

13 Government of Guam agencies and departments, including  
14 autonomous entities, *shall* make available to the Commission in a timely  
15 manner such data and technical support as is necessary for it to perform its  
16 duties as provided in this Chapter. The Commission *shall* be authorized to:

17 (a) receive and compile the records and work products of previous tax  
18 commissions from agencies and instrumentalities of the government of  
19 Guam, to include to the tax commissions formed under Executive Orders  
20 1986-09, 1987-06, and 2003-04 and Public Laws 20-181, 22-74, and 27-56;

21 (b) request and receive reports from the Department of Revenue and  
22 Taxation relating to the application of provisions of Guam's tax law, to  
23 include the tax laws under Title 11 of the Guam Code Annotated and the  
24 Guam Territorial Income Tax administered under Title 48 U.S.C. §1421i,  
25 including the use of tax exemptions, tax deductions, and tax credits by Guam  
26 taxpayers;

1 (c) receive copies of and review such documents as exist in the  
2 government of Guam relating to de-linking from the U.S. Internal Revenue  
3 Code under §1271 of Public Law 99-514;

4 (d) communicate with the U.S. Federal Government regarding  
5 Guam's tax system, relevant domestic and international tax laws, tax  
6 treaties, and tax agreements which *may* bear upon the present and future  
7 relationship between the United States and Guam relative to taxes, and  
8 propose modifications of such tax laws, tax treaties, and tax agreements  
9 which *may* benefit Guam's economy and/or government;

10 (e) communicate with the U.S. Department of Treasury with regard to  
11 the issue of de-linking from the U.S. Internal Revenue Code under §1271 of  
12 Public Law 99-514, to ascertain the procedure and guidelines that should be  
13 followed for such a policy change and the impacts to local and federal tax  
14 authority from such a policy change;

15 (f) request and receive estimates from the Department of Revenue and  
16 Taxation and/or the Bureau of Budget and Management Research of the  
17 fiscal impact of potential changes to Guam's tax structure and policies;

18 (g) examine any document, report or data, including programs and  
19 data files, held by any agency or instrumentality of the government of  
20 Guam, which agencies are required to cooperate with the Commission and  
21 its employees in any such examination, except as provided by United States  
22 and Guam law regarding the confidentiality of specific tax return  
23 information;

24 (h) to issue subpoenas, to compel attendance of witnesses and the  
25 production of electronic and/or physical books, records, papers, accounts,  
26 reports, and documents, as necessary to achieve the mandates of the  
27 Commission, which shall be provided in such a manner as to ensure the

1 confidentiality of specific tax return information as protected by United  
2 States and Guam law;

3 (i) administer oaths relative to testimony and documents provided to  
4 the Commission;

5 (j) meet from time to time, as determined by the Chairperson, to  
6 execute its duties; and

7 (k) solicit information and advice from various sources on the present  
8 tax structure and recommended changes, which *may* include local and  
9 national non-governmental organizations, and agencies of the government of  
10 Guam.

11 **§ 11108. Administration.**

12 For administrative purposes, clerical support and necessary funding,  
13 the Commission *shall* be accommodated as necessary by *I Liheslaturan*  
14 *Guåhan*. Should data and technical support necessary to accomplish its  
15 duties as provided in this Chapter be unavailable from government of Guam  
16 entities and/or personnel, *I Liheslatura may* enter into contractual  
17 agreements with private consultants as it deems necessary to perform those  
18 duties, giving preference to those currently licensed to do business in Guam.  
19 *I Liheslatura shall* approve the funding of the Commission consistent with  
20 its standing rules.

21 **§ 11109. Dissolution.**

22 The Commission *shall* dissolve at the end of each legislative term, to  
23 be reconstituted and reconvened by the chairperson in the following  
24 legislative term, pursuant to §11104 of this Chapter.

25 **§ 11110. Severability.** If any provision of this Chapter or its application to  
26 any person or circumstance is found to be invalid, or contrary to law, such  
27 invalidity *shall* not affect other provisions or applications of this Chapter which

1 can be given effect without the invalid provision or application, and to this end the  
2 provisions of this Chapter are severable.”

3 **Section 3. Effective Date.** This Act *shall* be effective upon enactment,  
4 except that, for the current Guam Legislature, the chairperson of the committee in *I*  
5 *Liheslaturan Guåhan* with jurisdiction over tax policy matters *shall* designate the  
6 Chairperson of the Commission pursuant to 2 GCA §11104(a)(1) as reenacted in  
7 §2 of this Act within ninety (90) days of the enactment of this Act.



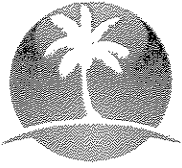
*I Mina'Trentai Tres na Liheslaturan Guåhan*  
**SENATOR MICHAEL F.Q. SAN NICOLAS**

Committee on Finance & Taxation,  
General Government Operations, and Youth Development

**April 23, 2015**

Bill No. 60-33 (COR), introduced by M.F.Q. San Nicolas, B.J.F. Cruz, T.C. Ada, N.B. Underwood, Ph.D., M.C. Torres, and J.V. Espaldon: AN ACT TO *REPEAL* AND *REENACT* CHAPTER 11, TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM TAX COMMISSION.

| NAME<br>(Please print) | AGENCY/<br>ORGANIZATION | CONTACT NUMBER | ORAL<br>TESTIMONY | WRITTEN<br>TESTIMONY | IN<br>FAVOR | NOT IN<br>FAVOR |
|------------------------|-------------------------|----------------|-------------------|----------------------|-------------|-----------------|
| JACKIE MARATI          | GUAM WOMEN'S<br>CHAMBER | 6885305        | ✓                 | ✓                    | ✓           |                 |
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**GUAM WOMEN'S**  
CHAMBER OF COMMERCE

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Lourdes Leon Guerrero

**Vice President:**

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Jackie Marati

Doyon Ahn Morato

Mary A.Y. Okada, Ed.D.

Lorraine Okada

Vanessa Williams, Esq.

**Other information:**

Mailing address:

P.O. Box 326001

Hagåtña, Guam 96932

t: (671) 487-7022

e: [ed@guamwcc.com](mailto:ed@guamwcc.com)

w: [www.guamwcc.com](http://www.guamwcc.com)

## TESTIMONY FAVORING BILL 60-33

### Submitted by Guam Women's Chamber of Commerce Jackie Marati, Legislative and Public Relations Committee Chair

Thursday, April 23, 2015

Hafa adai, Honorable Chairman and Senators of the 33<sup>rd</sup> Guam Legislature.

I am Jackie Arriola Marati, Guam Women's Chamber of Commerce Board member and Chair of the GWCC Legislative and Public Relations Committee. I am happy to appear before you today to submit testimony favoring Bill 60-33, a bill relative to establishing the Guam Tax Commission.

The Guam Women's Chamber of Commerce is especially pleased to be included in the formation of the Tax Commission, as proposed in the Bill.

The Guam Women's Chamber considers research and de-linking consideration for the Guam Tax code to be an essential process in the development of Guam's economy. It is time to recognize the unique needs of Guam's businesses and taxpayers, and to formulate a responsible tax code which reflects the distinctiveness of our island's economic structure and its changing needs. In particular, growing numbers of women businesses and the distinct needs of women in the workforce should be represented at every point of the discussion.

The Guam Women's Chamber stands ready to provide support and assistance as requested in the formulation of the Tax Commission, in addition to engaging in discussion important to its establishment and ongoing development.



April 23, 2015

Senator Michael F.Q. San Nicolas  
Chair, Committee on Finance & Taxation, General Government Operations, and  
Youth Development  
*I Mina' Trentai Tres Libeslaturan Guahan*  
Suite 301, 155 Hesler St.  
Hagåtña, Guam 96910

**RE: Bill No. 60-33– An Act to Repeal and Reenact Chapter 11, Title 2, Guam Code Annotated, Relative to Establishing the Guam Tax Commission.**

Dear Mr. Chairman,

Thank you for the opportunity to present my comments on Bill 60-33. My name is Bobby A. Shringi, and this testimony is in the capacity of myself as a resident and voter of Guam, and does not necessarily reflect the views of any organization of which I am associated with.

I would like to express my full support of Bill 60-33, which creates the Legislative Tax Review Commission (“Commission). It is important to have continuous reviews on the tax structures and policies on Guam, and most importantly to make justifiable recommendations when most needed. Having a commission consisting of experts on taxes and other financial/accounting mandates would certainly assist the members of any Guam Legislative body in making effective decisions that relate to amending or updating Guam’s tax laws.

There have been various discussions on reforming our tax system, but the real question is “where does one start?”. By having a dedicated commission of experts, would help carve the path towards addressing that question. As the legislation states “A systematic review would cover not only provisions that narrowly affect a few businesses or a particular industry, but also how the code is structured to promote economic efficiency, equity, simplicity, enforceability, accountability and social responsibility”. At the end of the day, Guam’s tax code (as with any other jurisdiction) is its economic lifeline, and thus it is vital to assure that positive changes are constantly considered, recommended and possibly enacted, to continue in strengthening this sustenance.

I do commend the composition of the Legislative Tax Review Commission, particularly with a member of the Guam Chamber of Commerce and the Guam Women’s Chamber of Commerce. However I recommend that instead of specifying the term “business owner”, it state a “An Active Member selected by the Chairperson, among three (3) names submitted by the Guam Chamber of Commerce (as well as with the Guam Women’s Chamber of Commerce).” Many active and possibly qualified (as per the intent of the legislation) individuals of these organizations may not necessarily be the actual “business owners”, thus this specific verbiage limits the

opportunity for these organizations to submit potential names. Plus these organizations are channels for the Commission to attain additional resources, as this appointed individual would be the link to additional business entities, which channels to possible attaining valuable input for the Commission. Let's not limit the options on potential members of the Commission.

I would also like to recommend some timelines for the Commission to establish a report on updates, which can be presented publicly. Many commissions have been proposed or established over the years via legislation, and while there is much excitement at the onset, unfortunately we don't hear from them as the time lapses. It is important that Bill 60-33 require quarterly reports. This also helps increase public input, which would help lawmakers in their endeavors of crafting legislation for introduction.

In summary, I would like to commend the author of this legislation for introducing the legislation, as this is a great seed in planting opportunities for tax reforms in the near future. The public and private sector collaboration would help bring about neutral discussions that would help the community and not any one sector. In closing, I would like to reiterate my support of Bill 60-33, with the consideration of the suggestions proposed. Thank you.

Regards,

Bobby A. Shringi  
MTM  
[bshringi@moylans.net](mailto:bshringi@moylans.net)  
482-2627

# BUREAU OF STATISTICS AND PLANS

*Sagan Plānu Siha Yan Emfotmasion*

Government of Guam

P.O. Box 2950 Hagåtña, Guam 96932

Tel: (671) 472-4201/3

Fax: (671) 477-1812

<http://www.bsp.guam.gov>



**Eddie Baza Calvo**  
Governor of Guam

**Ray Tenorio**  
Lieutenant Governor

**Lorilee T. Crisostomo**  
Director

April 23, 2015

The Honorable Michael F.Q San Nicolas  
Chairman, Committee on Finance and Taxation,  
General Government Operations and Youth Development  
I Mina'trentai Tres Na Liheslaturan Guåhan  
155 Hesler Street  
Hagåtña, Guam 96910


**Subject: Testimony in support of Bill No. 60-33 Relative to Establishing the Guam Tax Commission**

Hafa Adai Senator Michael F.Q. San Nicolas, Chairman of the Committee on Finance and Taxation, and members of the Committee. I am Albert M. Perez, Chief Economist at the Bureau of Statistics and Plans and thank you for the invitation to testify on this bill.

The Guam Tax Commission as proposed will embody a broad range of public and private tax and financial policy experts and supported by key government agency professionals to achieve its mandate. As Chief Economist I look forward to serving as an Ex Officio member and/or providing technical support for the Commission. I find this type of work particularly exciting and necessary given the leadership and mandate of the Commission.

Thank you for allowing me the opportunity to present testimony in support of Bill No. 60-33.

Sincerely,

  
Albert M. Perez  
Chief Economist



## BUREAU OF BUDGET & MANAGEMENT RESEARCH

OFFICE OF THE GOVERNOR  
Post Office Box 2950, Hagåtña Guam 96932

EDDIE BAZA CALVO  
GOVERNOR

RAY TENORIO  
LIEUTENANT GOVERNOR

JOSE S. CALVO  
ACTING DIRECTOR

LESTER L. CARLSON, JR.  
DEPUTY DIRECTOR

APR 23 2015

Hon. Michael F.Q. San Nicolas  
Chairman  
Committee on Finance & Taxation  
Ste. 407 DNA Bldg  
238 Archbishop Flores St.  
Hagåtña, Guam 96910

Re: Testimony on Legislative Bill No. 60-33 (COR)

Hafa Adai Senator San Nicolas:

Thank you for the opportunity to provide testimony on Bill No. 60-33:

### **AN ACT TO REPEAL AND REENACT CHAPTER 11, TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM TAX COMMISSION.**

The proposed bill is seeking to create the Guam Tax Commission to improve Guam's tax structure and policies along with promoting economic efficiency, equity, simplicity, enforceability, accountability, and social responsibility.

The Bureau would like to point out that it is not involved in the compliance of revenue collections. The Bureau's role in regards to revenue collections is to monitor, track, and project revenues for the purpose of formulating the Governor's Executive Budget Request and executing the Legislature's adopted budget every fiscal year.

However, the Bureau would like to note that there are significant changes in the proposed bill compared to the previous Legislative Tax Review Commission's mandates as outlined in Chapter 11, Title 2, Guam Code Annotated, notably, but not limited to: 1) §11106(c) and §11106(e) indicating the proposed Guam Tax Commission's intent to de-link from the U.S. Internal Revenue Code under §1271 of Public Law 99-514; and 2) §11106(f) indicating that a new uniform tax code for Guam shall be developed.

Based on the foregoing, the Bureau is unable to support Bill No. 60-33.

Respectfully yours,

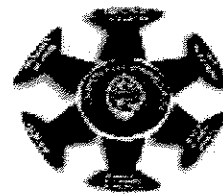
  
JOSE S. CALVO

Office of Senator  
MICHAEL F.Q. SAN NICOLAS  
Received by:   
Date: 04/23/15 Time: 03:15



**Eddie Baza Calvo**  
Governor  
**Ray Tenorio**  
Lieutenant Governor

DEPARTMENT OF ADMINISTRATION  
(DIPATTAMENTON ATMENESTRASION)  
**DIRECTOR'S OFFICE**  
(Ufisinan Direktot)  
Post Office Box 884 \* Hagåtña, Guam 96932  
TEL: (671) 475-1101/1250 \* FAX: (671) 477-6788



**Anthony C. Blaz**  
Acting Director  
**Alfred F. Duenas**  
Deputy Director

April 23, 2015

The Honorable Michael F. Q. San Nicolas  
Assistant Majority Whip  
***I Mina' trentai Tres Na Liheslaturan Guahan***  
Chairperson, Committee on Finance & Taxation, General Government Operations, and Youth  
Development  
Suite 107  
155 Hesler Place  
Hagåtña, Guam 96910

Re: Testimony Bill 60-33(COR)

***Buenas yan Háfa Adai*** Senator San Nicolas,

Thank you for giving me the opportunity to provide testimony on Bill No.60-33(COR):  
**AN ACT TO REPEAL AND REENACT CHAPTER 11, TITLE2, GUAM CODE ANNOTATED, RELATIVE  
TO ESTABLISHING THE GUAM TAX COMMISSION.**

The Department of Administration through the Treasurer of Guam is the depository for payment of taxes imposed by our existing Tax Code. Our personnel do not engage in the creation or interpretation of Tax Policies, as such, the Department of Administration defers to the Department of Revenue and Taxation. Of note, it is a requirement for the Commission to develop a Uniformed Tax Code which would require expertise not available at our Department.

The Department does not support Bill No.60-33(COR)

***Senseramente,***

**ANTHONY C. BLAZ**  
Acting Director



Dipáttamenton Kontribusion yan Adu'ána

DEPARTMENT OF

**REVENUE AND TAXATION**

GOVERNMENT OF GUAM

Gubetnamenton Guåhan

EDDIE BAZA CALVO, Governor Maga'i  
RAY TENORIO, Lt. Governor Titente Gubelna

JOHN P. CAMACHO, Direc  
Direkt  
MARIE M. BENITO, Deputy Direc  
Segundo Direc

April 23, 2015

Senator Michael F.Q. San Nicolas, Chairman  
Committee on Committee on Finance & Taxation,  
General Government Operations and Youth Development

RE: **BILL NO. 60-33(COR): AN ACT TO REPEAL AND REENACT CHAPTER 11, TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM TAX COMMISSION**

Buenas Yan Saludas:

The Department of Revenue & Taxation (DRT) hereby provides the following comments and concerns:

- 1) This legislation, specifically under §11104 regarding membership, attempts to create a legislative commission that includes cabinet members of the executive branch. It also requires executive agencies to provide technical support for this legislative commission. This immediately raises a concern about whether it is organic or whether it impermissibly violates the separation of powers between the branches. We do not offer an opinion on that matter, as it is not our place to do so, but suggest research on the question be conducted. **Assuming the proposed legislation is not inorganic, we would first question what added benefit is provided by amending the law and restructuring the Tax Commission, over reconstituting it as provided for in the current version of the law.** Per the existing law, §11101, the Tax Commission is supposed to be reconstituted every four years since 2007, which means it can be reconstituted this year, 2015.
- 2) Assuming this proposed legislation is not inorganic, it is DRT's position that half of the membership should include positions that are appointed by the Governor so as to insure balance and representation from the executive and legislative branches of the Government of Guam. The reestablishment of the Guam Tax Commission must not usurp the Governor's authority and must preserve the executive branch's functions.
- 3) §11106(c), (e) and (f) state that some of the primary duties of this Commission is to delink from the U.S. Internal Revenue Code and then develop a uniform tax code for Guam. It appears that these functions may be overlapping into executive branch functions and hamper DRT's tax administration efforts. Furthermore, the decision to delink appears to be predetermined as evidenced in this legislation, but should only be done after thorough research and discussion is completed by tax professionals, lawyers and all policy makers to include the Tax Commissioner of Guam, the Governor of Guam. In addition, the duty to establish a uniform tax code should not be mandated as one of the Commission's functions, but may be a Commission recommendation. It is recommended that specific duties already vetted with the executive branch and DRT not be included in this proposed legislation.

- 4) §11107(b), (f), (g) and (h) must be better defined so as not to overburden DRT with requests for reports that are nonexistent or requests that may require confidential taxpayer information prohibited by disclosure rules and laws. Requests for newly generated reports place additional burden on the limited staff and resources of DRT, especially without additional funding. On this issue, we again reiterate our concern about the separation of powers implication.
- 5) §11107(d) and (e) with respect to communication with the U.S. Federal Government and the U.S. Department of Treasury, must ensure that it does not conflict with DRT's or the executive branch's efforts to conduct effective tax administration.
- 6) Lastly, DRT requests that §11108 also mention that funding be made available for DRT if needed, to accommodate requests for reports or studies conducted by DRT for the Commission.

Should you have any concerns on this matter, feel free to contact me at 635-1815

Sincerely,

  
JOHN P. CAMACHO  
Director



**Guam Society of Certified  
Public Accountants**

P.O. Box 5035  
Hagatna, Guam 96932  
<http://guamcpa.org>

**Jason Katigbak**

*President*

[jason.katigbak@gmail.com](mailto:jason.katigbak@gmail.com)

**Sean Phillips**

*Past President*

[sean@babacorp.net](mailto:sean@babacorp.net)

**James Whitt**

*Vice President*

[james.whitt@gu.ev.com](mailto:james.whitt@gu.ev.com)

**Taling Taitano**

*Secretary*

[tmtaitano@gmail.com](mailto:tmtaitano@gmail.com)

**Jim Comer**

*Treasurer*

[jimcomer@guamcpa.com](mailto:jimcomer@guamcpa.com)

**Martha Suez-Sales**

*Auditor*

[martha@uguam.uog.edu](mailto:martha@uguam.uog.edu)

**Jerold Filush**

*Executive Director*

[jfilush@deloitte.com](mailto:jfilush@deloitte.com)

**Stanley Wilson**

*Board Member*

[scw@teleguam.net](mailto:scw@teleguam.net)

22 April 2015

Honorable Michael F.Q. San Nicolas  
Senator, 33<sup>rd</sup> Guam Legislature  
Ste. 407 DNA Building  
238 Archbishop Flores Street  
Hagatna, Guam 96910

**RE: Testimony in Support of Bill 60-33**

On behalf of the Guam Society of Certified Public Accountants (CPA), we thank you for the opportunity to provide a testimony in support of the intent of Bill 60-33, *An Act to Repeal and Reenact Chapter 11, Title 2, Guam Code Annotated, Relative to Establishing the Guam Tax Commission.*

The Guam Society of CPAs is a member association representing the accounting profession in Guam consisting of approximately 150 professionals representing many areas of practice, including business and industry, public practice, government, education and consulting. The Guam Society of CPAs is part of the American Institute of Certified Public Accountants (AICPA). The AICPA sets ethical standards for the profession and U.S. auditing standards for private companies, nonprofit organizations, federal, state and local governments.

We have reviewed Bill 60-33 and the Guam Society of CPA's generally supports its passage by I Liheslaturan Guahan. Matters that the Guam Society of CPAs would like to highlight are the following:

- Title 12 Guam Code Annotated Chapter 58 on Qualifying Certificates, is not included as part of this tax reform project; and,
- Section 11109 of the bill indicated that the Tax Commission shall dissolve at the end of each legislative term; the concern is on the seamless transition from one term to another.

We look forward to the eventual appointment of one of our members to the Guam Tax Commission and to providing input on ways to improve Guam's tax structure.

Thank you for the opportunity to testify on Bill 60-33.

Sincerely,

  
**Jason Katigbak**  
President

Program Year 2015-2016





# COMMITTEE ON RULES

*I Mina'trentai Tres na Liheslaturan Guåhan* • The 33rd Guam Legislature  
155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)  
E-mail: [roryforyguam@gmail.com](mailto:roryforyguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

April 21, 2015

Senator  
Thomas C. Ada  
VICE CHAIRPERSON  
ASSISTANT MAJORITY LEADER

## Memorandum

Speaker  
Judith T.P. Won Pat, Ed.D.  
Member

To: **Rennae Meno**  
*Clerk of the Legislature*

Vice-Speaker  
Benjamin J.F. Cruz  
Member

From: **Senator Rory J. Respicio**  
*Majority Leader & Rules Chair*

Legislative Secretary  
Tina Rose Muna Barnes  
Member

Subject: **Fiscal Note**

Senator  
Dennis G. Rodriguez, Jr.  
Member

*Hafa Adai!*

Attached please find the fiscal note for the bill number listed below. Please note that the fiscal note is issued on the bill as introduced.

Senator  
Frank Blas Aguon, Jr.  
Member

**FISCAL NOTE:**  
Bill No. 60-33(COR)

Senator  
Michael F.Q. San Nicolas  
Member

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Senator  
Nerissa Bretania Underwood  
Member

*Si Yu'os mu'åse'!*

V. Anthony Ada  
MINORITY LEADER

Mary C. Torres  
MINORITY MEMBER

2015 APR 21 PM 5:04

**Bureau of Budget & Management Research  
Fiscal Note of Bill No. 60-33 (COR)**

**AN ACT TO REPEAL AND REENACT CHAPTER 11, TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM TAX COMMISSION.**

| Department/Agency Appropriation Information  |                                    |
|--|------------------------------------|
| Dept./Agency Affected: Department of Revenue and Taxation  | Dept./Agency Head: John P. Camacho |
| Department's General Fund (GF) appropriation(s) to date:   | 9,052,847                          |
| Department's Other Fund (Specify) appropriation(s) to date: Tax Collection Enhancement Fund (\$864,487) / Better Public Service Fund (\$1,829,515) | 2,694,002                          |
| <b>Total Department/Agency Appropriation(s) to date:</b>   | <b>\$11,746,849</b>                |

| Fund Source Information of Proposed Appropriation |               |                         |            |
|---|---------------|-------------------------|------------|
|   | General Fund: | (Specify Special Fund): | Total:     |
| FY 2014 Unreserved Fund Balance                   |               | \$0                     | \$0        |
| FY 2015 Adopted Revenues                          | \$0           | \$0                     | \$0        |
| FY 2015 Appro. (P.L. 32-181)                      | \$0           | \$0                     | \$0        |
| Sub-total:  | \$0           | \$0                     | \$0        |
| Less appropriation in Bill                        | \$0           | \$0                     | \$0        |
| <b>Total:</b>                                     | <b>\$0</b>    | <b>\$0</b>              | <b>\$0</b> |

| Estimated Fiscal Impact of Bill |                      |  |            |            |            |            |
|---------------------------------|----------------------|--|------------|------------|------------|------------|
|                                 | One Full Fiscal Year | For Remainder of FY 2015 (if applicable) | FY 2016    | FY 2017    | FY 2018    | FY 2019    |
| General Fund                    | 1/                   | \$0                                      | \$0        | \$0        | \$0        | \$0        |
| (Specify Special Fund)          | 1/                   | \$0                                      | \$0        | \$0        | \$0        | \$0        |
| <b>Total</b>                    | <b>1/</b>            | <b>\$0</b>                               | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

- Does the bill contain "revenue generating" provisions? / / Yes /x/ No  
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /x/ N/A / / Yes / / No  
If no, what is the additional amount required? Reference footnotes / / N/A
- Does the Bill establish a new program/agency? / / Yes /x/ No  
If yes, will the program duplicate existing programs/agencies? /x/ N/A / / Yes / / No  
Is there a federal mandate to establish the program/agency? / / Yes /x/ No
- Will the enactment of this Bill require new physical facilities? / / Yes /x/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: /x/ Yes / / No  
/x / Requested agency comments not received by due date / / Other:

|  |                      |                              |                      |
|--|----------------------|------------------------------|----------------------|
| Analyst: <u>Michael M. Aflague, B&amp;M Analyst IV</u> | Date: <u>4/20/15</u> | Director: <u>[Signature]</u> | Date: <u>4-21-15</u> |
|--|----------------------|------------------------------|----------------------|

Footnote: 1/ Bill 60-33 seeks to establish the Guam Tax Commission without compensation to commission members unless actual expenses are incurred in the performance of their duties which are reimbursable directly by the Legislature.



## COMMITTEE ON RULES

*I Mina'trentai Tres na Liheslaturan Guåhan* • The 33rd Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)

E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

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Michael F.Q. San Nicolas  
Member

Senator  
Nerissa Bretania Underwood  
Member

V. Anthony Ada  
MINORITY LEADER

Mary C. Torres  
MINORITY MEMBER

March 25, 2015

### MEMORANDUM

**To:** **Rennae Meno**  
*Clerk of the Legislature*

**Attorney Therese M. Terlaje**  
*Legislative Legal Counsel*

**From:** **Senator Rory J. Respicio**  
*Chairperson, Committee on Rules*

**Subject:** **Referral of Bill No. 60-33(COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 60-33(COR)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Tres Na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

*Si Yu'os Ma'åse!*

Attachment

*I Mina'Trentai Tres Na Liheslaturan Received*

**Bill Log Sheet**

| BILL NO.       | SPONSOR   | TITLE  | DATE INTRODUCED        | DATE REFERRED | CMTE REFERRED  | PUBLIC HEARING DATE | DATE COMMITTEE REPORT FILED | FISCAL NOTES |
|----------------|---|--|------------------------|---------------|--|---------------------|-----------------------------|--------------|
| 60-33<br>(COR) | Michael F.Q. San Nicolas<br>B. J.F. Cruz<br>T. C. Ada<br>N. B. Underwood, Ph.D.<br>Mary Camacho Torres<br>James V. Espaldon | AN ACT TO REPEAL AND REENACT CHAPTER 11, TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM TAX COMMISSION. | 03/25/15<br>12:21 P.m. | 03/25/15      | Committee on Finance and Taxation, General Government Operations and Youth Development |                     |                             |              |



Senator Michael San Nicolas <senatorsannicolas@gmail.com>

## First Public Notice - April 23, 2015 Legislative Hearings

Senator Michael San Nicolas <senatorsannicolas@gmail.com>

Thu, Apr 16, 2015 at 3:29 PM

To: Senator Michael San Nicolas <senatorsannicolas@gmail.com>

Bcc: mvariety <mvariety@pticom.com>, Sabrina Salas Matanane <hottips@kuam.com>, Sorensen <news@spbgum.com>, aperez@gpagwa.com, Duane George <dmgeorge@guampdn.com>, Frank Whitman <editor@mvguam.com>, Gerry Partido <gerry@mvguam.com>, gmmsinc@guam.net, Jason Salas <jason@kuam.com>, Kelly Cho <kcn.kelly@gmail.com>, Korean News <koreannews@guam.net>, KPRG <kprg@guam.net>, PDN Lifestyle <life@guampdn.com>, mabuhaynews@yahoo.com, Masako Watanabe <mwatanabe@guampdn.com>, K57 <news@k57.com>, Patti Arroyo <parroyo@k57.com>, Ray Gibson <rgibson@k57.com>, Sabrina Salas Matanane <sabrina@kuam.com>, Steve Limtiaco <slimtiaco@guampdn.com>, sports@mvguam.com, tcoffman@k57.com, dcrisost@guam.gannett.com, weavert@pstripes.osd.mil, Pacific Daily News <news@guampdn.com>, Bruce Hill <hill.bruce@abc.net.au>, Bruce Hill <pacificjournalist@gmail.com>, parroyo@spbgum.com, Clynt Ridgell <clynt@spbgum.com>, mcpherson.kathryn@abc.net.au, communications@guam.gov, phnotice@guamlegislature.org, jalerta1 <alerta.jermaine@gmail.com>, Matthew Baza <baza.matthew@gmail.com>, Delisa Kloppenburg <delisakloppenburg@gmail.com>, Louella Losinio <louella@mvguam.com>, david@mvguam.com, John Paul Manuel <jpmanuel@gmail.com>, Speaker Judi Won Pat <speaker@judiwonpat.com>, Vice Speaker Benjamin Cruz <senadotbjcruz@aol.com>, Senator Tina Muña Barnes <senator@tinamunabarnes.com>, Senator Rory Respicio <rorifyorguam@gmail.com>, "Dennis Rodriguez, Jr." <senatordrodriguez@gmail.com>, Senator Tom Ada <office@senatorada.org>, Senator Tony Ada <tony@tonyada.com>, Brant McCreadie <brantforguam@gmail.com>, Senator Brant McCreadie <senatorbrantmccreadie@gmail.com>, "Senator Frank Aguon, Jr." <aguon4guam@gmail.com>, Senator Tommy Morrison <tommy@senatormorrison.com>, "Mayor Paul M. McDonald" <mayor.mcdonald671@gmail.com>, agatmayorsoffice@hotmail.com, asanmainamayorsoffice@yahoo.com, bmomayor@teleguam.net, bmovmayor@teleguam.net, Jessy Gogue <ocp.mayor@gmail.com>, MELISSA SAVARES <melissa.savares@gmail.com>, peter\_daigo@hotmail.com, hagatnamayor@hotmail.com, Doris Lujan <mayordorisfloreslujan@gmail.com>, nblas\_mangilaomayor@yahoo.com, vicemayor\_allan.ungacta@yahoo.com, mayorernestc@yahoo.com, mtm\_mayors\_office@yahoo.com, pitimayor@yahoo.com, Robert Hofmann <guammayor@gmail.com>, rudy iriarte <rudyiriarte@gmail.com>, talofomayor@gmail.com, "Mayor Louise C. Rivera" <mayorlcrivera.tatuha@gmail.com>, "Vice Mayor Ken C. Santos" <vicemayorksantos.tatuha@gmail.com>, Umatac Mayor <umatacmo@gmail.com>, koner.r@gmail.com, arleen81@gmail.com, kenjoeadaa@yahoo.com, anghet@hotmail.com, Ken Quintanilla <kenq@kuam.com>, Dale Alvarez <dalealvarez@gmail.com>, Responsible Guam <responsibleguam@gmail.com>, Regine Biscoe Lee <regineb.lee@gmail.com>, Chuck Ada <chuck.ada@guamairport.net>, peterroy@guamairport.net, lorilee.crisostomo@bsp.guam.gov, doagridir@yahoo.com, eduardo.ordonez@clb.guam.gov, cgarcia@investguam.com, Eric Palacios <eric.palacios@epa.guam.gov>, ndenight@visitguam.org, jbrown@portguam.com, david.camacho@dlim.guam.gov, Michael Duenas <mjduenas@ghura.org>, martin.benavente@ghc.guam.gov, joseph.cameron@hrra.guam.gov, adonis.mendiola@dya.guam.gov, jose.sanagustin@doc.guam.gov, pedro.leonguerrero@cqa.guam.gov, joey.sannicolas@gfd.guam.gov, fred.bordallo@gpd.guam.gov, chief@gpd.guam.gov, jim.mcdonald@ghs.guam.gov, benito.servino@disid.guam.gov, james.gillan@dphss.guam.gov, Leo Casil <leo.casil@dphss.guam.gov>, joseph.verga@gmha.org, benita.manglona@doa.guam.gov, anthony.blaz@doa.guam.gov, "John P. Camacho" <john.camacho@revtax.guam.gov>, "Marie M. Benito" <marie.benito@revtax.guam.gov>, john.unpingco@gvao.guam.gov, jonfernandez@gdoe.net, Mary Okada <mary.okada@guamcc.edu>, raunderwood@uguam.uog.edu, AG Law <law@guamag.org>, rey.vega@mail.dmhsa.guam.gov, Julian Janssen <julian.c.janssen@gmail.com>, Gerry Partido <gerrypartido@gmail.com>, eddiecalvo@yahoo.com, Ray Tenorio <ray.tenorio@guam.gov>, mstajeron <mstajeron@investguam.com>, tsantos <tsantos@investguam.com>, frank <frank@mvguam.com>, T'Nelta Mori <tmori2222@gmail.com>, Joshua Tenorio <jtenorio@guamcourts.org>, Valerie Cruz <vcruz@guamcourts.org>, josh.tyquiengco@visitguam.org, Barrigada MayorsOffice <broadadmin@teleguam.net>, Cheryl Chargualaf <cherylchargualaf1993@gmail.com>, Rikki Orsini <orsini.rikki@gmail.com>, ambrosio.constantino@ghs.guam.gov, Diana Sojo <yigomayorsoffice@gmail.com>, editor@saipantribune.com, jpsablan@guampdn.com, "Sablan, Jerick P" <jpsablan@guam.gannett.com>, isa <isa@kuam.com>, "Raymundo, Shawn" <sraymundo@guam.gannett.com>, Senator Mary Camacho Torres <marycamachotorres@gmail.com>, Senator Jim Espaldon <senatorjvespaldon@gmail.com>, "Senator Frank Blas, Jr." <frank.blasjr@gmail.com>, Senator Nerissa Bretania Underwood <senatorunderwood@guamlegislature.org>, Vejoh Torres <vejohntorres@gmail.com>, Oyaol Ngirairiki <oya@guam.gov>, Julius Santos

<julius.santos@guam.gov>, franklin.arriola@guam.gov, sixtoquintanilla <sixtoquintanilla@gmail.com>

## FIRST PUBLIC NOTICE

### FOR IMMEDIATE RELEASE

April 16, 2015

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that Senator Michael F.Q. San Nicolas, Chairman of the Committee on Finance & Taxation, General Government Operations, and Youth Development, will be convening a public hearing on **Thursday, April 23, 2015, 6:00 p.m.**, in *I Liheslaturan Guåhan's* Public Hearing Room on the following items:

**Bill No. 58-33 (LS), introduced by J.T. Won Pat, Ed.D., T.A. Morrison, and T.R. Muna Barnes:** AN ACT TO AMEND §2311(b) AND §2311(e)(3) OF CHAPTER 23, DIVISION 2, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE USE OF GOVERNMENT TRAVEL MILEAGE BENEFITS FOR OFF-ISLAND STUDENT TRAVEL INVOLVING ACADEMIC, SPORTS, AND CULTURAL ACTIVITIES.

**Bill No. 60-33 (COR), introduced by M.F.Q. San Nicolas, B.J.F. Cruz, T.C. Ada, N.B. Underwood, Ph.D., M.C. Torres, and J.V. Espaldon:** AN ACT TO REPEAL AND REENACT CHAPTER 11, TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM TAX COMMISSION.

**Bill No. 64-33 (COR), introduced by T.A. Morrison, V.A. Ada, and T.R. Barnes:** AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 40 OF 5GCA RELATIVE TO PROVIDING PUBLIC BROADBAND INTERNET SERVICES IN VILLAGE COMMUNITY CENTERS.


**Bill No. 76-33 (COR), introduced by D.G. Rodriguez, Jr.:** AN ACT TO AMEND §3201.1(a) OF CHAPTER 3, DIVISION 1, TITLE 10, GUAM CODE ANNOTATED, TO PROVIDE FOR THE QUALIFICATIONS OF THE TERRITORIAL EPIDEMIOLOGIST OF THE DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES.


If written testimonies are to be presented for the items listed above, copies should be delivered prior to the hearing date. Testimonies should be addressed to Senator Michael F.Q. San Nicolas and will be accepted via hand delivery to our office at the DNA Building, Suite 407, 238 Archbishop Flores Street, Hagatna, Guam; at the mail room at the Main Legislature Building at 155 Hesler Place, Hagatna, Guam 96910; or via email to [senatorsannicolas@gmail.com](mailto:senatorsannicolas@gmail.com). In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Michael F.Q. San Nicolas at (671) 472-6453 or by sending an email to [senatorsannicolas@gmail.com](mailto:senatorsannicolas@gmail.com).


###


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**4 attachments**

 **Bill No. 58-33 (LS) - JTWP.pdf**  
43K

 **Bill No. 60-33 (COR) - MFQSN.pdf**  
267K

 **Bill No. 64-33 (COR) - TAM.pdf**  
86K

 **Bill No. 76-33 (COR) - DGR.pdf**  
41K



Senator Michael San Nicolas <senatorsannicolas@gmail.com>

## Second Public Notice - April 23, 2015 Legislative Hearings

Senator Michael San Nicolas <senatorsannicolas@gmail.com>

Tue, Apr 21, 2015 at 3:17 PM

To: Senator Michael San Nicolas <senatorsannicolas@gmail.com>

Bcc: mvariety <mvariety@pticom.com>, Sabrina Salas Matanane <hottips@kuam.com>, Sorensen <news@spbgum.com>, aperez@gpagwa.com, Duane George <dmgeorge@guampdn.com>, Frank Whitman <editor@mvguam.com>, Gerry Partido <gerry@mvguam.com>, gmmsinc@guam.net, Jason Salas <jason@kuam.com>, Kelly Cho <kc.kelly@gmail.com>, Korean News <koreannews@guam.net>, KPRG <kprg@guam.net>, PDN Lifestyle <life@guampdn.com>, mabuhaynews@yahoo.com, Masako Watanabe <mwatanabe@guampdn.com>, K57 <news@k57.com>, Patti Arroyo <parroyo@k57.com>, Ray Gibson <rgibson@k57.com>, Sabrina Salas Matanane <sabrina@kuam.com>, Steve Limtiaco <slimtiaco@guampdn.com>, sports@mvguam.com, tcoffman@k57.com, dcrisost@guam.gannett.com, weavert@pstripes.osd.mil, Pacific Daily News <news@guampdn.com>, Bruce Hill <hill.bruce@abc.net.au>, Bruce Hill <pacificjournalist@gmail.com>, parroyo@spbgum.com, Clynt Ridgell <clynt@spbgum.com>, mcpherson.kathryn@abc.net.au, communications@guam.gov, phnotice@guamlegislature.org, jalerta1 <alerta.jermaine@gmail.com>, Matthew Baza <baza.matthew@gmail.com>, Delisa Kloppenburg <delisakloppenburg@gmail.com>, Louella Losinio <louella@mvguam.com>, david@mvguam.com, John Paul Manuel <jpmanuel@gmail.com>, Speaker Judi Won Pat <speaker@judiwonpat.com>, Vice Speaker Benjamin Cruz <senadotbjcruz@aol.com>, Senator Tina Muña Barnes <senator@tinamunabarnes.com>, Senator Rory Respicio <rorifyorguam@gmail.com>, "Dennis Rodriguez, Jr." <senatorrodriguez@gmail.com>, Senator Tom Ada <office@senadora.org>, Senator Tony Ada <tony@tonyada.com>, Brant McCreddie <brantforguam@gmail.com>, Senator Brant McCreddie <senatorbrantmccreddie@gmail.com>, "Senator Frank Aguon, Jr." <aguon4guam@gmail.com>, Senator Tommy Morrison <tommy@senatormorrison.com>, "Mayor Paul M. McDonald" <mayor.mcdonald671@gmail.com>, agatmayorsoffice@hotmail.com, asanmainamayorsoffice@yahoo.com, bmomayor@teleguam.net, bmovmayor@teleguam.net, Jessy Gogue <ocp.mayor@gmail.com>, MELISSA SAVARES <melissa.savares@gmail.com>, peter\_daigo@hotmail.com, hagatnamayor@hotmail.com, Doris Lujan <mayordorisfloreslujan@gmail.com>, nblas\_mangilaomayor@yahoo.com, vicemayor\_allan.ungacta@yahoo.com, mayoremestc@yahoo.com, mtm\_mayors\_office@yahoo.com, pitimayor@yahoo.com, Robert Hofmann <guammayor@gmail.com>, rudy iriarte <rudyiriarte@gmail.com>, talofofomayor@gmail.com, "Mayor Louise C. Rivera" <mayorlcrivera.tatuha@gmail.com>, "Vice Mayor Ken C. Santos" <vicemayorksantos.tatuha@gmail.com>, Umatac Mayor <umatacmo@gmail.com>, kones.r@gmail.com, arleen81@gmail.com, kenjoead@yahoo.com, anghet@hotmail.com, Ken Quintanilla <kenq@kuam.com>, Dale Alvarez <dalealvarez@gmail.com>, Responsible Guam <responsibleguam@gmail.com>, Regine Biscoe Lee <regineb.lee@gmail.com>, Chuck Ada <chuck.ada@guamairport.net>, peterroy@guamairport.net, lorilee.crisostomo@bsp.guam.gov, doagridir@yahoo.com, eduardo.ordonez@clb.guam.gov, cgarcia@investguam.com, Eric Palacios <eric.palacios@epa.guam.gov>, ndenight@visitguam.org, jbrown@portguam.com, david.camacho@dlim.guam.gov, Michael Duenas <mjduenas@ghura.org>, martin.benavente@ghc.guam.gov, joseph.cameron@hrra.guam.gov, adonis.mendiola@dya.guam.gov, jose.sanagustin@doc.guam.gov, pedro.leonguerrero@cqa.guam.gov, joey.sannicolas@gfd.guam.gov, fred.bordallo@gpd.guam.gov, chief@gpd.guam.gov, jim.mcdonald@ghs.guam.gov, benito.servino@disid.guam.gov, james.gillan@dphss.guam.gov, Leo Casil <leo.casil@dphss.guam.gov>, joseph.verga@gmha.org, benita.manglona@doa.guam.gov, anthony.blaz@doa.guam.gov, "John P. Camacho" <john.camacho@revtax.guam.gov>, "Marie M. Benito" <marie.benito@revtax.guam.gov>, john.unpingco@gvao.guam.gov, jonfernandez@gdoe.net, Mary Okada <mary.okada@guamcc.edu>, raunderwood@uguam.uog.edu, AG Law <law@guamag.org>, rey.vega@mail.dmhsa.guam.gov, Julian Janssen <julian.c.janssen@gmail.com>, Gerry Partido <gerrypartido@gmail.com>, eddiecalvo@yahoo.com, Ray Tenorio <ray.tenorio@guam.gov>, mstajeron <mstajeron@investguam.com>, tsantos <tsantos@investguam.com>, frank <frank@mvguam.com>, T'Nelta Mori <tmori2222@gmail.com>, Joshua Tenorio <jtenorio@guamcourts.org>, Valerie Cruz <vcruz@guamcourts.org>, josh.tyquiengco@visitguam.org, Barrigada MayorsOffice <broadadmin@teleguam.net>, Cheryl Chargualaf <cherylchargualaf1993@gmail.com>, Rikki Orsini <orsini.rikki@gmail.com>, ambrosio.constantino@ghs.guam.gov, Diana Sojo <yigomayorsoffice@gmail.com>, editor@saipantribune.com, jpsablan@guampdn.com, "Sablan, Jerick P" <jpsablan@guam.gannett.com>, isa <isa@kuam.com>, "Raymundo, Shawn" <rraymundo@guam.gannett.com>, Senator Mary Camacho Torres <marycamachotorres@gmail.com>, Senator Jim Espaldon <senatorjvespaldon@gmail.com>, "Senator Frank Blas, Jr." <frank.blasjr@gmail.com>, Senator Nerissa Bretania Underwood <senatorunderwood@guamlegislature.org>, Vejoh Torres <vejohntorres@gmail.com>, Oyaol Ngirairiki <oya@guam.gov>, Julius Santos



<julius.santos@guam.gov>, franklin.amiola@guam.gov, sixtoquintanilla <sixtoquintanilla@gmail.com>, jespaldonesq@gmail.com

## SECOND PUBLIC NOTICE

### FOR IMMEDIATE RELEASE

April 21, 2015

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that Senator Michael F.Q. San Nicolas, Chairman of the Committee on Finance & Taxation, General Government Operations, and Youth Development, will be convening a public hearing on **Thursday, April 23, 2015, 6:00 p.m.**, in *Liheslaturan Guåhan's* Public Hearing Room on the following items:

**Bill No. 58-33 (LS), introduced by J.T. Won Pat, Ed.D., T.A. Morrison, and T.R. Muna Barnes:** AN ACT TO AMEND §2311(b) AND §2311(e)(3) OF CHAPTER 23, DIVISION 2, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE USE OF GOVERNMENT TRAVEL MILEAGE BENEFITS FOR OFF-ISLAND STUDENT TRAVEL INVOLVING ACADEMIC, SPORTS, AND CULTURAL ACTIVITIES.

**Bill No. 60-33 (COR), introduced by M.F.Q. San Nicolas, B.J.F. Cruz, T.C. Ada, N.B. Underwood, Ph.D., M.C. Torres, and J.V. Espaldon:** AN ACT TO REPEAL AND REENACT CHAPTER 11, TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM TAX COMMISSION.

**Bill No. 64-33 (COR), introduced by T.A. Morrison, V.A. Ada, and T.R. Barnes:** AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 40 OF 5GCA RELATIVE TO PROVIDING PUBLIC BROADBAND INTERNET SERVICES IN VILLAGE COMMUNITY CENTERS.


**Bill No. 76-33 (COR), introduced by D.G. Rodriguez, Jr.:** AN ACT TO AMEND §3201.1(a) OF CHAPTER 3, DIVISION 1, TITLE 10, GUAM CODE ANNOTATED, TO PROVIDE FOR THE QUALIFICATIONS OF THE TERRITORIAL EPIDEMIOLOGIST OF THE DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES.


If written testimonies are to be presented for the items listed above, copies should be delivered prior to the hearing date. Testimonies should be addressed to Senator Michael F.Q. San Nicolas and will be accepted via hand delivery to our office at the DNA Building, Suite 407, 238 Archbishop Flores Street, Hagatna, Guam; at the mail room at the Main Legislature Building at 155 Hesler Place, Hagatna, Guam 96910; or via email to [senatorsannicolas@gmail.com](mailto:senatorsannicolas@gmail.com). In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Michael F.Q. San Nicolas at (671) 472-6453 or by sending an email to [tosenatorsannicolas@gmail.com](mailto:tosenatorsannicolas@gmail.com).


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**4 attachments**

 **Bill No. 58-33 (LS) - JTWP.pdf**  
43K

 **Bill No. 60-33 (COR) - MFQSN.pdf**  
267K

 **Bill No. 64-33 (COR) - TAM.pdf**  
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Updated as of March 25, 2015

|                                    |
|------------------------------------|
| aalladi@guampdn.com                |
| action@weareguahan.com             |
| admin2@guamrealtors.com            |
| admin@frankaguonjr.com             |
| admin@guamrealtors.com             |
| admin@weareguahan.com              |
| aguon4guam@gmail.com               |
| agusto.aflague@gmail.com           |
| ahernandez@guamlegislature.org     |
| ajuan@kijifm104.com                |
| alerta.jermaine@gmail.com          |
| aline4families@gmail.com           |
| am800guam@gmail.com                |
| amandalee.shelton@mail.house.gov   |
| amcborja@gmail.com                 |
| amier@mvguam.com                   |
| ang.duenas@gmail.com               |
| ataligba@gmail.com                 |
| av@guamlegislature.org             |
| avon.guam@gmail.com                |
| baza.matthew@gmail.com             |
| bbautista@spbg Guam.com            |
| bdydasco@senatorada.org            |
| bella@judiwonpat.com               |
| bernice@tinamunabarnes.com         |
| berthaduenas@guamlegislature.org   |
| betsy@spbg Guam.com                |
| bmkelman@guampdn.com               |
| brantforguam@gmail.com             |
| breanna.lai@mail.house.gov         |
| bruce.lloyd.media@gmail.com        |
| bshringi@moylans.net               |
| carlaborja.73@yahoo.com            |
| carlsanchez@judiwonpat.com         |
| carlsonc@pstripes.osd.mil          |
| ccastro@guamchamber.com.gu         |
| ccharfauros@guamag.org             |
| ccolbert@guamlegislature.org       |
| ccruz.duenas@gmail.com             |
| charlesondera@gmail.com            |
| chechsantos@gmail.com              |
| cheerfulcatunao@yahoo.com          |
| christine.quinata@takecareasia.com |
| cipo@guamlegislature.org           |
| clerks@guamlegislature.org         |
| clynt@spbg Guam.com                |
| committee@frankaguonjr.com         |
| communications@frankaguonjr.com    |
| communications@guam.gov            |
| cor@guamlegislature.org            |
| coy@senatorada.org                 |
| cyrus@senatorada.org               |
| danireyes@senatorbjcruz.com        |

|                                   |
|-----------------------------------|
| darryl@tinamunabarnes.com         |
| dcrisost@guam.gannett.com         |
| delisleduenas@judiwonpat.com      |
| desori623@hotmail.com             |
| divider_j_jimenez@hotmail.com     |
| dleddy@guamchamber.com.gu         |
| dmgeorge@guampdn.com              |
| dtamondong@guampdn.com            |
| duenasenator@gmail.com            |
| ed@tonyada.com                    |
| edelynn1130@hotmail.com           |
| editor@mvguam.com                 |
| editor@saipantribune.com          |
| edpocaigue@judiwonpat.com         |
| eflores@senatorbjcruz.com         |
| egg3759@yahoo.com                 |
| emqcho@gmail.com                  |
| eo@guamrealtors.com               |
| etajalle@guamlegislature.org      |
| evelyn4families@gmail.com         |
| ewinstoni@yahoo.com               |
| fbtorres@judiwonpat.com           |
| fes22744@gmail.com                |
| flores@senatorada.org             |
| frank.blasjr@gmail.com            |
| frank@judiwonpat.com              |
| frank@mvguam.com                  |
| gdumat-ol@guampdn.com             |
| gerry@mvguam.com                  |
| gerrypartido@gmail.com            |
| gina@mvguam.com                   |
| gina.fccg12@yahoo.com             |
| gktv23@hotmail.com                |
| guadalupeignacio@gmail.com        |
| guam.avon@gmail.com               |
| guam@pstripes.osd.mil             |
| guamnativesun@yahoo.com           |
| hana@guam-shinbun.com             |
| hermina.certeza@senatorbjcruz.com |
| hill.bruce@abc.net.au             |
| hottips@kuam.com                  |
| info@chinesetimesguam.com         |
| janela@mvguam.com                 |
| jason@kuam.com                    |
| jason@senatormorrison.com         |
| jean@tinamunabarnes.com           |
| jennifer.lj.dulla@gmail.com       |
| jennifer@mvguam.com               |
| jespaldonesq@gmail.com            |
| joan@kuam.com                     |
| joe@toduguam.com                  |
| joesa@guamlegislature.org         |
| john.calvo@noaa.gov               |

**Listserv: [phnotice@guamlegislature.org](mailto:phnotice@guamlegislature.org)  
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|  |
|--|
| john@kuam.com                          |
| johnluces@toduguam.com                 |
| jon.calvo@mail.house.gov               |
| jontalk@gmail.com                      |
| jpmanuel@gmail.com                     |
| jstedaotao@gmail.com                   |
| jtenorio@guamcourts.org                |
| julian.c.janssen@gmail.com             |
| juliette@senatorada.org                |
| kai@spbguam.com                        |
| kcn.kelly@gmail.com                    |
| keepinginformed.671@gmail.com          |
| kelly.toves@mail.house.gov             |
| kennylg@guamlegislature.org            |
| keng@kuam.com                          |
| kevin@spbguam.com                      |
| khmg@hbcguam.net                       |
| koreannews@guam.net                    |
| koreatv@kuentos.guam.net               |
| kstokish@gmail.com                     |
| kstone@ite.net                         |
| law@guamag.org                         |
| legislativecounsel@guamlegislature.org |
| leling@judiwonpat.com                  |
| life@guampdn.com                       |
| ljalcairo@gmail.com                    |
| lmatthews@guampdn.com                  |
| louella@mvguam.com                     |
| louise@tonyada.com                     |
| m.salaila@yahoo.com                    |
| mabuhaynews@yahoo.com                  |
| mahoquinene@guam.net                   |
| malainse@gmail.com                     |
| maria.pangelinan@gec.guam.gov          |
| marym@guamlegislature.org              |
| marycamachotorres@gmail.com            |
| maryfejeran@gmail.com                  |
| matthew@senatormorrison.com            |
| matthew.santos@senatorbjcruz.com       |
| mcarlson@guamlegislature.org           |
| mcperson.kathryn@abc.net.au            |
| media@frankaguonjr.com                 |
| menchu@toduguam.com                    |
| millie@tinamunabarnes.com              |
| mindy@kuam.com                         |
| mis@guamlegislature.org                |
| miseke@mvguam.com                      |
| mlwheeler2000@yahoo.com                |
| monty.mcdowell@amiguam.com             |
| mspeps4873@gmail.com                   |
| mvariety@pticom.com                    |
| mwatanabe@guampdn.com                  |
| natasha@toduguam.com                   |

|                                      |
|--------------------------------------|
| news@guampdn.com                     |
| news@spbguam.com                     |
| nick@kuam.com                        |
| nicoleramos@toduguam.com             |
| norman.aguilar@guamcc.edu            |
| nsantos@guamlegislature.org          |
| odngirairikl@guampdn.com             |
| office@senatorada.org                |
| officeassistant@frankaguonjr.com     |
| oliviampalacios@gmail.com            |
| onlyonguam@acubedink.com             |
| orleen@senatorbjcruz.com             |
| pacificjournalist@gmail.com          |
| parroyo@k57.com                      |
| pdkprg@gmail.com                     |
| pete@tonyada.com                     |
| phillipsguam@gmail.com               |
| policy@frankaguonjr.com              |
| publisher@glimpsesofiguam.com        |
| rennae@guamlegislature.org           |
| responsibleguam@gmail.com            |
| rfeehan@yahoo.com                    |
| rgibson@k57.com                      |
| ricknauta@hitradio100.com            |
| rlimtiaco@guampdn.com                |
| rolly@ktkb.com                       |
| roryforguam@gmail.com                |
| rowena@senatormorrison.com           |
| senator@senatorbjcruz.com            |
| senator@tinamunabarnes.com           |
| senatorbrantmccreadie@gmail.com      |
| senatordrodriguez@gmail.com          |
| senjvespaldon@gmail.com              |
| senatorsannicolas@gmail.com          |
| senator@tonyada@guamlegislature.org  |
| senatorunderwood@guamlegislature.org |
| sgflores@tinamunabarnes.com          |
| sgtarms@guamlegislature.org          |
| sitarose2@yahoo.com                  |
| sixquintanilla@gmail.com             |
| slimtiaco@guampdn.com                |
| smendiola@guamlegislature.org        |
| sonedera-salas@guamlegislature.org   |
| speaker@judiwonpat.com               |
| staff@frankaguonjr.com               |
| stephaniemendiola@gmail.com          |
| tanya4families@gmail.com             |
| tasigirl@gmail.com                   |
| tcastro@guam.net                     |
| telo.taitague@visitguam.org          |
| tessa@senatorbjcruz.com              |
| thebigshow@guamcell.net              |
| thebigshow@k57.com                   |

**Listserv: [phnotice@guamlegislature.org](mailto:phnotice@guamlegislature.org)**

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|                               |
|-------------------------------|
| therese.hart.writer@gmail.com |
| tina@tinamunabarnes.com       |
| tina.alicto@yahoo.com         |
| tinamunabarnes@gmail.com      |
| tjtaitano@cs.com              |
| tom@senatorada.org            |
| tommy@senatormorrison.com     |
| tony@senatorada.org           |
| tony@tonyada.com              |
| tpocaigue@judiwonpat.com      |

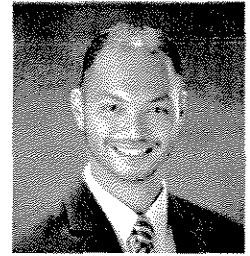
|                                  |
|----------------------------------|
| tritten@pstripes.osd.mil         |
| tterlaje@guam.net                |
| vejohntorres@guamlegislature.org |
| vince@tinamunabarnes.com         |
| vleonguerrero@judiwonpat.com     |
| xiosormd@gmail.com               |
| xiosormd@yahoo.com               |
| ylee2@guam.gannett.com           |
| zita@mvguam.com                  |
| zpalomo@guamag.org               |



# Senator Michael F.Q. San Nicolas

Chairman - Committee on Finance & Taxation,  
General Government Operations, and Youth Development  
*I Mina'trentai Tres Na Liheslaturan Guåhan* | 33<sup>rd</sup> Guam Legislature

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**Legislative Hearing**  
**Thursday, April 23, 2015**  
**6:00 p.m.**  
Public Hearing Room  
*I Liheslaturan Guåhan*

## AGENDA

### **I. Call to Order**

### **II. Opening Remarks/Announcements**

### **III. Items for Public Consideration**

**Bill No. 60-33 (COR), introduced by M.F.Q. San Nicolas, B.J.F. Cruz, T.C. Ada, N.B. Underwood, Ph.D., M.C. Torres, and J.V. Espaldon: AN ACT TO REPEAL AND REENACT CHAPTER 11, TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM TAX COMMISSION.**

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### **IV. Closing Remarks**

### **V. Adjournment**

**Chairman of Finance & Taxation's  
Analysis of Written Testimony  
by the Department of Administration,  
the Bureau of Budget and Management Research,  
and the Department of Revenue and Taxation**

**Analysis of the Testimony of  
Acting Director Anthony C. Blaz  
Department of Administration**

In his written testimony on Bill No. 60-33 (COR), acting Director Anthony C. Blaz states that the Department of Administration does not possess expertise in the creation or interpretation of tax policies. He further states, without support of any rationale provided in the testimony, "The Department does not support Bill No. 60-33 (COR)".

It is of note that both Public Law 22-74, which created the Guam Finance Commission, and Executive Order 2003-04, which created the Tax Conversion and Reform Commission, both included the Director of the Department of Administration. The former law has the Director an ex officio capacity and the latter executive order as a full member of the Commission. *It should be noted that both of these Commissions were formed to create or reform tax policies.*

Public Law 22-74 set forth the following as some of the functions of the Guam Finance Commission:

- (1) "solicit information and advice from various sources on the present tax structure and desired changes";
- (2) "determine the effect of varying tax approaches tried in other jurisdictions";
- (3) "draft proposed tax legislation"; and
- (4) "take any and all steps necessary to communicate with the Federal government regarding Guam's tax system; study existing applicable domestic and international laws, tax treaties, and agreements".

Executive Order 2003-04 set forth the following as some of the functions of the Tax Conversion and Reform Commission:

- (1) "To examine the necessity and desirability of converting the current gross receipts tax mandated under Guam law into a sales tax, and the impact of such conversion on Guam's economy";
- (2) "To examine the current overall taxation structure of the island, its impact on the economy and other areas, and to assess whether reforms in that structure are necessary to restore stability to the island's economic situation and to foster long-term economic growth";
- (3) "To examine the potential effects of any change in the tax policy and structure of the island on the ability of the government to issue bonds and other indebtedness"; and
- (4) "To examine determine the best taxation structure and policy that will provide for economic stability and growth and result in the greatest benefit to all sectors of the island's community".

Based *solely* upon the testimony of acting Director Anthony C. Blaz, the Department of Administration is incapable of providing any expertise or specialist knowledge related to tax policy, *despite its participation in previous executive and legislative tax policy-related commissions*. Therefore, the Committee believes that the testimony is inconsistent with prior practice and should be viewed a departure from the position of previous administrations.

**Analysis of the Testimony of  
Acting Director Jose S. Calvo  
Bureau of Budget and Management Research**

In his written testimony on Bill No. 60-33 (COR), acting Director Jose S. Calvo states, “The Bureau would like to point out that it is not involved in the compliance of revenue collections. The Bureau’s role in regards to revenue collections is to monitor, track, and project revenues for the purpose of formulating the Governor’s Executive Budget Request and executing the Legislature’s adopted budget every fiscal year.” Although the acting Director does not directly state that he believes that BBMR should not be involved in the Commission, it is implied that its competencies are not in areas that would be needed by the Commission.

This would be an unusual position to take, since one of the stated duties of the Commission would be to, “review estimates of the fiscal impact of potential changes to Guam’s tax structure and policies”. If the Bureau’s role is, in part, to project revenues for the Executive Budget Request, and also to *prepare fiscal notes estimating the impact of proposed legislation*, it is not expected that the Bureau would not have any competency in estimating the impacts of fiscal policy changes.

As with the Director of the Department of Administration, the Director of the Bureau of Budget and Management Research served in the Guam Finance Commission, created by Public Law 22-74, and the Tax Conversion and Reform Commission, created by Executive Order 2003-04, as an ex officio and a full member for the respective commissions. The Director of BBMR could play a useful advisory role in any commission with a mandate to evaluate current and potential alternative tax policies.

The second point that acting Director Calvo makes is a mischaracterization of the intent of the legislation. It characterizing the following subsections included in the bill as “indicating the Guam Tax Commission’s intent to de-link from the U.S. Internal Revenue Code”:

“(c) *review the procedure and policy options available to the government of Guam with regard to de-linking from the U.S. Internal Revenue Code under §1271 of Public Law 99-514;*”

and

“(e) *develop informational reports and/or recommendations regarding Guam’s tax structure and tax policies, procedure and policy options available to the government of Guam with regard to de-linking from the U.S. Internal Revenue Code as deemed appropriate by the Commission, and the fiscal impacts of potential changes to Guam’s tax structure and policies;*”



These two subsections' intent is clearly to review the possible options available to the government of Guam and not necessarily to propose a plan for de-linking. When the section is viewed in its totality, however, the intent is clearly consistent with that put forward in the legislative findings and intent of the bill, which states, "Systematically reviewing the major components of Guam's tax code with members of the community can grant policy makers the ability to focus on the larger picture of what a reformed tax code can deliver for the people of Guam."

In addition to the foregoing points, acting Director Jose S. Calvo stated, "Based on the foregoing, the Bureau is unable to support Bill No. 60-33." The reasoning behind the stated or suggested issues with the legislation is flawed. Based *solely* upon the testimony of acting Director Jose S. Calvo, the Bureau of Budget and Management Research is presumably incapable of providing any expertise or specialist knowledge related to tax policy, *despite its participation in previous executive and legislative tax policy-related commissions*. Therefore, the Committee believes that the testimony is inconsistent with prior practice and should be viewed a departure from the position of previous administrations. Furthermore, the Director has read intent in the legislation where no such specific intent is evident or exists.

**Analysis of the Testimony of  
Director John P. Camacho  
Department of Revenue and Taxation**

In his written testimony on Bill No. 60-33 (COR), Director John P. Camacho states, "This legislation, specifically under §11104 regarding membership, attempts to create a legislative commission that includes cabinet members of the executive branch. It also required executive agencies to provide technical support for this legislative commission. This immediately raises a concern about whether it is organic or whether it impermissibly violates the separation of powers between the branches." It is unclear whether the Director means to imply that either having cabinet members serve as *ex officio* members of the commission, requiring technical support, or both are seen as potentially violating the separation of powers.

From a review of legislative tax commissions established in other states within the jurisdiction of the 9<sup>th</sup> Circuit Court of Appeals, there are commissions which have representatives from executive departments. In point of fact, the Guam Tax Code Commission, created by Public Law 20-181, the Guam Finance Commission, created by Public Law 22-74, and the Legislative Tax Review Commission, created by Public Law 27-56, all had the Director of the Department of Revenue and Taxation as members.

Furthermore, the provision which Director Camacho references for providing technical support *is from the current law* for the quadrennial Legislative Tax Review Commission, which reads, "Government of Guam agencies and departments, including autonomous entities, shall make available to the quadrennial Commission on a timely basis such data and technical support as is necessary for it to perform its duties as provided in this Chapter." This is not additional authority

which would be added to a legislative tax commission by the enactment of Bill No. 60-33 (COR), but *authority which already exists under Guam law*.

Director Camacho further suggests that half the membership be positions which are appointed by the Governor. This is a misunderstanding of the organization of the Guam Tax Commission as provided in Bill No. 60-33 (COR). Under this bill, there are two (2) regular members who will be taken by members of the legislative majority, one (1) appointed by the legislative minority leader, one (1) appointed by the Governor of Guam. The remainder of members would generally be chosen by professional associations and would represent a broader cross-section of the general public, with attention to including those with expertise which would likely enhance the commission in the fulfillment of its duties.

Director Camacho writes, "The reestablishment of the Guam Tax Commission must not usurp the Governor's authority and must preserve the executive branch's functions." This is a further misunderstanding. The Guam Tax Commission's duties and authority are completely within the realm of studying Guam's tax policy and the different policy options that are open to Guam, providing informational reports of such findings, and potentially making recommendations with respect to policy changes. The focus is tax policy, not executive branch administration.

Like the testimony of acting Director Jose Calvo, Director Camacho mischaracterizes the duties of the Commission, stating that "some of the primary duties of this Commission is to delink from the U.S. Internal Revenue Code and then develop a uniform tax code for Guam".

The legislative findings and intent go into some detail discussing the fact that the policy option of de-linking is open because of a federal law, the Tax Reform Act of 1986, which provides that authority. The duties of the Commission, among several others, does include "review[ing] of the procedure and policy options available to the government of Guam with regard to de-linking from the U.S. Internal Revenue Code", "review[ing] estimates of the fiscal impact of potential changes to Guam's tax structure and policies", and "develop informational reports and/or recommendations regarding Guam's tax structure and policy options available to the government of Guam with regard to de-linking from the U.S. Internal Revenue Code as deemed appropriate by the Commission, and the fiscal impacts of potential changes to Guam's tax structure and policies". This says almost the same thing as the apparent criticism of Director Camacho, which says, "the decision to delink appears to be predetermined as evidenced in this legislation, but should only be done after thorough research and discussion is completed by tax professionals, lawyers and all policy makers to include the Tax Commissioner of Guam, the Governor of Guam."

Director John Camacho further states that (f), (g), and (h) of §11107 "must be better defined so as not to overburden DRT with request for reports that are nonexistent or requests that may require confidential taxpayer information prohibited by disclosure rules and laws. Requests for newly generated reports place additional burden on the limited staff and resources of DRT ... On this issue, we again reiterate our concern about the separation of powers implication." Subsections (f), (g), and (h) read as follows:

“(f) request and receive estimates from the Department of Revenue and Taxation and/or the Bureau of Budget and Management Research of the fiscal impact of potential changes to Guam’s tax structure and policies;

(g) examine any document, report or data, including programs and data files, held by any agency or instrumentality of the government of Guam, which agencies are required to cooperate with the Commission and its employees in any such examination, except as provided by United States and Guam law regarding the confidentiality of specific tax return information;

(h) to issue subpoenas, to compel attendance of witnesses and the production of electronic and/or physical books, records, papers, accounts, reports, and documents, as necessary to achieve the mandates of the Commission;”

First, it should be anticipated that any request for estimates from the Department of Revenue and Taxation and/or the Bureau of Budget and Management Research under (f) would be undertaken after extensive review of existing policies and policy options on other grounds and would occur infrequently.

Second, the authority to examine documents under (g) were granted to the Guam Finance Commission under Public Law 22-74. This also does not require the creation of “nonexistent” reports, nor the disclosure of confidential taxpayer information.

Third, the authority granted under (h) essentially already exists under the authority of the chairman of a legislative committee and was granted to the Guam Finance Commission under Public Law 22-74.

*Note that these powers are either already in existence under the authority of the Guam Legislature or have precedence in other legislative tax commissions established in Guam law.*

Director Camacho further raises a concern that communication with the U.S. Federal Government and the U.S. Department of Treasury may “conflict with DRT’s or the executive branch’s efforts to conduct effective tax administration.” The following are the provisions in question:

“(d) communicate with the U.S. Federal Government regarding Guam’s tax system, relevant domestic and international tax laws, tax treaties, and agreements which may bear upon the present and future relationship between the United States and Guam relative to taxes, and propose modifications of such tax laws, tax treaties, and agreements which may benefit Guam’s economy and/or government;

(e) communicate with the U.S. Department of Treasury with regard to the issue of de-linking from the U.S. Internal Revenue Code under §1271 of Public Law 99-514, to ascertain the procedure and guidelines that should be followed for such a policy change and the impacts to local and federal tax authority from such a policy change;”

The authority which would be granted by these subsections are specifically aimed at allowing the Guam Tax Commission to make communications to gain information, guidance, and recommend changes regarding Guam’s tax policies. These are absolutely not executive functions and should

not create any conflict regarding the executive branch's authority for tax administration or other executive/administrative functions. In fact, to a great degree, these avenues are already available to legislators and other members of the community. Furthermore, as with previous provisions, the authority of (d) was granted to the Guam Finance Commission under Public Law 22-74. Subsection (e) is necessary to ensure that the Commission is able to fulfill its duties with respect to Section 11106 (c) and (e) with regard to reviewing and reporting on the procedure and policy options available to the government of Guam with regard to de-linking from the U.S. Internal Revenue Code, if the government of Guam elect to do so.

Based upon the review and analysis of Director Camacho's testimony, which *has significant internal inconsistencies* about the representation of the executive branch, *each of the issues appear to have little or no merit*. Inclusion of cabinet members in an ex officio capacity is intended to add expertise to the issues involved in reviewing tax policy. The Guam Tax Commission has a balance of two (2) legislative majority representatives, one (1) legislative minority representative, one (1) representative of the Governor of Guam, and a broader cross-section of the public, mostly chosen by professional associations. The Guam Tax Commission's *duties and authorities clearly fall within the legislative duties of providing information and recommendations on tax policies, not being involved in tax administration or other executive functions*. Additionally, the Director's request for additional funding to accommodate requests for reports or studies conducted by DRT for the Commission can be properly addressed when the Commission's review requires such reports or studies or in the annual budget.