

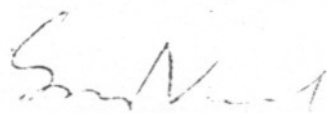
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This certifies that Bill No. 32, "An Act to renumber Chapter IV of Title II of the Government Code of Guam, Chapter V and to add a new Chapter IV to said Title to establish a Code of Fair Procedures for Legislative Investigating Committees", was on the 26th day of January, 1971, duly and regularly passed.



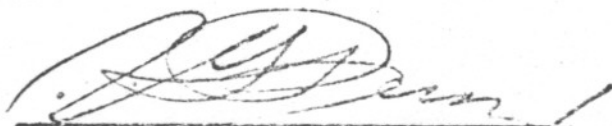
F. T. RAMIREZ
; Speaker

ATTESTED:



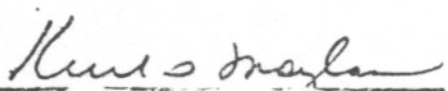
G. M. BAMBA
Legislative Secretary

This Act was received by the Governor this 26th day
of January, 1971, at 4:05 o'clock H.M.



VINCENT T. PEREZ
Attorney General of Guam

APPROVED:



KURT S. MOYLAN, Acting
Governor of Guam

DATED: FEB 19 1971

3:30 P.M.

Public Law
11-9

Bill No. 32

Introduced by J. B. Butler

AN ACT TO RENUMBER CHAPTER IV OF
TITLE II OF THE GOVERNMENT CODE
OF GUAM, CHAPTER V AND TO ADD A
NEW CHAPTER IV TO SAID TITLE TO
ESTABLISH A CODE OF FAIR PROCE-
DURES FOR LEGISLATIVE INVESTIGAT-
ING COMMITTEES.

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

2 Section 1. Chapter IV of Title II of the Government Code
3 of Guam is hereby renumbered Chapter V and a new Chapter IV
4 is hereby added to said Title to read as follows:

5 "CHAPTER IV

6 CODE OF FAIR PROCEDURES

7 Section 1400. Establishment and Purpose of Code.

8 A Code of fair procedures for legislative investigating
9 committees is hereby established to provide for their
10 operation in a manner which will enable them to execute
11 properly the powers and duties vested in them, including
12 the conduct of hearings in a fair and impartial manner,
13 consistent with protection of the constitutional rights
14 of persons involved in the proceedings and the preserva-
15 tion of the public good.

16 Section 1401. Definitions. As used in this Code:

17 1. 'Investigating committee' means any of the
18 following which has the power to compel the atten-
19 dance and testimony of witnesses or the production
20 of books, records, papers and documents to secure
21 information on a specific subject for the use of
22 the Legislature:

1 (a) A standing or select committee of the
2 Legislature.

3 (b) A subcommittee of a legislative
4 committee.

5 (c) Any body created by law, the members
6 of which may include non-legislators.

7 2. 'Hearing' means any meeting in the course
8 of an investigatory proceeding (other than a pre-
9 liminary conference or interview at which no testi-
10 mony is taken under oath) conducted by an investigat-
11 ing committee for the purpose of taking or adducing
12 testimony or receiving other evidence. A hearing
13 may be open to the public or closed to the public.
14 Section 1402. Establishment of Investigating Com-
15 mittees by Legislature.

16 (a) An investigating committee may exercise
17 its powers during sessions of the Legislature, and
18 also in the interim between sessions when so provided
19 by law or by the resolution or statute by which the
20 committee was established or from which it derives
21 its investigatory powers.

22 (b) The resolution or statute establishing an
23 investigating committee shall state the committee's
24 purposes, powers, duties and duration, the subject
25 matter and scope of its investigatory authority,
26 and number of members.

27 Section 1403. Adoption of Rules. Each investigating
28 committee shall adopt rules, not inconsistent with law or
29 any applicable rules of the Legislature, governing its
30 procedures, including the conduct of hearings.

1 Section 1404. Finance and Staff. Each investigat-
2 ing committee may employ for the duration of the investi-
3 gation professional, technical, clerical or other per-
4 sonnel as necessary for the proper performance of its
5 duties, to the extent of funds made available to it for
6 such purpose and subject to such restrictions and proce-
7 dures relating thereto as may be provided by law or any
8 applicable rules of the Legislature.

9 Section 1405. Membership, Quorum and Voting.

10 (a) An investigating committee shall consist
11 of not less than five members.

12 (b) A quorum shall consist of a majority of
13 the total authorized membership of the committee.

14 (c) No action shall be taken by a committee
15 at any meeting unless a quorum is present. Unless
16 it is specified in this Code or any other statute
17 that action must be taken by a majority or greater
18 vote of all of the members of the committee, action
19 may be taken by a majority vote of the members pre-
20 sent and voting at a meeting at which there is a
21 quorum.

22 Section 1406. Hearings.

23 (a) An investigating committee may hold hear-
24 ings as it deems appropriate for the performance of
25 its duties, at such times and places as the com-
26 mittee determines.

27 (b) The committee shall provide by its rules
28 that its members be given at least three days'
29 written notice of any hearing to be held when the
30 Legislature is in session and at least seven days'

1 written notice of any hearing to be held when the
2 Legislature is not in session. Such notices shall
3 include a statement of the subject matter of the
4 hearing. A hearing, and any action there taken,
5 shall not be deemed invalid solely because notice was
6 not given in accordance with this requirement.

7 (c) A hearing shall not be conducted by an
8 investigating committee unless a quorum is present.
9 Section 1407. Issuance of Subpoenas.

10 (a) By majority vote of all its members, an
11 investigating committee may issue subpoenas, includ-
12 ing subpoenas duces tecum, requiring the appearance
13 of persons, production of relevant records, and the
14 giving of relevant testimony.

15 (b) A person subpoenaed to attend a hearing of
16 an investigating committee shall receive the same
17 fees and allowances as a person subpoenaed to give
18 testimony in an action pending in the Island Court
19 of Guam.

20 Section 1408. Notice to Witnesses.

21 (a) Service of a subpoena authorized by this
22 Code shall be made in the manner provided by law for
23 the service of subpoenas in civil actions at least
24 seven days prior to the time fixed in the subpoena
25 for appearance or production of records unless a
26 shorter period of time is authorized by majority
27 vote of all of the members of the committee in a
28 particular instance when in their opinion, the
29 giving of seven days' notice is not practicable;
30 but if a shorter period of time is authorized, the

1 person to whom the subpoena is directed shall be
2 given reasonable notice consistent with the par-
3 ticular circumstances involved.

4 (b) Any person who is served with a subpoena
5 also shall be served with a copy of the resolution
6 or statute establishing the committee, a copy of
7 the rules under which the committee functions, a
8 general statement informing him of the subject
9 matter of the committee's investigation or inquiry
10 and, if personal appearance is required a notice
11 that he may be accompanied by counsel of his own
12 choosing.

13 Section 1409. Conduct of Hearings.

14 (a) All hearings of an investigating committee
15 shall be public unless the committee, by majority
16 vote of all of its members, determines that a hear-
17 ing should not be open to the public in a particular
18 instance.

19 (b) The chairman of an investigating committee,
20 if present and able to act, shall preside at all
21 hearings of the committee and shall conduct the
22 examination of witnesses or supervise examination
23 by other members of the committee, and members of
24 the committee's staff who have been authorized to
25 examine witnesses. In the chairman's absence or
26 disability, the vice-chairman shall serve as
27 presiding officer. The committee shall provide by
28 its rules for the selection of a presiding officer
29 to act in the absence or disability of both the
30 chairman and the vice-chairman.

1 (c) No hearing, or part thereof, shall be
2 televised, filmed or broadcast except upon approval
3 of the committee by majority vote of all of its
4 members.

5 Section 1410. Rights to Counsel and Submission of
6 Questions.

7 (a) Every witness at a hearing of an investi-
8 gating committee may be accompanied by counsel of
9 his own choosing who may advise the witness as to
10 his rights; provided that limitations may be pre-
11 scribed by the committee to prevent obstruction of
12 or interference with the orderly conduct of the
13 hearing.

14 (b) Any witness at a hearing, or his counsel,
15 may submit to the committee proposed questions to be
16 asked of the witness or any other witness relevant
17 to the matters upon which there have been questions
18 or submission of evidence, and the committee shall
19 ask such of the questions as it may deem appropriate
20 to the subject matter of the hearing.

21 Section 1411. Testimony.

22 (a) An investigating committee shall cause a
23 record to be made of all proceedings in which testi-
24 mony or other evidence is received or adduced, which
25 record shall include rulings of the chair, questions
26 of the committee and its staff, the testimony or
27 responses of witnesses, sworn written statements
28 which the committee authorizes a witness to submit
29 and such other matters as the committee or its
30 chairman may direct.

1 (b) All testimony given at a hearing shall be
2 under oath or affirmation unless the requirement
3 is dispensed with in a particular instance by
4 majority vote of the committee members present at
5 the hearing.

6 (c) Any member of an investigating committee
7 may administer an oath or affirmation to a witness.

8 (d) The presiding officer at a hearing of an
9 investigating committee may direct a witness to
10 answer any relevant question or furnish any relevant
11 book, paper or other document. Unless the direction
12 is overruled by majority vote of the committee
13 members present, disobedience shall constitute
14 grounds for citation for contempt, except that pro-
15 duction of any book, paper or other document may be
16 required only by subpoena.

17 (e) A witness at a hearing, or his counsel,
18 with the consent of a majority of the committee
19 members present at the hearing may file with the
20 committee for incorporation into the record of the
21 hearing sworn written statements relevant to the
22 purpose, subject matter and scope of the committee's
23 investigation or inquiry.

24 (f) A witness at a hearing upon his advance
25 request and at his own expense, shall be furnished
26 a certified transcript of his testimony.

27 (g) Testimony and other evidence given or
28 adduced at a hearing closed to the public shall not
29 be made public unless authorized by majority vote
30 of all of the members of the committee, which

1 authorization shall also specify the form and manner
2 in which the testimony or other evidence may be
3 released. Nothing herein shall be construed to pre-
4 vent a witness or other supplier of evidence from
5 disclosing such of his own testimony or other
6 evidence concerning which only he could claim a
7 privilege against disclosure.

8 Section 1412. Interested Persons.

9 (a) Any person whose name is mentioned or who
10 is otherwise identified during a hearing of an
11 investigating committee and who, in the opinion of
12 the committee, may be adversely affected thereby,
13 may, upon his request or upon the request of any
14 member of the committee, appear personally before
15 the committee and testify in his own behalf, or,
16 with the committee's consent, file a sworn written
17 statement of facts or other documentary evidence for
18 incorporation into the record of the hearing.

19 (b) Upon the consent of a majority of its
20 members, an investigating committee may permit any
21 other person to appear and testify at a hearing or
22 submit a sworn written statement of facts or other
23 documentary evidence for incorporation into the
24 record thereof. No request to appear, appearance or
25 submission of evidence shall limit in any way the
26 investigating committee's power of subpoena.

27 Section 1413. Contempt.

28 (a) A person shall be in contempt if he:

- 29 1. Fails or refuses to appear in com-
30 pliance with a subpoena or, having appeared,

1 fails or refuses to testify under oath or
2 affirmation.

3 2. Fails or refuses to answer any
4 relevant question or fails or refuses to
5 furnish any relevant book, paper or other
6 document subpoenaed by or on behalf of an
7 investigating committee.

8 3. Commits any other act or offense
9 against an investigating committee which, if
10 committed against the Legislature or either
11 house thereof, would constitute a contempt.

12 (b) An investigating committee may, by
13 majority vote of all of its members, apply to the
14 Legislature for a contempt citation. The applica-
15 tion shall be considered as though the alleged con-
16 tempt had been committed in or against the Legisla-
17 ture itself. If the investigating committee is an
18 interim committee, its application shall be made to
19 the Island Court of Guam.

20 Section 1414. Penalties.

21 (a) A person guilty of contempt under the
22 provisions of this Code shall be fined not more than
23 One Thousand Dollars (\$1,000) or imprisoned not
24 more than thirty days or both, or shall be subject
25 to such other punishment as the Legislature, in the
26 exercise of its inherent powers, imposes prior to and
27 in lieu of the imposition of the aforementioned
28 penalty.

29 (b) If any investigating committee fails in
30 any material respect to comply with the requirements

1 of this Code, any person subject to a subpoena who
2 is prejudiced by such failure shall be relieved of
3 any requirement of compliance. Such failure shall
4 be a complete defense in any proceeding against such
5 person for contempt or other punishment.

6 (c) Any person who violates Subsection (g) of
7 Section 1411 of this Code shall be subject to a fine
8 of not more than One Thousand Dollars (\$1,000) or
9 imprisonment for not more than thirty days, or both.
10 The appropriate prosecuting officer, on his own
11 motion or on the application of any person claiming
12 to have been injured or prejudiced by an
13 unauthorized disclosure may institute proceedings
14 for the trial of the issue and imposition of the
15 penalties provided herein. Nothing in this subsec-
16 tion shall limit any power which the Legislature may
17 have to discipline a member or employee or to impose
18 a penalty in the absence of action by a prosecuting
19 officer or court.

20 Section 1415. Limitations of Code. Nothing con-
21 tained in this Code shall be construed to limit or pro-
22 hibit the acquisition of evidence or information by an
23 investigating committee by any lawful means not provided
24 for herein."

25 Section 2. This Act shall take effect ninety (90) days
26 after its approval by the Governor.

27 Section 3. This Act is an urgency measure.