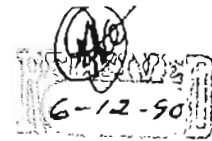




*Territory of Guam*  
*Territorion Guam*

OFFICE OF THE GOVERNOR  
L. PISINAN I. MAGA LAHI  
AGANA, GUAM 96910 U.S.A.



MAY 25 1990

The Honorable Joe T. San Agustin  
Speaker, Twentieth Guam Legislature  
Post Office Box CB-1  
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 1387, which has been designated as Public Law 20-181.

Sincerely,

JOSEPH F. ADA  
Governor of Guam

Attachment


TWENTIETH GUAM LEGISLATURE  
1990 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

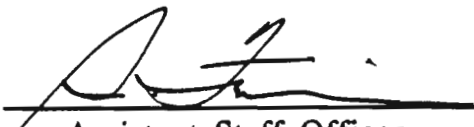
This is to certify that Substitute Bill No. 1367 (LS), "AN ACT TO ADD A NEW CHAPTER XII TO TITLE XX OF THE GOVERNMENT CODE TO ESTABLISH THE GUAM TAX CODE COMMISSION," returned to the Legislature without the approval of the Governor was, in accordance with the Organic Act of Guam, reconsidered by the Legislature and after such reconsideration, the Legislature did, on the 23rd day of May, 1990, agree to pass said bill notwithstanding the objections of the Governor by a vote of two-thirds of all members thereof, to wit: by a vote of nineteen members.

  
JOE R. SAN AGUSTIN  
Speaker

Attested:

  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 25<sup>th</sup> day of May,  
1990, at 4:00 o'clock P.m.

  
Assistant Staff Officer  
Governor's Office

Public Law No. 20-181

TWENTIETH GUAM LEGISLATURE  
1990 (SECOND) Regular Session

Bill No. 1367 (LS)  
As substituted by the Committee  
on Ways & Means and as further  
substituted by the Committee on  
Rules

Introduced by:

C. T. C. Gutierrez  
H. D. Dierking  
J. T. San Agustin  
T. S. Nelson  
J. P. Aguon  
E. P. Arriola  
P. C. Lujan  
G. Mailloux  
D. Parkinson  
F. J. A. Quitugua  
E. D. Reyes  
F. R. Santos  
M. D. A. Manibusan  
J. G. Bamba  
A. R. Unpingco  
D. F. Brooks  
M. Z. Bordallo  
E. R. Duenas  
E. M. Espaldon  
M. C. Ruth  
T. V. C. Tanaka

AN ACT TO ADD A NEW CHAPTER XII TO TITLE XX OF THE  
GOVERNMENT CODE TO ESTABLISH THE GUAM TAX CODE  
COMMISSION.

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

2 Section 1. A new Chapter XII is added to Title XX of the Government

3 Code to read:

4 "Chapter XII

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## GUAM TAX CODE COMMISSION

§19950. Legislative findings. (a) Background. Under the Tax Reform Act of 1986, the government of Guam was given the authority to develop its own tax code to replace enforcement of the Internal Revenue Code currently used as the territorial income tax, commonly known as the "mirror-image tax". Executive Order 86-09 and Executive Order 87-06 created tax commissions to study Guam's tax situation, make recommendations, and to draft appropriate tax legislation. Additionally, an implementation agreement was signed by the Executive Branch and Department of the Treasury designating an effective date for the de-linking of the Internal Revenue Code from Guam as of January 1, 1991. Such implementation agreement, if effective, acts in Guam on matters which are within the exclusive statutory authority of the Legislature and is therefore void and of no force and effect.

(b) Intent. It is necessary to organize a Guam Tax Code Commission by statute in order to insure necessary continuity, broad input, and stability in the planning and implementing of Guam's future taxes, which commission shall be provided with all the work product of the previous commissions established through Executive Order, and will incorporate its recommendations into proposed legislation within the time frame provided herein.

§19951. Guam Tax Code Commission: establishment and organization. The Guam Tax Code Commission (the "Commission") is hereby established which Commission is composed of ten (10) voting members, appointed or selected as follows: Three (3) voting members appointed by the Governor including one (1) Guam certified public accountant; four (4) voting members appointed by the Speaker of the Legislature, including the minority leader of the Legislature or his designee; and three (3) ex-officio voting members consisting of the Director of Revenue and Taxation, the Chairman of the Legislature's Committee on Federal, Foreign and Legal Affairs, and the Chairman of the Legislature's Committee on Ways & Means. The ex-officio members and any members appointed by the Governor who are members of the Executive Branch and are appointed in such capacity shall continue to

1 be members of the Commission as long as they hold the positions  
2 because of which they were selected. The other appointed members  
3 shall serve for the life of the Commission. Any member of the  
4 Commission may be dismissed for cause, approved by a majority vote of  
5 the members. Any vacancy shall be filled by the same authority who  
6 originally appointed the member to such vacant position. The  
7 Commission shall elect a chairman from among its members, who shall  
8 designate such other officers as are necessary to conduct the  
9 Commission's business. The Commission shall draft and implement  
10 operating procedures for the conduct of its business, which procedures  
11 are exempt from the provisions of the Administrative Adjudication Law.

12 §19952. Functions of the Commission. The Commission shall:

13 (a) Study the effect of the present tax system as it has  
14 affected Guam during varying economic situations in the past and  
15 present, with a view towards probable future situations;

16 (b) Develop or adapt an econometric model of Guam's  
17 existing and projected economy, which model shall be used to  
18 simulate the effect of revenue raising, the effect of any proposed  
19 benefits and the optional revenue generation and utility thereof.  
20 The Commission shall utilize all existing and otherwise available  
21 resources, such as the econometric model now used by the United  
22 States Treasury, in its development of such model for its work. In  
23 developing or updating its model, the Commission shall take into  
24 account the Comprehensive Economic Development Plan to be  
25 drafted pursuant to Public Law 20-147;

26 (c) Solicit information and advice from various sources on  
27 the present tax structure and desired changes, through contact  
28 with community sources such as the Guam Chamber of Commerce,  
29 the Guam Employers' Council, the Guam Association of Social  
30 Workers, the Guam Federation of Teachers, the Guam Visitors  
31 Bureau, the Guam Association of Public Accountants, the Guam  
32 Society of Certified Public Accountants, and others, and from  
33 public sector sources such as the Department of Commerce, the

1 Department of Public Health and Social Services, the Bureau of  
2 Planning, and others;

3 (d) Determine the effect of varying tax approaches tried in  
4 other jurisdictions, such as Puerto Rico, the Virgin Islands, Hawaii,  
5 the Commonwealth of the Northern Mariana Islands, and others,  
6 including foreign jurisdictions, to the extent that they are useful  
7 for the Commission's purposes;

8 (e) Draft proposed tax legislation, incorporating  
9 recommendations deemed desirable for Guam after undertaking  
10 the study required in paragraphs (a), (b), (c) and (d) of this  
11 section, and transmit such legislation to the Legislature. A  
12 favorable vote of six (6) or more members of the Commission on  
13 the proposed legislation shall be necessary before its transmittal  
14 to the Legislature.

15 §19953. Logistical support, and services of professionals. The  
16 Executive Branch in general and the Department of Revenue and  
17 Taxation in particular shall provide needed logistical support for the  
18 Commission. The Commission is authorized to retain the services of one  
19 (1) or more attorneys, whether individuals or a law firm, who are tax  
20 specialists, of one (1) or more economists, whether individuals or a firm,  
21 and of such other persons as the Commission deems necessary.

22 §19954. Appropriation. There is authorized to be appropriated  
23 such sums as are necessary to carry out the intent of this Chapter;  
24 provided, that existing funds such as the Three Hundred Thousand  
25 Dollars (\$300,000) appropriated by the Federal Government through the  
26 Department of Interior's budget shall be spent prior to any expenditure  
27 of local funds.

28 §19955. Sunset provision and reports. From the date it first  
29 convenes, the Commission shall issue a progress report detailing its  
30 work once every six (6) months, which report shall be submitted to the  
31 Speaker of the Legislature and to the Governor of Guam. The report  
32 shall, *inter alia*, detail and substantiate all expenditures of any funds by  
33 the Commission. Failure to submit such report will constitute cause for  
34 removal of the chairperson of the Commission. Upon completion of the

1 Commission's task, no later than five (5) years from the date of the  
2 enactment of this Chapter, the Commission shall submit a final report  
3 which shall include the proposed draft legislation of a comprehensive  
4 new tax code for Guam. Any unspent funds shall revert to the General  
5 Fund.

6 §19956. Agreement ineffective. It is the express finding and  
7 declaration of the Legislature that the agreement entitled: "TAX  
8 IMPLEMENTATION AGREEMENT BETWEEN THE UNITED STATES OF  
9 AMERICA AND GUAM", signed by the Governor of Guam and the Director  
10 of Revenue and Taxation on April 3, 1989, and by the Assistant  
11 Secretary of the United States on April 5, 1989, is null and void and  
12 neither has nor shall have any force or effect since it changes, amends  
13 and otherwise directly affects laws applicable to Guam in violation of  
14 Sections 1271 et seq. and 1277 et seq. of Public Law 99-514, and  
15 Sections 3 and 10(1) of the Organic Act of Guam (48 U.S.C. 1421, et seq.)

16 §19957. Duty to certify. Upon enactment into law of the new  
17 tax code for Guam, the Governor shall certify the same as a  
18 comprehensive new tax code enacted by Guam if such certification is  
19 then required by Federal law and shall transmit copies of the same, as  
20 enacted, to the Secretary of the Treasury, or to any other appropriate  
21 authority in accordance with the then-existing legal requirements."

TWENTIETH GUAM LEGISLATURE  
1989 (FIRST) Regular Session

ROLL CALL SHEET

Bill No. \_\_\_\_\_

Date: 5/23/89

Resolution No. \_\_\_\_\_

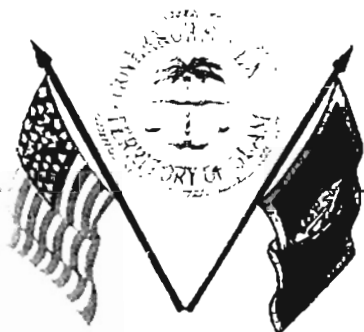
QUESTION: \_\_\_\_\_

*u* *u* *B 1367*  
*override of B 1367*

	<u>AYE</u>	<u>NAY</u>	<u>NOT VOTING</u>	<u>ABSENT</u>
J. P. Aguon	✓			
E. P. Arriola				✓
J. G. Bamba	✓			
M. Z. Bordallo	✓			
D. F. Brooks	✓			
H. D. Dierking	✓			
E. R. Duenas	✓			
E. M. Espaldon	✓			
C. T. C. Gutierrez	✓			
P. C. Lujan	✓			
G. Mailloux	✓			
M. D. A. Manibusan	✓			
T. S. Nelson	✓			
D. Parkinson	✓			
F. J. A. Quitugua	✓			
E. D. Reyes	✓			
M. C. Ruth		✓		
J. T. San Agustin	✓			
F. R. Santos	✓			
T. V. C. Tanaka	✓			
A. R. Unpingco	✓			

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*Territory of Guam*  
*Teritorion Guam*

OFFICE OF THE GOVERNOR  
LEFISIANI MAGA LAHI  
AGANA, GUAM 96910 USA

MAY 18 1990

The Honorable Joe T. San Agustin  
Speaker, 20th Guam Legislature  
155 Hernan Cortez St.  
Agana, GU 96910

Dear Mr. Speaker:

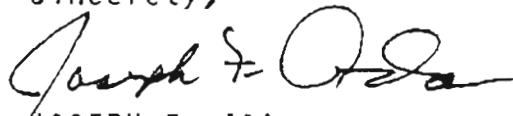
Enclosed herewith is Bill No. 1367, which I am vetoing in its entirety. I am vetoing this Bill primarily on the basis of the section which would abrogate the agreement that exists between our Department of Revenue and Taxation and the IRS. This agreement allows for the exchange of information between IRS and Rev & Tax and is essential not only to aid in collections from individuals and firms who may maintain accounts in both jurisdictions, but also in our ongoing effort to collect millions in tax revenue which should be accruing to the Government of Guam from withholding of income tax from federal personnel working in Guam who pay taxes in the U.S. and from servicemen stationed in areas outside of Guam who claim Guam as their residence.

From these last two sources, Rev & Tax has already collected 9 million dollars in revenues that were not paid to Guam previously, and it is estimated that there remains somewhere in the neighborhood of 15 million dollars still to be collected.

I would not wish to be a party to any action that would threaten the collection of these revenues due to us, or the benefits such additional revenues will bring to our people.

Thank you and Si Yu'os Ma'ase.

Sincerely,

  
JOSEPH F. ADA  
Governor

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Commonwealth Now!

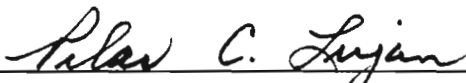
TWENTIETH GUAM LEGISLATURE  
1990 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

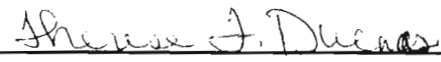
This is to certify that Substitute Bill No. 1367 (LS), "AN ACT TO ADD A NEW CHAPTER XII TO TITLE XX OF THE GOVERNMENT CODE TO ESTABLISH THE GUAM TAX CODE COMMISSION," was on the 1st day of May, 1990, duly and regularly passed.

  
\_\_\_\_\_  
JOE T. SAN AGUSTIN  
Speaker


Attested:

  
\_\_\_\_\_  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 1<sup>th</sup> day of May,  
1990, at 4:48 o'clock P.m.

  
\_\_\_\_\_  
Theresa J. Duenas  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
\_\_\_\_\_  
JOSEPH F. ADA  
Governor of Guam

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

TWENTIETH GUAM LEGISLATURE  
1990 (SECOND) Regular Session

Bill No. 1367 (LS)  
As substituted by the Committee  
on Ways & Means and as further  
substituted by the Committee on  
Rules

Introduced by:

C. T. C. Gutierrez  
H. D. Dierking  
J. T. San Agustin  
T. S. Nelson  
J. P. Aguon  
E. P. Arriola  
P. C. Lujan  
G. Mailloux  
D. Parkinson  
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A. R. Unpingco  
D. F. Brooks  
M. Z. Bordallo  
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M. C. Ruth  
T. V. C. Tanaka

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GUAM TAX CODE COMMISSION

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2 because of which they were selected. The other appointed members  
3 shall serve for the life of the Commission. Any member of the  
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11 are exempt from the provisions of the Administrative Adjudication Law.

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17 existing and projected economy, which model shall be used to  
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19 benefits and the optional revenue generation and utility thereof.  
20 The Commission shall utilize all existing and otherwise available  
21 resources, such as the econometric model now used by the United  
22 States Treasury, in its development of such model for its work. In  
23 developing or updating its model, the Commission shall take into  
24 account the Comprehensive Economic Development Plan to be  
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26 (c) Solicit information and advice from various sources on  
27 the present tax structure and desired changes, through contact  
28 with community sources such as the Guam Chamber of Commerce,  
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30 Workers, the Guam Federation of Teachers, the Guam Visitors  
31 Bureau, the Guam Association of Public Accountants, the Guam  
32 Society of Certified Public Accountants, and others, and from  
33 public sector sources such as the Department of Commerce, the

1 Department of Public Health and Social Services, the Bureau of  
2 Planning, and others;

3 (d) Determine the effect of varying tax approaches tried in  
4 other jurisdictions, such as Puerto Rico, the Virgin Islands, Hawaii,  
5 the Commonwealth of the Northern Mariana Islands, and others,  
6 including foreign jurisdictions, to the extent that they are useful  
7 for the Commission's purposes;

8 (e) Draft proposed tax legislation, incorporating  
9 recommendations deemed desirable for Guam after undertaking  
10 the study required in paragraphs (a), (b), (c) and (d) of this  
11 section, and transmit such legislation to the Legislature. A  
12 favorable vote of six (6) or more members of the Commission on  
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16 Executive Branch in general and the Department of Revenue and  
17 Taxation in particular shall provide needed logistical support for the  
18 Commission. The Commission is authorized to retain the services of one  
19 (1) or more attorneys, whether individuals or a law firm, who are tax  
20 specialists, of one (1) or more economists, whether individuals or a firm,  
21 and of such other persons as the Commission deems necessary.

22 §19954. Appropriation. There is authorized to be appropriated  
23 such sums as are necessary to carry out the intent of this Chapter;  
24 provided, that existing funds such as the Three Hundred Thousand  
25 Dollars (\$300,000) appropriated by the Federal Government through the  
26 Department of Interior's budget shall be spent prior to any expenditure  
27 of local funds.

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29 convenes, the Commission shall issue a progress report detailing its  
30 work once every six (6) months, which report shall be submitted to the  
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1 Commission's task, no later than five (5) years from the date of the  
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3 which shall include the proposed draft legislation of a comprehensive  
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5 Fund.

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7 declaration of the Legislature that the agreement entitled: "TAX  
8 IMPLEMENTATION AGREEMENT BETWEEN THE UNITED STATES OF  
9 AMERICA AND GUAM", signed by the Governor of Guam and the Director  
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11 Secretary of the United States on April 5, 1989, is null and void and  
12 neither has nor shall have any force or effect since it changes, amends  
13 and otherwise directly affects laws applicable to Guam in violation of  
14 Sections 1271 et seq. and 1277 et seq. of Public Law 99-514, and  
15 Sections 3 and 10(1) of the Organic Act of Guam (48 U.S.C. 1421, et seq.)

16 §19957. Duty to certify. Upon enactment into law of the new  
17 tax code for Guam, the Governor shall certify the same as a  
18 comprehensive new tax code enacted by Guam if such certification is  
19 then required by Federal law and shall transmit copies of the same, as  
20 enacted, to the Secretary of the Treasury, or to any other appropriate  
21 authority in accordance with the then-existing legal requirements."

TWENTIETH GUAM LEGISLATURE  
1990 (SECOND) Regular Session

ROLL CALL SHEET

Bill No. 1367

Date: 5/1/90

Resolution No. \_\_\_\_\_

QUESTION: \_\_\_\_\_

	AYE	NAY	NOT VOTING	ABSENT
J. P. Aguon				✓
E. P. Arriola	✓			
J. G. Bamba	✓			
M. Z. Bordallo	✓			
D. F. Brooks	✓			
H. D. Dierking	✓			
E. R. Duenas	✓			
E. M. Espaldon	✓			
C. T. C. Gutierrez	✓			
P. C. Lujan	✓			
G. Mailloux	✓			
M. D. A. Manibusan	✓			
T. S. Nelson	✓			
D. Parkinson	✓			
F. J. A. Quitugua	✓			
E. D. Reyes	✓			
M. C. Ruth	✓			
J. T. San Agustin	✓			
F. R. Santos	✓			
T. V. C. Tanaka	✓			
A. R. Unpingco	✓			

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1



# Twentieth Guam Legislature

155 Hernan Cortez  
Pacific Arcade  
Agana, Guam 96910  
Telephone: (671) 472-3407/8/9  
FAX: (671) 477-3161



Chairman, Committee  
on Ways & Means  
  
Vice-Chairman, Committee  
on Tourism & Transportation

CARL T. C. GUTIERREZ  
Senator

April 23, 1990

Honorable Speaker Joe T. San Agustin  
Speaker, Twentieth Guam Legislature  
163 Chalan Santo Papa  
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Ways & Means wishes to report out its findings on **BILL NO. 1367** to the full Legislature with the recommendation to do Pass as Substituted.

The Committee Voting Record is as follows:

TO PASS:	<u>7</u>
NOT TO PASS:	<u>0</u>
ABSTENTIONS:	<u>          </u>
REPORT OUT ONLY:	<u>2</u>
OFF-ISLAND:	<u>1</u>

Copies of the **Committee Report** and all pertinent documents are attached for your information.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl T. C. Gutierrez".

CARL T. C. GUTIERREZ

**Twentieth Guam Legislature  
Committee on Ways & Means  
VOTING SHEET**

**BILL NO.  
1367**

**AN ACT TO ADD A NEW CHAPTER XII TO TITLE XX OF THE GOVERNMENT  
CODE, RELATIVE TO ESTABLISHING A GUAM TAX CODE COMMISSION.**

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO REPORT OUT ONLY</u>	<u>TO PLACE IN INACTIVE FILE</u>
<i>CGT</i> Senator Carl T. C. GUTIERREZ Chairman	✓			
<i>H. Dierking</i> Senator Herminia D. DIERKING Vice-Chairman	✓			
<b>OFF-ISLAND</b>				
Senator John P. AGUON Member				
<i>J. P. Bamba</i> Senator George BAMBA Member	✓			
<i>D. Brooks</i> Senator Doris BROOKS Member			✓	
Senator Ernesto ESPALDON Member				
<i>M. Manibusan</i> Senator Marilyn MANIBUSAN Member			<del>4/23/90</del>	
<i>T. Nelson</i> Senator Ted S. NELSON Member	✓			
Senator Don PARKINSON Member				
<i>F. A. Quitugua</i> Senator Franklin J. A. QUITUGUA Member	✓			
<i>M. Ruth</i> Senator Martha C. RUTH Member			<i>4/23/90</i>	

**COMMITTEE ON WAYS & MEANS  
COMMITTEE REPORT  
ON**

**BILL NO. 1367: AN ACT TO ADD A NEW  
CHAPTER XII TO TITLE XX OF THE  
GOVERNMENT CODE RELATIVE TO  
ESTABLISHING A GUAM TAX CODE  
COMMISSION.**

The Committee on Ways & Means held a public hearing on April 17, 1990, beginning at 8:00 a.m. at the Legislative Conference Room, to gather testimony on Bill No. 1367. Senator Herminia D. Dierking conducted the hearing joined by Speaker Joe T. San Agustin, Senators Martha C. Ruth and Marilyn D.A. Manibusan.

**TESTIMONY**

Mr. Joe M. Arnett, Director, Tax Operations for Guam & Micronesia, submitted written testimony as well as testified before the Committee in support of the Bill. He indicated that the purpose of the Guam Tax Code Commission is to develop its own Tax Code to represent the enforcement of the Internal Revenue Code as mandated by the Tax Reform Act of 1986. He recommended that the Commission membership be increased to represent a broader cross-section of the community and to serve longer, possibly indefinite terms to provide continuity. Mr. Arnett further said that the new Tax Code should be designed with view of fairness, equality, ability to pay, and serve as a facilitator for the economic goals of the people of Guam. The Guam Tax Code Commission is tasked with developing a new Code geared towards a revenue-producing system which will provide the level of government services and support needed now and in the future. The new Code will also need to reflect the future economic goals of the people of Guam. The Guam Tax Code Commission will also need to study the feasibility and effectiveness of other tax systems to assist and guide the Commission in developing Guam's.

Mr. Joaquin G. Blaz, Director, Revenue and Taxation, submitted a written testimony as well as testified before the Committee in favor of the Bill. However, he recommended several changes. The membership of the Guam Tax Code Commission should be increased

from six (6) to seven (7) to preclude a deadlock; the Governor should appoint three (3) members instead of two (2); and the tenure of the members should be until the completion of the Code, with the exceptions of the Chairman of the Committee on Ways & Means and the Director of Revenue and Taxation. Mr. Blaz went on to say that the Commission task will not go beyond five (5) years. Mr. Blaz also recommended to change the implementation date from January 1, 1991 to January 1, 1996.

Ms. Eloise R. Baza, President of the Guam Chamber of Commerce, submitted written testimony as well as testified before the Committee in support of the Bill. She indicated that the Legislature should design and adopt a complete comprehensive approach in changing Guam's tax laws as opposed to piece-meal changes come January 1, 1991. Also, the appointment by the Governor and the Speaker should come from the professional members of Guam's business community. Appointed members should continue to serve on the Commission so long as they remain members of the same group they represent when appointed. The terms of any non-elected appointee shall expire with the term of the appointing authority. Vacancies in the membership should be filled in the same manner as the original appointment.

Ms. Baza also recommended that Section 19954 be amended to read, **"In the event that the sum of three hundred thousand dollars (\$300,000) available from the U.S. Department of Interior for the development of Guam Tax Code is found insufficient, there is authorized to be appropriated such sums as are necessary to carry out the intent of this Chapter."** The Guam Tax Code Commission should be formed with representatives from the Government of Guam and the professional members of the community seeking input from the community at large. Such a Commission would be permanent in nature, similar to the Commission on Self-Determination, to ensure that its work continues regardless of political changes.

### **RECOMMENDATION**

The Committee on Ways & Means recommends that Bill No. 1367 be passed by the Twentieth Guam Legislature as Substituted.

TWENTIETH GUAM LEGISLATURE  
1990 (SECOND) Regular Session

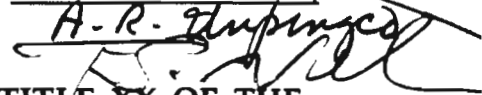
Bill No. 1367

Introduced by:  
Substituted by the Committee  
on Ways and Means

  
C. F. C. GUTIERREZ

  
M. D. Manibusan

  
J. G. Bamba

  
~~A. R. Dupigny~~

AN ACT TO ADD A NEW CHAPTER XII TO TITLE XX OF THE  
GOVERNMENT CODE, RELATIVE TO ESTABLISHING A GUAM  
TAX CODE COMMISSION.

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

2 Section 1. A new Chapter XII is added to Title XX of the Government Code  
3 (Taxation) to read:

4 "Chapter XII

5 GUAM TAX CODE COMMISSION

6 Section 19950. Legislative Findings. Background. By  
7 Federal law, specifically the Tax Reform Act of 1986, Guam was given  
8 the authority to develop its own tax code to replace enforcement of the  
9 Internal Revenue Code used as a local tax, commonly known as the  
10 "mirror-image tax". Executive Order 86-09 and Executive Order 87-06  
11 created Tax Commissions organized by the Executive Branch to study  
12 Guam's tax situation, make recommendations, and draft proposed tax  
13 legislation deemed appropriate. Additionally, an implementation  
14 agreement was signed by the Executive Branch and U. S. Department of  
15 the Treasury designating an effective date for the de-linking of the  
16 Internal Revenue Code from Guam as of January 1, 1991. This date  
17 may be postponed if pending U.S. legislation is adopted requiring the  
18 new Guam Tax Code to be enacted and in place before de-linkage can  
19 occur.

1                   **Intent.**       It is necessary to institute a Guam Tax Code  
2 Commission ("Commission") by law to insure continued work, broad  
3 input, and stability in the process of planning and implementing  
4 Guam's tax future. This Commission shall be provided with all the  
5 work product of the previous commissions established through  
6 Executive Order, and will finalize the needed recommendations in the  
7 form of proposed legislation, within the time frame provided herein.

8                   **Section 19951.       Guam Tax Code Commission: Establishment**  
9 **and Organization.** A Guam Tax Code Commission is established  
10 which is composed of seven (7) members. Two (2) members shall be  
11 appointed by the Governor and three (3) members shall be appointed  
12 by the Speaker of the Legislature, one of which shall be a member of  
13 the Guam society of Certified Public Accountants, one of which shall be  
14 the minority leader of the Guam Legislature and one of which will  
15 represent the public at large. The other two (2) members shall be the  
16 Director of the Department of Revenue and Taxation and the  
17 Chairman, Committee on Ways & Means, of the Legislature. The  
18 appointed members shall serve for the duration of the life of the  
19 Commission, except that individuals who are the Director of the  
20 Department of Revenue and Taxation and the Chairman, Committee  
21 on Ways & Means, of the Legislature, and any member(s) appointed by  
22 the Governor who are a member(s) of the Executive Branch and are  
23 appointed in such capacity shall continue to be a member(s) of the  
24 Commission as long as they hold the position(s) due to which they  
25 were selected. Any permanent member of the Commission may be  
26 dismissed for cause. Any such dismissal shall be approved by a  
27 majority of the members present. Any vacancy shall be filled by the

1 same authority who has appointed the member(s) to such vacant  
2 position in the first place. The Commission shall elect a Chairman  
3 from among its members, who shall designate such other officers as are  
4 necessary to conduct the Commission's business. The Commission  
5 shall draft and implement operating procedures for the conduct of its  
6 business, which procedures shall be exempt from the provisions of the  
7 Administrative Adjudication Law of Guam.

8 **Section 19952. Functions of the Commission.** The Guam Tax  
9 Code Commission shall:

10 (a) Study the effect of the present tax system on  
11 Guam as it has affected Guam during varying economic  
12 situations in the past and present, with a view towards  
13 probable future situations;

14 (b) Develop or adapt an econometric model of  
15 Guam's existing and projected economy, which model  
16 shall be used to simulate the effect of revenue raising, the  
17 effect of any proposed benefits and the optional revenue  
18 generation and utility thereof. The Commission shall  
19 utilize all existing or otherwise available resources, such  
20 as the econometric model now used by the Federal  
21 Treasury, in its development of such model for its work.  
22 In developing its model, the Commission shall take into  
23 account the Comprehensive Economic Development plan  
24 to be drafted pursuant to P. L. 20-147, upon its completion;

25 (c) Solicit input from various sources on present  
26 tax structure and desired changes, through contact with  
27 community sources such as the Guam Chamber of

1 Commerce, Guam Employers' Council, Guam Association  
2 of Social Workers, Guam Federation of Teachers, Guam  
3 Visitors Bureau, Guam Association of Public Accountants  
4 and others, and from public sector sources such as  
5 Department of Commerce, Department of Public Health  
6 and Social Services, Bureau of Planning, and others; and  
7 shall hold public hearings in order to regularly receive  
8 such input;

9 (d) Determine the effect of varying tax  
10 approaches tried in other jurisdictions, such as Puerto  
11 Rico, Virgin Islands, Hawaii, CNMI and others, including  
12 foreign jurisdictions, to the extent that they are useful for  
13 the Commission's purposes;

14 (e) Draft proposed tax legislation, incorporating  
15 recommendations as deemed desirable for Guam after  
16 performing the tasks delineated in items (a), (b), (c) and (d)  
17 of this section, and transmit the proposed tax legislation to  
18 the Legislature. A vote of four (4) or more Commission  
19 members in favor of the proposed tax legislation shall be  
20 necessary before transmittal to the Legislature.

21 **Section 19953. Logistical Support and Services of**  
22 **Professionals.** The Executive Branch in general and the Department of  
23 Revenue and Taxation in particular shall provide needed logistical  
24 support for the Guam Tax Code Commission. The Guam Tax Code  
25 Commission is authorized to retain the services of one or more  
26 attorneys, whether individuals or a law firm, who are tax specialists,



1 and is authorized to retain the services of one or more economists,  
2 whether individuals or a firm.

3 **Section 19954. Appropriation.** There is authorized to be  
4 appropriated such sums as are necessary to carry out the intent of this  
5 Chapter, provided that existing funds such as the Three Hundred  
6 Thousand Dollars (\$300,000) appropriated by the Federal Government  
7 through the Department of Interior's budget is spent prior to any  
8 expenditure of local funds.

9 **Section 19955. Sunset Provision and Reports.** From the  
10 date it first convenes, the Commission shall issue a progress report  
11 detailing its work once every six (6) months, which report shall be  
12 submitted to the Speaker of the Guam Legislature and the Governor of  
13 Guam. The report shall, *inter alia*, detail and substantiate all  
14 expenditures of any funds by the Commission. Failure to submit such  
15 report will constitute cause for removal of the chairperson of the  
16 Commission. Upon completion of its task, no later than five years  
17 from the date of the enactment of this Act, the Commission shall  
18 submit a final report which shall include the proposed draft legislation  
19 of a comprehensive new tax code for Guam. Any unspent funds shall  
20 revert to the General Fund.

21 **Section 19956. Duty to Certify.** Upon enactment into law of  
22 the new tax code for Guam, the Governor shall certify the same as a  
23 comprehensive new tax code enacted by Guam pursuant to the  
24 requirements of Section 1271(f) of the Federal Tax Reform Act of 1986  
25 (as amended) and shall transmit copies of the same, as enacted, to the  
26 United States Secretary of the Treasury.

TWENTIETH GUAM LEGISLATURE  
1990 (SECOND) Regular Session

Bill No. 1367

Introduced by:

  
C. T. C. GUTIERREZ

---

AN ACT TO ADD A NEW CHAPTER XII TO TITLE XX OF THE  
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9 enforcement of the Internal Revenue Code used as a local tax,  
10 commonly known as the "mirror-image tax". Executive Order  
11 86-09 and Executive Order 87-06 created Tax Commissions  
12 organized by the Executive Branch to study Guam's tax  
13 situation, make recommendations, and draft proposed tax  
14 legislation deemed appropriate. Additionally, an  
15 implementation agreement was signed by the Executive Branch  
16 and U. S. Department of the Treasury designating an effective  
17 date for the de-linking of the Internal Revenue Code from  
18 Guam as of January 1, 1991. This date may be postponed if

1 pending U.S. legislation is adopted requiring the new Guam Tax  
2 Code to be enacted and in place before de-linkage can occur.

3 Intent. It is necessary to institute a Guam Tax  
4 Code Commission by law to insure continued work, broad input,  
5 and stability in the process of planning and implementing  
6 Guam's tax future. This Commission will build on the work of  
7 the previous commissions established through Executive Order,  
8 and will finalize the needed recommendations in the form of  
9 proposed legislation.

10 Section 19951. Guam Tax Code Commission.  
11 Establishment and Organization. A Guam Tax Code Commission  
12 is established which is composed of six (6) members. Two (2)  
13 members shall be appointed by the Governor and two (2)  
14 members shall be appointed by the Speaker of the Legislature.  
15 The other two (2) members shall be the Director of the  
16 Department of Revenue and Taxation and the Chairman,  
17 Committee on Ways & Means, of the Legislature. The  
18 appointed members shall serve for a term of two (2) years and  
19 until their successors are appointed. The individuals who are  
20 the Director of the Department of Revenue and Taxation and  
21 the Chairman, Committee on Ways & Means, of the Legislature,  
22 shall continue to be members of the Commission as long as they  
23 hold these positions. The Commission shall choose a Chairman  
24 from among its members, and shall designate such other  
25 officers as are necessary to conduct its business. The  
26 Commission shall draft and implement operating procedures  
27 for the conduct of its business, which procedures shall be

1 exempt from the provisions of the Administrative Adjudication  
2 Law.

3 Section 19952. Functions of the Commission. The  
4 Guam Tax Code Commission shall:

5 (a) Study the effect of the present tax  
6 system on Guam as it has effected Guam during  
7 varying economic situations in the past and present,  
8 with a view towards possible future situations.

9 (b) Solicit input from various sources on  
10 present tax structure and desired changes, through  
11 contact with community sources such as the Guam  
12 Chamber of Commerce, Guam Employers' Council,  
13 Guam Association of Social Workers, Guam  
14 Federation of Teachers, Guam Visitors Bureau,  
15 Guam Association of Public Accountants and others,  
16 and from public sector sources such as Department  
17 of Commerce, Department of Public Health and  
18 Social Services, Bureau of Planning, and others; and  
19 holding of public hearings.

20 (c) Determine the effect of varying tax  
21 approaches tried in other jurisdictions, such as  
22 Puerto Rico, Virgin Islands, Hawaii, and others, as  
23 they may relate to Guam's situation.

24 (d) Draft proposed tax legislation,  
25 incorporating recommendations as deemed  
26 desirable for Guam after completion of items (a),  
27 (b), and (c) of this section, and transmit the

1           proposed tax legislation to the Legislature. A vote  
2           of four (4) or more Commissioners in favor of the  
3           proposed tax legislation is necessary before  
4           transmittal to the Legislature.

5           Section 19953. Logistic Support and Services of  
6           Professionals. The Department of Revenue and Taxation shall  
7           provide needed logistic support for the Guam Tax Code  
8           Commission. The Guam Tax Code Commission is authorized to  
9           retain the services of attorneys, whether individuals or a law  
10          firm, who are tax specialists, and is authorized to retain the  
11          services of economists, whether individuals or a firm. The  
12          attorneys shall formulate the proposed tax code language, in  
13          accordance with standard legislative drafting techniques  
14          applicable to tax legislation and in accordance with statutory  
15          construction applicable to Guam law.

16          Section 19954. There is authorized to be  
17          appropriated such sums as are necessary to carry out the  
18          intent of this Chapter."



DEPARTMENT OF

# REVENUE & TAXATION

GOVERNMENT OF GUAM

JOSEPH F. ADA  
Governor

FRANK F. BLAS  
Lieutenant Governor

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

APR 17 1990

Honorable Carl T.C. Gutierrez  
Chairman, Committee on Ways and Means  
Twentieth Guam Legislature  
Agana, Guam 96910

Mr. Chairman and Members of the Committee:

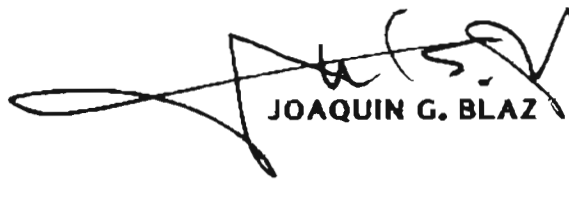
I am very pleased that the Governor has enough confidence in me to re-appoint me to serve another term as a member of the Board of Trustees of the Government of Guam Retirement Fund.

I find serving on this Board to be quite challenging. In fact, the biggest challenge is just in trying to keep up with the constant changes that this Legislature keeps making in order to accommodate certain classes of employees, much to the detriment of the system.

There has to be a way for the Board and the Legislature to work together harmoniously in order to minimize harm to the system.

Presently, I am Vice-Chairman of the Board. If I should continue in this capacity, I would like to work with this Committee to fashion some changes in the Retirement Law for the betterment of the members of the Fund.

Sincerely,



JOAQUIN G. BLAZ

Touche Ross & Co.  
GCIC Building - Suite 810  
414 West Soledad Avenue  
Agana, Guam 96910-5014  
Telephone: 477-9041/42  
Telex: 7216312 TRCO GM

 Touche Ross

April 16, 1990

Mr. Carl T.C. Guterrez, Senator  
Twentieth Guam Legislature  
163 Chalan Santo Papa Street  
Agana, Guam 96910

RE: Bill 1367

Dear Mr. Guterrez:

Thank you for this opportunity to comment on Bill 1367. I wholeheartedly support the effort to formulate a permanently sanctioned body to study, develop and implement a new Guam tax code. I would only suggest that the commission membership be expanded to include a broader cross-section of the community, and that they serve for longer, possibly indefinite terms.

The commission's duties will require the assimilation of information from every segment of our population. Any person or entity which is the beneficiary of any deduction, exemption, or credit under our current system is a ready-made special interest group.

It is inevitable that as the formulation of any new tax system takes place, there will those who will not agree with the results. Rather than placating the desires of all, the new tax code should be developed with a view to fairness, ability to pay, and serve as a facilitator for the economic goals of the people of Guam.

To be most effective it is suggested that the Commission's make-up reflect a broad cross-section of the concerned population of Guam. Rather than designate any one individual, it is suggested that members of concerned organizations be designated as commission members. The organizations represented should include the Guam Society of Certified Public Accountants, Guam Chamber of Commerce, the Government of Guam, Department of Commerce, and the Mayor's Council.

The task of the Tax Commission will take years to complete. I would estimate that a new Guam tax code will take anywhere from five to ten years to develop. The Commission is tasked with developing a new revenue-generation system, which will provide the level of government support needed now and in the future. The new code will also need to reflect the future economic goals of the people of Guam.

Mr. Carl T.C. Guterrez, Senator  
Twentieth Guam Legislature

Page 2

Much of the information needed to make these decisions is not available. The type of economic planning that the task implies has never before been done. What type of businesses do we want to attract and promote, and at what cost?

At a minimum this will require the development of an econometric model. This model will need to simulate the affect of revenue raising and benefit granting provisions of the new Code on the overall revenue capability of the government.

The U.S. Treasury uses such a model when tax policy is formulated by Congress. In the past Treasury has offered to allow Guam's tax commissions to use its model. While it may be an effective guide to use I would expect that a number of adjustments will be necessary to reflect the unique economic conditions of our service-oriented, Asian-based economy.

The commission will also need to study the effectiveness of other tax systems in place around the world. There are many tax systems which Guam could use as a guide. If we intend to promote Guam as a financial center in the Asia/Pacific region for example then a review of the tax laws of Jersey, the Channel Islands, Cayman Islands or Bermuda may be helpful. To develop a manufacturing base the tax systems of Singapore, Puerto Rico or Taiwan may be of some assistance.

As my be appreciated the work of the commission will be long and difficult. This job will be greatly facilitated with a certain degree of continuity in its membership. A lot of energy and time may be lost if the make-up the commission changes frequently.

Given a time horizon of ten years to complete its work, the make-up of the Tax Commission is scheduled to change no fewer than five times. This may in fact seriously delay the progress of the Commission. For this reason it is suggested that more permanent appointments be considered. If organizations such as those offered earlier are appointed, then the routine changes in membership can be more easily accommodated.

I would also urge the tax commission to avoid the tendency to seek off-island expertise. I have spent the last six of my eighteen year professional career here in Guam. I can count on one hand the number of qualified individuals outside of Guam who understand our current tax system, let alone our unique cultural and economic environment. The talent to study, evaluate and formulate any new tax system is here now in Guam.

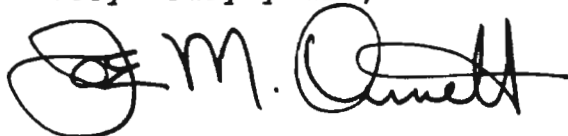


Mr. Carl T.C. Guterrez, Senator  
Twentieth Guam Legislature

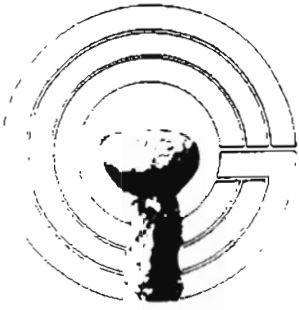
Page 3

Thank you again for this opportunity to comment. I remain available to answer any questions or provide any assistance you require.

Very truly yours,

A handwritten signature in black ink, appearing to read "J.M. Arnett". The signature is stylized with a large, circular initial "J" and a long horizontal flourish extending to the right.

Joe M. Arnett  
Director - Tax Operations  
Guam/Micronesia



**GUAM CHAMBER OF COMMERCE**  
**PARTNERS IN PROGRESS**

April 17, 1990

Senator Carl T. C. Gutierrez  
Chairman, Committee on Ways and Means  
Twentieth Guam Legislature  
163 Chalan Santo Papa  
Agana, Guam 96910

Dear Mr. Chairman and Members of the Committee:


We thank you for inviting our participation in today's public hearing on Bill No. 1367 relative to the establishment of a Guam Tax Code Commission.

To begin, we would like to state that we applaud the general intent of the bill for it recognizes the need that we move forward with the work to develop a comprehensive tax code most appropriate for Guam. With this in mind, we suggest that the Legislature adopt a comprehensive approach to changes in Guam's income tax laws as opposed to piece-meal amendments come January 1, 1991 when income tax autonomy takes effect.

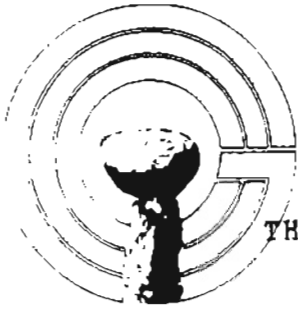
We would like to offer alternatives to the provisions set forth in two sections of the bill. First, we suggest that Section 19951 specifically state that one of the two members to be appointed by the Governor and one of the two members to be appointed by the Speaker of the Legislature be drawn from the professional members of Guam's business community. Also, so that the Guam Tax Commission would be somewhat permanent in nature similar to the Commission on Self Determination, we suggest the inclusion of language that, "appointed members shall serve on the Commission so long as they remain members of the groups they represent when appointed. The term of any non-elected appointee shall expire with the term of the appointing authority. Vacancies in the membership shall be filled in the same manner as the original appointment". Second, we suggest that Section 19954 be amended to read: "In the event that the sum of three hundred thousand dollars (\$300,000) available from the U. S. Department of Interior for the development of Guam's tax code is found insufficient, there is authorized to be appropriated such sums as are necessary to carry out the intent of this Chapter".

In closing, I would like to provide the Committee with the Chamber's position on the issue of income tax autonomy for Guam. Our recommended changes to Bill No. 1367 reflect the ideas presented in our enclosed statement.

Sincerely yours,

  
ELOISE R. BAZA  
President

Enclosure



## **GUAM CHAMBER OF COMMERCE**

### **PARTNERS IN PROGRESS**

THE DEVELOPMENT OF AN INCOME TAX CODE FOR GUAM  
March, 1990

The 1986 Amendments to the Internal Revenue Code provided the Territory of Guam with the authority to develop its own income tax code. Such authority was tied to certain conditions which included, but were not limited to, the elimination of the single filing rule (Section 935) and that Guam's tax code not be structured so Guam could be used by U. S. companies to escape federal taxation. An Implementation Agreement between the U.S. Treasury Department and the Government of Guam was required to effectuate income tax autonomy for Guam. On April 7, 1989, Guam delinked from the federal Internal Revenue Code and effective January 1, 1991, the Guam Legislature will have authority over Guam's income tax code.

The development of a comprehensive territorial income tax code for Guam is a major undertaking and should only be accomplished through a cooperative effort between the Government of Guam and the local community. In an effort to facilitate this cooperative venture, the Guam Chamber of Commerce herein offers its views on how we can approach the development of our income tax code.

The Chamber believes that the U. S. Internal Revenue Code, with its numerous flaws, is not the appropriate mechanism for the effective development of the Guam economy. The massive U.S. tax system has evolved to meet the taxation needs of a heavily industrialized country. Accordingly, it is inappropriate for Guam's young, service-oriented economy. Additionally, there is some doubt whether the Internal Revenue Code is the best mechanism for the Government of Guam to meet its revenue generation needs.

The Chamber recommends that the Guam Legislature elect a comprehensive approach to changes in Guam's income tax laws as opposed to piece-meal amendments. As we have seen with the national tax system, piece-meal changes often create problems more complex than those the amendments were intended to rectify.

The Guam Legislature's authority over our income tax laws will take effect on January 1, 1991. To properly and equitably assess the impact of any proposed changes to these laws, we suggest that a Tax Commission be formed with representation from the Government of Guam and the professional members of our community seeking input from the community at large. Such a Commission would be permanent in nature, similar to the Commission of Self-Determination, to insure that its work continues regardless of political changes. The Commission's initial task would be to proceed with a study to determine the income tax system most appropriate for Guam. The sum of \$300,000 is available from the Department of Interior for this effort.

The development of a territorial income tax code is of significant importance to the people of Guam. The Chamber looks forward to meaningful discussions on this issue.

APR 23 '90

Bill No. 1367(LS)

Introduced by:

  
C. T. C. GUTIERREZ

---

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27 for the conduct of its business, which procedures shall be

1 exempt from the provisions of the Administrative Adjudication  
2 Law.

3 Section 19952. Functions of the Commission. The  
4 Guam Tax Code Commission shall:

5 (a) Study the effect of the present tax  
6 system on Guam as it has effected Guam during  
7 varying economic situations in the past and present,  
8 with a view towards possible future situations.

9 (b) Solicit input from various sources on  
10 present tax structure and desired changes, through  
11 contact with community sources such as the Guam  
12 Chamber of Commerce, Guam Employers' Council,  
13 Guam Association of Social Workers, Guam  
14 Federation of Teachers, Guam Visitors Bureau,  
15 Guam Association of Public Accountants and others,  
16 and from public sector sources such as Department  
17 of Commerce, Department of Public Health and  
18 Social Services, Bureau of Planning, and others; and  
19 holding of public hearings.

20 (c) Determine the effect of varying tax  
21 approaches tried in other jurisdictions, such as  
22 Puerto Rico, Virgin Islands, Hawaii, and others, as  
23 they may relate to Guam's situation.

24 (d) Draft proposed tax legislation,  
25 incorporating recommendations as deemed  
26 desirable for Guam after completion of items (a),  
27 (b), and (c) of this section, and transmit the

1 proposed tax legislation to the Legislature. A vote  
2 of four (4) or more Commissioners in favor of the  
3 proposed tax legislation is necessary before  
4 transmittal to the Legislature.

5 **Section 19953.** Logistic Support and Services of  
6 Professionals. The Department of Revenue and Taxation shall  
7 provide needed logistic support for the Guam Tax Code  
8 Commission. The Guam Tax Code Commission is authorized to  
9 retain the services of attorneys, whether individuals or a law  
10 firm, who are tax specialists, and is authorized to retain the  
11 services of economists, whether individuals or a firm. The  
12 attorneys shall formulate the proposed tax code language, in  
13 accordance with standard legislative drafting techniques  
14 applicable to tax legislation and in accordance with statutory  
15 construction applicable to Guam law.

16 **Section 19954.** There is authorized to be  
17 appropriated such sums as are necessary to carry out the  
18 intent of this Chapter."