

COMMITTEE ON WAYS AND MEANS COMMITTEE REPORT ON

BILL NO. 529

AN ACT TO AMEND 5GCA, CHAPTER 3, BY ADDING SECTION 3127 TO CREATE A SEPARATE CUSTOMS AND QUARANTINE AGENCY; WITH THE DIRECTOR OF CUSTOMS AND QUARANTINE TO BE APPOINTED BY THE GOVERNOR OF GUAM WITH THE CONSENT OF THE LEGISLATURE.

PURPOSE AND ESSENTIAL ELEMENTS

Bill No. 529 contains three sections. The first section consists of Legislative Findings that the Customs and Quarantine Division of the Department of Commerce has outgrown its current position as subordinate division, and should be independent as a separate agency in order to more wholly address the mission of Customs and Quarantine. The separation would also enable the Commerce Department to concentrate on the promotion of business and economic development goals.

Section 2 of the Bill adds a new §3127 to Chapter 3 of Title 5, Guam Code Annotated, establishing a Customs and Quarantine Agency, and indicating that the Director of Customs and Quarantine is to be appointed by the Governor with the advice and consent of the Legislature. Present property and personnel of the Division of Customs and Quarantine is to be transferred to the new Agency.

Section 3 of the Bill indicates that the new Customs and Quarantine Agency is authorized to implement and enforce the provisions of the Customs and Quarantine Law set out in Chapter II of Title XLIV of the Government Code.

PUBLIC HEARING

The Committee on Ways and Means conducted a public hearing on November 30, 1993 at 9:00 a.m. in the Legislative Public Hearing Room to gather testimony on Bill No. 529. Present at the hearing were the Chairman, Senator Carl T. C. Gutierrez, who conducted the hearing, being joined by Senators T. C. Ada, J. G. Bamba, and V. C. Pangelinan.

TESTIMONY

The following persons testified on Bill 529. The testimony varied, and was not all in favor of the passage of this bill.

1. **Mr. Peter Barcinas, Director of the Department of Commerce**, submitted written testimony against the passage of the bill, which is attached. Some of the points made in the written testimony are the following: Director Barcinas indicated that he felt that the separation of Customs and Quarantine from Commerce does not give the needed impetus to strengthen the mission of Customs and Quarantine.

He felt that more manpower would be more beneficial, and cited to the request made by the Commerce Department for six (6) additional positions in the Customs and Quarantine Division during the public hearing on Bill 653. The Director also indicated that there are reorganization efforts now ongoing in the Division, and the issue of the management of overtime is now under review for the purposes of developing Rules and Regulations. The written testimony cites that there is need to support the Customs and Quarantine function, however that separating this Division from the Commerce Department would only result in further expenses. The remainder of the written testimony cites the accomplishments of the Customs and Quarantine Division, and because the Division has made these forward strides, that the Director of Commerce is against the separation of this Division from the Department of Commerce.

In oral testimony, Director Barcinas reiterated the additional cost of creating a new agency. He mentioned that the recent budget cuts make it hard to run the Commerce Department. Director Barcinas indicated that for Fiscal Year 1993 that the Department had \$1,055,787 in carrier overtime billings. This figure includes approximately \$110,000 of retirement contributions. October and November of FY 1994 indicates that already \$145,000 has already been billed to the Department or assessed to the carriers. If this is compared with other law enforcement agencies, this is nearing half of the overtime for their budgets. Director Barcinas indicated about \$130,000 still needs to be paid to the officers as a result of the Hay Study, also. The bankruptcy proceedings of one of the airlines necessitates a payment of \$48,000. \$150,000 kennel facility is also needed. Director Barcinas reiterated that these budgetary needs must be addressed, as well as the cost of reorganization. \$2.5M for Customs and Quarantine is primarily for salaries. Director Barcinas then mentioned other programs and projects of the Customs and Quarantine Division that have been looked into over the past several years.

Chairman Gutierrez then asked Director Barcinas if the Customs and Quarantine Division always received the full \$2.5M in funding. Director Barcinas indicated that there is a 4% cut in the budget, but it is not all taken from the area of Customs and Quarantine. Director Barcinas indicated that federal funding is utilized in the Department.

2. **Mr. Lloyd J. Osborn, Chief, Customs and Quarantine Division, Department of Commerce,** submitted written testimony, which is attached. He summarized his written statement orally, testifying in favor of the passage of Bill 529. He stated that a majority of the Customs Officers at the Department of Commerce are in favor of the bill. He feels that the separation of the Division of Customs and Quarantine from the Department of Commerce would enhance the operations of the Division, as it is a law enforcement agency with different aims than the Department of Commerce. The Division would have direct control of all its assets if it were a separate Agency. He felt that the fact that the Division is not so large is not a valid reason for it to remain with the Department of Commerce, and pointed out that the Guam Energy Office and the Guam Mass Transit Authority are very small agencies, with less personnel than the Division of Customs and Quarantine, which has 76 personnel. He pointed out that the Division assists the Department of Revenue and Taxation in the assessment of Use Tax at the ports of entry, but are not empowered to collect

the Use Tax at the point of entry. The government should have collected \$8.5M in Use Tax for Fiscal Year 1993. Mr. Osborn feels that the Division has outgrown the Department of Commerce, due to the increase in economic activity and the problem with controlling contraband.

Chairman Gutierrez then inquired of Chief Osborn the reason that the Division should separate from the Department of Commerce. He inquired if there was a backlog or some other problem causing this suggestion to come up. Chief Osborn indicated that Customs is a regulatory agency, and Commerce is not. Chief Osborn indicated that the Division wanted to focus solely on service to the people of Guam in the enforcement function. Chairman Gutierrez then reiterated for clarification that the Customs Division would like to focus solely on the regulatory function, to which Chief Osborn agreed.

3. **Lt. Ricardo C. Blas, Customs and Quarantine Division, Department of Commerce**, then testified. He submitted written testimony in favor of the passage of Bill 529, which is attached. He indicated that he is in agreement with the other testimony which was submitted in favor of the bill, but then went on to state that there has been a continuing problem with the Customs and Quarantine Division, and separating the Division from the Department of Commerce may be the answer. He stated that there is no need to increase the manpower of the Division, but that a better program would address the needs of Customs and Quarantine Division. He stated that Customs has always been under a compromise situation in regard to the Department of Commerce.

4. **Customs Officer James McDonald, Customs and Quarantine Division, Department of Commerce**, submitted written testimony, which is attached, in favor of the passage of Bill 529. He summarized his testimony, stating that he has worked for the Division for 10 years. He feels that if the Division is made into a separate agency that they will never get shortchanged in their budget. He pointed out that it is a very dangerous occupation to go down to the Port and inspect cargo, when perhaps there are drugs or other contraband there, and the officer will be in need of protection and they do not have any firearms to protect themselves. He feels that professional training is needed with the Customs officers, certified, for college credits, like is done with the Guam Police Department and the Guam Fire Department. He points that outdated laws need to be updated with regard to the Customs and Quarantine Division. He feels that more manpower is needed because of the increase in drug smuggling and other crimes.

5. **Customs Officer Luis Duenas, Customs and Quarantine Division, Department of commerce**, submitted written testimony, which is attached, in favor of the passage of Bill 529. He indicated that an airline had criticized the Division for the high cost of overtime charged by the Department, yet there are 9 vacancies in the Division, which are not yet filled. He pointed out complaints because of long lines at the airport, yet the vacancies are not filled. He indicated that the proper fines have not always been imposed, even though seals have been tampered with on containers. The Division's budget is more than 50% of the Department of Commerce, yet the Division's problems are not taken care of.

6. **Mr. Angel Santos, representing the Chamorro Nation Traditional Council,** then testified orally. He made reference to the testimony of Director Barcinas in relating to the amount of money needed by the Department of Commerce and the Division of Customs and Quarantine. Mr. Santos then indicated that his main concern was the number of persons on Guam who have died of drug related causes. He indicated that a war has been declared on the people of Guam by the drug kingpins. Mr. Santos stated that he took an informal survey at Inarajan High School, and after asking the question "How many of you know or have knowledge of anyone who uses or sells, or deals with 'ice', or so-called methamphetamine." Five students per class indicated that they had which worked out to 20% of the students. Mr. Santos indicated that this is an indication of a problem with the drug 'ice' on Guam, and is a factor in violent crimes being committed on Guam. Mr. Santos then told a story of one incident. He stated that there is a increase of 20 and 30 year olds dying of heart attacks, as a result of the usage of 'ice'. Mr. Santos indicated that the amount of money needed for the Customs and Quarantine is nothing compared to the cost of people dying of drug usage.

Mr. Santos indicated that the Guam Police Department is the second line of defense, and that the first line of defense are the Customs and Quarantine officers at the ports of entry. Mr. Santos indicated that drugs come from somewhere, and that the Divisions of Customs and Quarantine has failed in stemming the tide of drugs. He stated that outdated laws are hampering enforcement. He stated that every bag should be inspected at the airport. He stated that the operations of Customs and Quarantine should be separated from the Department of Commerce; that lists of VIP persons should not be made wherein these persons do not have their bags inspected at the airport. Mr. Santos stated that most of the 'ice' coming into Guam is coming in from video shops and construction companies. Mr. Santos stated that we have problems when the Department of Commerce instructs the customs officers not to inspect the bags of certain people who are long time residents of Guam.

Mr. Santos stated that he was in favor of the passage of Bill 529, separating Customs and Quarantine from the Department of Commerce.

7. **Ms. Antoinette D. Sanford, Chairwoman, Board of Directors of the Guam Chamber of Commerce,** submitted written testimony, which is attached. The testimony is against the creation of another government agency, but states that the Chamber of Commerce is in favor of assuring a meaningful reorganization effort by the Department of Commerce.

General Discussion and Questions from the Committee Members:

Chairman Gutierrez indicated that Mr. Santos had made a serious charge concerning construction companies bringing in drugs and asked for the names of the companies. Mr. Santos did not respond based on his promise to protect the customs officers at the Department of Commerce.

Chairman Gutierrez then asked Director Barcinas whether there was ever a directive not to inspect the bags of certain people or a list of VIPs not to inspect. Director Barcinas responded that there was never such a directive or a list of VIPs.

He stated that each officer has discretion and shows courtesy to persons coming in, but that the procedures are followed.

Director Barcinas indicated that Mr. Santos does not understand the procedure. That even if there is a long line at customs, that the job is still done, it may take a little longer. Drugs are not let in. There cannot be 100% inspection coming into the island. There is the port, the airport, the military, and various ways to come into the island. Everything is a port of entry. Inspection criteria is not compromised. Director Barcinas indicated that he is aware of the need for training and the various other matters that have been brought up in the testimonies of others at the hearing. He indicated that the separation of the Division from the Department does not provide the funding for all these other matters. Director Barcinas stated that 100% enforcement simply cannot be done, and that the officers must have a job environment that can be tolerated by the employee officer.

Chairman Gutierrez then inquired of Chief Lloyd Osborn of the Customs and Quarantine Division if he had ever received a directive not to inspect the baggage of a certain construction company. Mr. Santos interjected that the mention of a construction company was just an example being cited. The question of whether there is a VIP listing is a question.

Director Barcinas indicated that there are "blue badges" issued to persons who have been previously convicted of drug offenses. He indicated that the Department is not in charge of the issuing of blue badges, but that persons entering the sterile area must follow protocol.

Chairman Gutierrez asked if it was the case that it is in the discretion of the customs officer to make an inspection. Director Barcinas indicated that that was the case, and even if the customs officer clears an individual, that at another level, the person can still be inspected.

Mr. Santos then stated that when a customs officer inspects a VIP, then there is an unwritten rule that officer will "catch hell" later for inspecting that VIP.

Chairman Gutierrez stated that an officer could go against that, if it were happening, and go out to the press with such information. He stated that he wanted to make sure that there is no list of exempt people going on.

Mr. Santos stated that that is only one possible leak (for drugs), and that the other leak is that in the name of tourism there is not 100% inspection of baggage. Chairman Gutierrez indicated that that is the agreement that was made for inspection of tourists.

Senator Ada then asked Chief Osborn about whether the separation of the Division from the Department is necessary to concentrate on the regulatory function, and that at the present time the customs function is used for data gathering for the economists at the Department of Commerce, rather than concentrating on the regulatory function, such as the interdiction of drugs.

Senator Ada asked for an example of how the Customs and Quarantine function is being subordinated to the functions of the Department of Commerce. Chief Osborn indicated that they are being used after typhoons and earthquakes to collect data, rather than being at the ports of entry.

Senator Ada asked Director Barcinas what the increased expenses would be for separating the Division from the Department. Director Barcinas indicated that there would need to be a new director, deputy director, private secretary, administrative section.

Senator Ada asked what would be the total cost. Director Barcinas indicated that it would be just under \$1M, because of all the satellite offices sharing with other agencies. These sorts of concessions would have to be ironed out. \$3.2M is involved. This does not address the additional personnel, the reorganization, which would involve about 40 more officers.

Senator Ada inquired about the outdated legal requirements and laws. Senator Ada asked for recommendations. Director Barcinas said that the reorganization does not address the "72-5" agricultural law that has been in existence for about 30 years. Senator Ada asked if those changes could be accomplished without an organizational change. Director Barcinas indicated that the Department would need a legal advisor. Senator Ada pointed out that the Department has access to the Department of Law for this. Director Barcinas indicated that that takes a long time.

Senator Ada asked whether the percentage of filled positions is not higher for the Commerce side of the Department rather than the Customs and Quarantine side. Director Barcinas indicated that it would be about the same. Director Barcinas pointed out that there is no Chief Economist, however, they are going through the process of recruitment, even though there are austerity measures. Director Barcinas indicates that if the choice were there, the filling of customs officer positions would be the priority.

Mr. Santos indicated that he had looked at the notes of Director Barcinas, and that \$433,576 is required, including personnel, contractual for office space, and office supplies, to separate Customs and Quarantine from Commerce. Director Barcinas indicated that those figures were just cursory, and that he would provide the amount of money necessary later.

Senator Ada asked for a breakdown of the necessary expenses, and that some restraint is necessary in projecting expenses.

Chairman Gutierrez asked Director Barcinas why he was still complaining that they had not received 6 new positions for customs officers, when there were still 9 vacancies. It was indicated that there are now really 6 vacancies. Director Barcinas indicated that over the year some individuals had retired. Some plans are there to fill the existing vacancies.

Senator Bamba indicated that 90% of the cost of separating the Division from the Department is already taken care of in the existing budget. Senator Bamba pointed

out that if it were really true that \$8.5M could be collected by enforcement of the Use Tax, that an investment in the separation of the Division from the Department would be very successful.

Senator Bamba indicated that the combination of Customs and Quarantine with Commerce is an accident of history. That in the beginning, even the airport was included in the Department of Commerce. He pointed out that the main mission of Commerce is to track economic activity. It is not sensible to keep Customs and Quarantine with Commerce, their missions are different. Senator Bamba made reference to a previously introduced bill several legislatures past that reorganized the government by separating customs function from commerce function.

Chairman Gutierrez thanked those testifying and closed the hearing on Bill 529.

COMMITTEE ACTION

The Committee on Ways and Means, after consideration of the testimony offered at the public hearing, decided to report out Bill 529, however, a substitute version of the bill was drafted to include provisions to make the effective date of the legislation to be October 1, 1994, and to require the Department of Law (Attorney General) to study the enforcement provisions of the Customs and Quarantine laws and to provide recommendations to update these laws, if necessary, and to transmit the recommendations to the Legislature by June 1, 1994.

COMMITTEE RECOMMENDATION

The Committee on Ways and Means wishes to report out Bill 529 to the full legislature to **do pass, as substituted.**

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

Bill No 529
Substitute Bill by Committee
on Ways and Means

Introduced by:

J. T. San Agustin
T. C. Ada
V. C. Pangelinan
C. T. C. Gutierrez
H. D. Dierking
J. P. Aguon
E. P. Arriola
P. C. Lujan
T. S. Nelson
J. G. Bamba
A. C. Blaz
M. D. A. Manibusan *Manibusan*
A. R. Unpingco

AN ACT TO ADD A NEW §3127 TO CHAPTER 3 OF TITLE 5,
GUAM CODE ANNOTATED, RELATIVE TO CREATING A CUSTOMS
AND QUARANTINE AGENCY SEPARATE FROM THE
DEPARTMENT OF COMMERCE, WITH THE DIRECTOR OF THE
CUSTOMS AND QUARANTINE AGENCY TO BE APPOINTED BY
THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE
LEGISLATURE.

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

2 Section 1. (a) **Legislative findings.** The Legislature finds
3 that the Division of Customs and Quarantine of the Department of
4 Commerce has outgrown its current subordinate position within the
5 Department of Commerce. As in the case of the Guam International Airport
6 Authority and the Commercial Port of Guam, both of which used to be part
7 of the Department of Commerce and were subsequently created as
8 independent authorities, the time has come for the Division of Customs and

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1 Quarantine to be separated from the Department of Commerce and
2 established as a separate agency. This is necessary in order that the
3 mission of the current Division of Customs and Quarantine may be more
4 wholly addressed. In this regard, the Legislature finds that establishing a
5 separate Customs and Quarantine Agency will facilitate the mission of
6 customs and quarantine as an effective regulatory agency at the ports of
7 entry of Guam.

8 The Legislature further finds that the separation of the Division of
9 Customs and Quarantine will also be beneficial to the Department of
10 Commerce. The Department's mission is outlined in Section 47060 of the
11 Government Code. This section does not include a statement of regulation
12 of customs and quarantine. Separation of the Division of Customs and
13 Quarantine from the Department of Commerce will allow the Department of
14 Commerce to concentrate on the promotion of business and economic goals
15 which are vital to our island and stated in Section 47060 of the
16 Government Code.

17 **(b) Adding a new §3127 of Title 5, Guam Code Annotated,**
18 **creating a new Customs and Quarantine Agency.** A new §3127 is
19 added to Chapter 3 of Title 5, Guam Code Annotated, to read:

20 "§3127. Customs and Quarantine Agency. There is hereby established,
21 within the government of Guam, a Customs and Quarantine Agency. The
22 Director of the Customs and Quarantine Agency is the head of the agency.
23 The Director is appointed by the Governor with the advice and consent of
24 the Legislature."

25 **(c) Transfer of personnel, property, and equipment to the**
26 **Division of Customs and Quarantine of the Department of**
27 **Commerce to the Customs and Quarantine Agency.** All Personnel of

1 the Division of Customs and Quarantine of the Department of Commerce are
2 transferred to the Customs and Quarantine Agency established in
3 Subsection (b) of this Section, with all duties, responsibilities, and
4 compensation intact, and with no lapse in service to the government of
5 Guam. All property and equipment and for the Division of Customs and
6 Quarantine of the Department of Commerce are transferred to the Customs
7 and Quarantine Agency established in Subsection (b) of this Section.

8 **(d) Enforcement of laws relative to customs and quarantine.**
9 The Customs and Quarantine Agency established in Subsection (b) of this
10 Section is authorized to implement and enforce the provisions of Chapter II
11 of Title XLIV of the Government Code and all rules, regulations, and
12 executive orders relative to customs and quarantine functions.




13 **(e) Department of Law to provide a review of current laws,**
14 **rules, regulations, and executive orders relative to the customs**
15 **and quarantine function and to provide the Legislature with**
16 **recommendations for updating them.** The Department of Law shall
17 undertake a review of the laws, rules, regulations, and executive orders
18 now in effect relative to the customs and quarantine function in Guam and
19 shall provide recommendations for updating and improving these laws,
20 rules, regulations, and executive orders to the Legislature and to the
21 Governor no later than June 1, 1994.

22 **(f) Effective date.** Subsections (a), (b), (c), and (d) of this Section
23 are effective October 1, 1994. Subsections (e) and (f) are effective upon
24 enactment.

TWENTY-SECOND GUAM LEGISLATURE
1993 (First) Regular Session

Bill No. 529

Introduced by:


J.T. SAN AGUSTIN
T.C. ADA 
V.C. PANGELINAN 

LAST AN ACT TO AMEND 5GCA, CHAPTER 3, BY ADDING SECTION 3127 TO
CREATE A SEPARATE CUSTOMS AND QUARANTINE AGENCY; WITH
THE DIRECTOR OF CUSTOMS AND QUARANTINE TO BE APPOINTED
BY THE GOVERNOR OF GUAM WITH THE CONSENT OF THE
LEGISLATURE.

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

1 Section 1. Legislative Findings. The Legislature finds that the Customs and
2 Quarantine Division has outgrown its current subordinate portion within the
3 Department of Commerce. As in the case of the Airport Authority and the
4 Commercial Port, both of which used to be part of the Commerce Department and
5 which were subsequently created as independent authorities, the time has come for
6 the Customs & Quarantine Division to be separated from the Commerce
7 Department and established as a separate agency. This is necessary in order that the
8 mission of the current Customs & Quarantine Division may be more wholly
9 addressed. In this regard, the Legislature finds that establishing a separate Customs
10 & Quarantine Agency will facilitate the appropriate development of this entity as
11 an effective regulatory agency.

1 The Legislature further finds that the separation of the Customs & Quarantine
2 Division will also be beneficial to the Commerce Department, as a whole. The
3 Commerce Department's stated mission is clearly outlined in Section 47060,
4 Chapter I, Title XLIV of the Government Code. In no part of this section is
5 customs regulation mentioned as part of the Department's mission. In line with this
6 statutory intent, the Legislature further finds that divorcing customs responsibilities
7 from the Commerce Department will allow the Department to more fully
8 concentrate on it's business promotion and economic development goals which are
9 so vital to our island and which are clearly stated in Section 47060. Separation
10 of the Customs & Quarantine Division will also remove any potential conflicts
11 between the Commerce Department's overall business promotion goals and the
12 Customs & Quarantine Division's regulatory responsibilities.

13 Section 2. A new Section 3127 of 5GCA, Chapter 3 is hereby added to read:

14 "Section 3127. **Customs & Quarantine Agency.**

15 There is hereby established, within the Government of Guam, a Customs &
16 Quarantine Agency. The Director of Customs & Quarantine is the head of the
17 agency. The Director is appointed by the Governor with the advice and consent
18 of the Legislature. All property, equipment, and funding for the Customs &
19 Quarantine Division of the Department of Commerce are hereby transferred to the
20 Customs & Quarantine Agency. All personnel of the Customs & Quarantine

1 Division of the Department of Commerce are hereby transferred to the Customs &
2 Quarantine Agency with all duties, responsibilities, and compensation intact and
3 with no lapse in service to the Government of Guam."

4 Section 3. The Customs and Quarantine Agency, established in Section 2 of
5 the Act, is authorized to implement and enforce the provisions of Chapter II of
6 Title XLIV of the Government Code.

FISCAL NOTE
BUREAU OF BUDGET AND MANAGEMENT RESEARCH

BMR-F7

Bill No. 529(LS)
Amendatory Bill

YES NO

Date Received 12/1/93
Date Reviewed 12/3/93

Department/Agency Affected: Department of Commerce
Department/Agency Head: Peter Barcinas
Total FY Appropriation to Date: \$4,786,047

Bill Title (preamble) : AN ACT TO AMEND 5GCA, CHAPTER 3, BY ADDING SECTION 3127 TO CREATE A SEPARATE CUSTOMS AND QUARANTINE AGENCY; WITH THE DIRECTOR OF CUSTOMS AND QUARANTINE TO BE APPOINTED BY THE GOVERNOR OF GUAM WITH THE CONSENT OF THE LEGISLATURE.

Change in Law: Adds Section 3127 to 5GCA, Chapter 3.

Bill's Impact on Present Program Funding:
 Increase Decrease Reallocation No Change

Bill is for: Operations Capital Improvement Other ()

FINANCIAL/PROGRAM IMPACT

PROGRAM CATEGORY	ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)		TOTAL
	GENERAL FUND	OTHER	
To be created	\$512,400	-0-	\$512,400

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)

FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND	\$512,400	\$538,020	\$564,921	\$593,167	\$622,825	
OTHER						
TOTAL	\$512,400	\$538,020	\$564,921	\$593,167	\$622,825	

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? YES/NO-IF NO, ADD'L AMOUNT REQUIRED \$ N/A
AGENCY/PERSON/DATE CONTACTED: _____

ESTIMATED POTENTIAL MULTI-YEAR REVENUES

FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND	No revenue is expected from this Act.					
OTHER						
TOTAL						

ANALYST T. Jess Rivera DATE 12/6/93 DIRECTOR GIOVANNI T. SGAMBELLURI DATE 12/9/93

FOOTNOTES: Estimates are for "new" costs of creating a new department, i.e., Administrative Staff-\$300,000, Operating Expense-\$67,200, Office Rent-\$144,000, and Utilities-\$12,000 subsequent years are increased by 5%.

**TWENTY-SECOND GUAM LEGISLATURE
 COMMITTEE ON WAYS & MEANS
 PUBLIC HEARING TESTIMONY SIGN-IN ROSTER
 Bill No. 529**

AN ACT TO AMEND 5GCA, CHAPTER 3, BY ADDING SECTION 3127 TO CREATE A SEPARATE CUSTOMS AND QUARANTINE AGENCY; WITH THE DIRECTOR OF CUSTOMS AND QUARANTINE TO BE APPOINTED BY THE GOVERNOR OF GUAM WITH THE CONSENT OF THE LEGISLATURE.

NAME OF WITNESS (Please print clearly)	REPRESENTING	STATEMENT (Written or Oral)	TESTIMONY (check one) FOR AGAINST	
<u>Lloyd J. Osborn</u>	<u>CDQ DIU Commerce</u>	<u>written</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Angel Santos</u>	<u>Commerce Ministry Traditional Commerce</u>	<u>Oral</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>James McDonald</u>	<u>CUSTOMS</u>	<u>WRITTEN</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Luis DUCNAS</u>	<u>CUSTOMS</u>	<u>WRITTEN</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Charles TRIVITMAN</u>	<u>Compiler</u>	<u>Oral</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Pete BARCENA</u>	<u>Commerce</u>	<u>Written</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Rick POLLOS</u>	<u>Customs</u>	<u>written</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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AN ACT TO AMEND 5GCA, CHAPTER 3, BY ADDING SECTION 3127 TO
CREATE A SEPARATE CUSTOMS AND QUARANTINE AGENCY; WITH
THE DIRECTOR OF CUSTOMS AND QUARANTINE TO BE APPOINTED
BY THE GOVERNOR OF GUAM WITH THE CONSENT OF THE LEGISLATURE

Good Morning, Mr. Chairman and Members of the Committee. My name is Peter R. Barcinas; as the Director of the Department of Commerce, I am here this morning to provide testimony regarding the Bill before you.

The intent of Bill 529 to establish a separate Line agency of a Commerce division at this time will not address the critical areas of the Customs division. Let alone the importance of the Government of Guam austerity measures in creating entities that would require more tax dollars to run. It will not provide the needed impetus to boost the regulatory role of the Division. The many constraints of which the division has been operating under has not only made it more resilient today but effective as an enforcement arm of the Ports of entry of the Territory of Guam. Streamline yes, but for how long I believe the division is at that transition point for gradual change. The arguments for this separation focuses on greater priority and commitment to Customs as a whole and to allow for the coming demands of Customs in the future, wholly premised on a conflicting of Mission statements. The Where with all resources are limited and more difficult today. The relief so desperately sought by this division can only come from a funding perspective whether through the existing mechanism by an immediate funding add-ons or as a separate agency. This reality will eventually be addressed. In my testimony on Bill 653, an appropriations measure supporting a proposal to fund an additional six (6) FTEs for Customs Officers which will allow for an appropriation of a total \$140,000. Again, this was deferred for review by your committee. I again reiterate the need to support any request for additional manpower to address the manpower shortage problem. Any additional staffing that can be added to the Division is most welcome and will bring the much needed relief. These are small measures that can bring immediate results and better the working environments of our dedicated Customs Officers.

One immediate avenue which is ongoing today is the reorganization efforts of this division. This is one critical step in providing much needed relief for the division which has not had a chance to be fully implemented and tested. This is a process that will be required under the current umbrella or as a new Department.

I have continued to stress as in past testimonies, that the division has its many challenges and I would venture to say that these are the most productive times when the division collectively has benefited through proactive programs when addressing its multifaceted activities and responsibilities. Today most of the unclear operating standards of which guided this division is now more defined with more areas subject to this level of review. One key area is the issue of managing Customs Overtime. Officers have

complaint of favoritism, unfair disparage handling of this area. The response by management is to review these concerns directly and to provide relief by working closely with the users of Customs services to address a more sound and flexible overtime program. Management of this system has been the sole responsibility of the Chief Customs Officer. This includes the efforts of finalizing the Rules & Regulations for the Carrier Overtime. To date several hearings with the Carriers and Officers have been held and the final action is to formalized these rules in their final version and submission to this body for approval.

Training standards have been more definitive and comprehensive than ever before. Specialization standards such as the Drug Detector Canine Unit which is now embedded in the division programs. General Orders standards which guides the division's day to day activities.

In the area of Federal Relationships, Agreements, Memorandums of Understanding, and many more programs wherein Customs has joint forces with either Federal counterparts or through such arrangement of need have resulted in more opportunities for the Division. I will say that without their support and overall assistance our network with these counterparts have resulted in an overall enhancement of the Division. In times of good and bad the resources of these agency relationship were made available. This division continues to aggressively pursue federal grants and adopt innovative programs that would fill the void for badly needed resources.

Mr. Chairman, I am sure you will agree that without the key support and commitment that is needed, this task becomes more difficult and demanding. One way to look at this role is whenever you see an air carrier or a surface carrier with its attendant port of call requirements, Customs Officers will always be there to service this demand and need. To date this continues as best we can manage the existing resources and we don't see a major departure of this role in the future. However, in the future, demands for more Customs services is inevitable, without the right manpower support and the attendant support systems this becomes an even more difficult task as it is now. Perhaps we can see some changes in approaches such as application of new technology. Such as the Customs Scanner system for the existing Customs declaration form, X-ray Machines exclusively for Customs Operations and hopefully in the near future the implementation of the Harmonized System for advanced cargo clearances for commodities entering Guam. All providing for a more streamline enforcement/regulatory unit that constantly thrives for new approaches and techniques for meeting the Customs challenges of today and tomorrow. Conducting motion studies to reevaluate our existing standards of profiling and inspection criteria are more of the direct assistance that requires funding support one way or another. The Government does not have that expertise, as I can attest that I have exhausted all avenues to try and address this problem directly and continue to do so. We see manifestations of disgruntlement, low morale, a desire by

this division to see things change for the better. In the history of the division, these duties and responsibilities of the division has grown and that the current restructuring of the division is evident based on some of the difficulties of the tasks of the majority of Officers. I am confident that the recent desk audits of the Customs division will net some direct upgrading of positions as it will reflect the increased activities as currently performed by Customs Officers.

Despite the many times I have appeared before this body to present our views of the Department of Commerce, I have always remained firm and continue to support the ends of the Customs mission. This is a critical and growing mission. Customs today will continue to be an effective enforcement and regulatory body. What the future holds will remain with this body as they deliberate the ends of Bill 529. The ways & Means Committee must provide the basis of whether this Bill warrants such passage as it deals directly with a funding issue, and not directly addressing the needs of the division as it will incur such funding concerns over and beyond the trappings of the touted Customs & Quarantine Department.

While of equal importance, the issue of mutual support is an important dimension to consider when fully addressing Bill 529. The bill would form a new agency within the government, its own internal administrative structure, its own offices, and the attendant trappings that would add to the total for FY 1994 at \$2.5 million. I can understand that the idea of subdividing complex structures into their smallest component parts for purposes of functional segregation is attractive to some, even though operational costs would increase dramatically, as I have testified before. Nevertheless, there is also organizational need to integrate interrelated functions for reasons of efficiency, particularly when the relationship is one of mutual support.

Customs certainly supports the objectives of the Department of Commerce, not only its law enforcement functions, but also in the access that our Customs operations provide to specialized types of commercial information. Without the timely, information that Customs provides concerning trade regulations, tariffs and quotas, documentation requirements and dozens of other important details, we would not be able to maintain our effectiveness in this area of our operation. The mutual assistance provided among Customs and the other Divisions within the Department creates a whole that is greater than the sum of its parts. An example is seen in the enforcement of the Guam Product Seal Program, administered by the Department and enforced by the Customs division as it deals with the various ports of entry.

Critical Relationships. I agree of the importance of the regulatory arm of Customs in all the key areas of its current operations, I also agree of the importance of maintaining this overall objective throughout the system. However, if this is the only primary role to be an enhanced regulatory arm in the proposed department, then the many facets of areas that it currently

supports, both directly and indirectly will be one for the legislature to ponder as to the reasoning of ending such a vital relationship.

As in past appearances before the various committees, I am only asking that the support of the division as presented in past budget submittal, supporting the 9-point phase plan will address most of the program priorities however, the issue of funding concerns will always remain a problem and this is presented as follows:

Money perspective. The trappings of the division's cost to date total a whopping \$2,692,311 for FY 1993 and FY 1994 \$2,584,616.00 inclusive of the four (4) percent mandatory cuts. We look towards the same with the following add-ons to the overall Customs Budget:

- Hay Study ratification Payment to the Officers that have been affected totals \$130,000.00.

- Bankruptcy Proceedings settlement that requires an additional for payment to the Officers as a whole \$48,000.00.

- Other funding considerations are only the beginning and this includes the following conservative amounts:
Kennel Facility Basic Requirement-\$150,000.00.

- Revisiting the issue of Carrier Overtime will always be a sensitive topic for our Officers and the Carriers that pay for this service. This is an important matter in the wake of cost cutting measures not only from the Government of Guam perspective but from the Business Community as well. Premium pay by the Carriers to Customs Officers, are indeed justified given the current conditions. However, Customs today is adjusting this program to balance cost control while providing either the same level or better Customs service. For Fiscal Year 1993 total Carrier Billings by Customs \$1,055,787.31 and overtime retirement benefits total \$111,325.17. For the current Fiscal Year 1994, it appears that we are headed in the same level of Carrier Billings- Oct/Nov approximately \$145,000 and Benefits for the same period \$35,000.00.

Impact of these additional areas places certain restrictions on current FTEs and the current vacancies as these along with the additional 4% Mandatory Cuts, we have all together continue to weather a total of 12% budget cut that affects the entire Department. These are difficult times and it appears that any relief just yet will not be realized for some time to come.

The mood of the Business Community to implement a User fee was met with strong reservations, however, a proposal was submitted to address ways to fund the Customs operations in total. Reworking of the Bill is underway which will include the key sectors of Guam's Business Community as well as the Community at-large for input. A revised fee schedule will be presented at a later time and perhaps reflect a phase-in program. This is the most feasible

solution to address the limited funding options currently available.

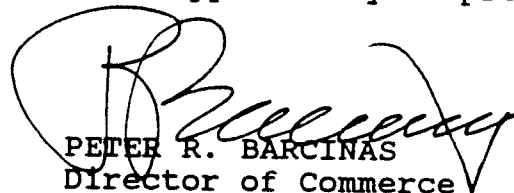
It is clear Mr. Chairman, that the current divisional concerns will require additional funds to address some of the immediate needs that is a long standing matter. The proposal in part of a new agency at the very least will require additional funds to operate what was once a division level will now be a full Department with its attendant trappings. The figure we have provided was an estimate at the very least.

Mr. Chairman, in closing I have tried to present our concerns of the pluses of this division's accomplishments and the general constraints of why Bill 529 will not resolve the many difficulties that the division is facing. This is largely due to funding problems, that in part requires additional personnel. Through the reorganization agenda, the finer details of restructuring will define the operations needs of the division which will call for the proper staffing levels and support emphasis the division needs. There will be a cost to this reorganization that in the end will only benefit the Officers in performing their utmost in the best of conditions.

Given these reasons, and the continued conditions that we remain under, I will still remain a strong advocate in opposing Bill 529. Although the intent is noted the approach as embedded will not provide the relief sought after all is said and done. I will again, state that at this point, is to give the support and provide the resources to the Customs Service that is truly needed. We may not solve all the immediate problems of the division today but we are on the right course to redressing these outstanding divisional needs.

I trust that this Committee of Ways & Means is in a better position to evaluate the impact of what Bill 529 proposes from its vantage point as it deals with further appropriations and not directly with the program components that such change would bring. I hope my comments as presented are given due consideration in your committee deliberations. I believe again, that the critical areas of need as presented time and time again can be supported and the resources due provided. I am sure that you will see an effective Customs program for the benefit of the employees of the Division and the Department as a whole ready to serve the people of Guam.

Thank you for your attention and for the opportunity to present my views today.


PETER R. BARCINÁS
Director of Commerce

CARGO

The Cargo Section processed approximately 55,211 entry documents and recorded 6,132,230.67 metric tons of high grade tuna transshipped to Japan. The section also recorded numerous interceptions of restricted/prohibited agricultural products to include endangered species and trademarked violations.

MARITIME

The Maritime Section cleared 2,507 vessels 48 of which are passenger liners carrying a total of 19,188 passengers. In addition, the section processed and cleared 27,223 entry documents. Because of the Base Closure in Subic Philippines, the maritime section witnessed an increase in bound shipment for the military. These include household goods and merchandise for the exchange system. The port also witnessed an increase in the imports of sand and quarry products some of which were denied entry for lack of treatment.

In the area of Use Tax, the following is a breakdown of the total assessment made by Customs Officers at the ports of entry.

First Quarter assessment	\$65,502,867 x 4% =	\$2,620,114.00
Second Quarter assessment	51,049,690 x 4% =	2,041,962.00
Third Quarter assessment	60,547,492 x 4% =	2,421,899.00
Fourth Quarter assessment	52,969,799 x 4% =	2,118,791.00

Total: \$230,069,848 x 4% \$8,651,445.00

PECO

Property/Evidence Custodial Office - During this reporting period the PECO recorded 47 seizures of counterfeit items totaling approximately 14,801 pieces. These seizures involved counterfeit trademarked articles such as Louis Vuitton, Hunting World, Channel, Nike etc.. A great majority of the seizures originated in Korea. In addition, a total of 234 pieces of endangered species were intercepted most of which were turtle shell jewelries.

TASK FORCE

The Customs Narcotic Task Force Section investigated and recorded 72 seizures. Of the 72 seizures, two arrested for cocaine, 53 for cannabis, 14 for methamphetamine (ICE), 2 for heroin and 1 for crank. The following is a breakdown of the seizures.

Marijuana	17,143 Grams
Methamphetamine (ICE)	947 Grams
Heroin	3.5 Grams
Cocaine	17 Grams
= Crank	2.3 Grams

In addition, the Drug Detector Dog Unit which comprised of four Customs Officers and 4 Drug Detector Dogs recorded 41 narcotic seizures of the 72 recorded. Of the 41 seizures 31,294.48 grams were marijuana with a street value of \$1,408,251.60 and 726.4 grams of Methamphetamine (ICE) with a street value of \$726,400.00. These seizures were a result of operations Moonlight (Domestic Mail Operations) Waterfront (Maritime Operations) No Way Palau (High Risk Flights/Cargo Operations and Baywatch (Maritime Operations).

During this reporting period the DDDU provided assistance to the Department of Corrections in the Drug Detector Dog Visual Deterrence operations which was conducted in the DOC Facility. Also the DDDU conducted demonstrations at the various Public School under "Just Say No To Drugs"

Internal Affairs

During FY'93 the Internal Affairs Section conducted numerous incidents involving uniform personnel of Customs and Quarantine Division. The following are categories of complaints which was received from the public and personnel of the division.

Conduct	27
Regulatory	6
Criminal	4
Abuses	2
Government Property	2
Grievances	4

The investigation of the above mentioned cases resulted in:

Arrest	4
Termination	1
Demotion	1
Suspension	2
Reprimand	11
Unfounded or Unsustained	10

In addition the section conducted an investigation in violation of a Public Law which resulted in a fine of \$25,000.00

Marine Patrol Unit

Since the inception of the Unit, personnel assigned have been undergoing training with the U.S. Coast Guard. The Customs Patrol Boat was moved from Commercial Port over to the Agat Marina where a boat slip was made available for Customs use courtesy of the Port Authority.

Training

From October 1st through September 30, 1993, the following training have been conducted/or coordinated by the Customs Training Section.

1. Customs 8th Cycle Recruit Training
2. Basic Arrest Procedures
3. National Guardsmen Orientation Training (CDSO)
4. U.S. Customs "Operation Exodus"
5. U.S.D.A "New Plant Imports/Non Propagative Manual"
6. Sexual Harassment Training
7. Narcotic Interdiction Training

Training sponsored by the Department of Administration, Government of Guam.

Basic Supervisory Workshop attended by Customs Officers F. Hamamoto, D. Merfalen and L. Aflague.

Advanced Supervisory Workshop

Safety Training

Basin Computer Training

Off-Island Training/Conferences:

Customs Heads of Administration Regional Meeting held in Fiji attended by Chief L.J. Osborn.

Pacific Basin Customs Enforcement held in Honolulu Hawaii attended by Captain I.Q. Peredo.

Drug Enforcement Narcotics Interdiction Training held in CNMI attended by Customs Officer I D. Ulloa.

Drug Commander School Training held in Jacksonville Florida attended by Customs Officer E.T. Torres.

Lock Smith Training held in Florida attended by Customs Officer R. Tenorio.

SkyNarcotics Training held in California attended by Customs Officers J.I. Manibusan and R. Sablan.

HEADQUARTERS

From October 1992 to September 30, 1993 the Customs and Quarantine Division managed to recruit 7 Customs Officers, two of which are female officers.

In August of 1993 a Public Hearing was conducted regarding the Customs Carrier Overtime Rules and Regulations. The Regulations must now be forwarded to the Legislature of adoption.

In August of 1993 the Division conducted a public hearing regarding the Customs Reorganization.


Customs Reorganization - The Department of Administration conducted an audit of the Customs Division in line with the Customs Reorganization. The final audit report will be released during the second week of November.

New Customs Declaration Form - Effective September 1, 1993 the Division implemented the New Customs Baggage Declaration Form. Current inventory of forms were provided by the Guam Visitors Bureau.

Statistics on Customs and Quarantine activities for FY'93 are listed on the attached exhibit.


IKE Q. PEREDO

Concurred by:


LLOYD J. OSBORN

1993 MONTHLY RECAP REPORT

	October	November	December	January	February	March	April
INSPECTIONS							
Aircrafts	1,078	1,077	1,154	1,225	1,094	1,079	1,412
Passenger	106,068	93,221	92,228	126,963	137,639	181,902	107,467
Freight	9,612	8,027	8,267	14,727	17,337	19,226	10,098
Surface Crafts	213	187	142	146	131	177	202
Passenger	473	642	533	3,538	1,489	524	1,157
Freight	6,811	5,950	2,702	1,979	2,079	3,128	5,687
Postal - Letter Tray	291	385	402	232	273	335	130
Airway Bill Processed	4,311	6,541	5,691	4,442	4,994	4,548	2,396
Billings of Ladings Processed	2,801	2,446	2,330	2,071	2,196	1,922	1,993
Tax Drawback Certificates							
Documents for Entry for Dogs	184	248	264	193	305	1,375	128
and Cats	16	32	28	19	18	14	9
Assessment of Use Tax	17,132,732.00	17,906,738.00	30,463,397.00	18,633,375.00	18,424,232.00	13,992,083.00	14,675,300.00
Postal - Parcels	1,969	2,079	1,660	1,501	775	1,098	2,249
Certificate of Origin					578	543	344
Ejected Fish (m/t)	18,864	68,953	41,362	38,656	33,140	77,731	47,777
Fish Transshipment (m/t)	36,141.67	466,486.00	288,920.00	339,222.00	559,424.00	516,153.00	675,615
Headnote JA							
Batch Movements (pieces)							
Parcels (dozens)							
INTERCEPTIONS							
Agricultural Products							
Fruits & Veg. (Lot/wt.) kg.	66,777	39,194.5	59,469.63	64,237	151,413	29,160.45	145,111
Eggs (Lot/wt.) 1 doz = 1 kg.	3,885	3,166	6,221	6,334	18,227	2,166	5,224
Milk & Milk Products (Lot/wt.)	0	0	1,110 kgs.	1,124	soil 3-10	1,112	3,166
Meat Products (Lot/wt.) kg.	25,992.23	31,933.5	18,192	35,246	65,131.9	23,106.5	21,111
Pigeons (Lot/pcs)	1,122	1,133	1,111	0	0	birds 1-15	0
Firearms (process)							
Gravity Knives (Lot/pcs)	18,223	12,116	21,135	16,222	22	31	0
Fireworks (Lot/pcs)	0	2,122	1,111	2,122	1,111		2,122
Fish/Wildlife	2,120 pcs	1,121 kg	2,133 pcs	2,123	1,111	2,133 bx	
Turtle Shells (Lot/pcs)	1,122	2,111	1,111	1,111	11,183	3,171 pcs.	2,322 p
Turtle Shells (Lot/pcs)	11,127	5,110	8,114	13,139	12,123	14,129 pcs.	6,126
Other: Specify (Lot/pcs)						shells 1-388	
Crocodile (Live product)	0	0	0	0	0	0	0
Mangrove Crabs (Live/pcs)	0	1,161	4,264	6,101	0	1-35 pcs.	1,110 p
Turtle Meat (kgs.)	0	0	1,093	0	0	0	0
Evil & Tax (liquor)	0	3,128	2,172 btl	6,11446 btl	2,4392 btl	raffle 1-200	raffle 1
Copyright/Trademark	0	2,367	2,449	2,326	6,338	7,4457	6,128
IEPA (pcs)	0	1,115	1,130	1,114	1,148	2-25 lbs.	0
Quam Product Seal (pcs)	8,1038	1,150	0	2,1845	0	5,1930	0
Hippers Export (SED)	193	241	199	208	265	290	231
Non-Compliance of FMVSS	2,480	0	2,133	3,103	0	2,122	1,111
Public Health							
Medicinal (pkg/pcs)	5,489	7,838	4,612	3,461	36-3898	7-1223	5,177
Shell Fish (Lot/wt)	5,866.5	5,221	7,335	4,222	4-3768	6-18.8	3,122
Plastic Balloons (Lot/pcs)	3,161	1,144	2,146	3,121	0	0	0
Water (L./M./gl)	1,112			3,148			
Ice Candy					1,155		

SENATOR CARL T.C. GUTIERREZ
CHAIRMAN, COMMITTEE ON WAYS & MEANS
155 Hesler Street
Pacific Arcade, Agana Guam 96910

Dear Senator Gutierrez:

I am in support of Bill No. 529, to create a separate CUSTOMS & QUARANTINE AGENCY; with the Director of Customs & Quarantine to be appointed by the Governor of Guam with the Consent of the Legislature. While there is a consensus to streamline government employees and some agency's, the creation of a Customs & Quarantine Agency, will not impact our current system other than appointing a Director of Customs & Quarantine and allocating a budget for that position and additional funding for office and equipment facilities. We have always been the adopted division of the Department of Commerce, I have personally seen four (4) administrative changes in my career with this division and I can witness to the demise and compromise of our role as a regulatory agency under the umbrella of the Department of Commerce. It is difficult to apply our enforcement authority when our parent organizations primary role is to foster the development of commerce. This is always that fine line. When customs exercises it's role to conduct an inspection of commodities and should they attempt to enforce the regulations, we often times receive instructions to compromise that role. We have been lacking leadership since 1981 whereas other agency's have the full support.

of their parent body, ours is compromised because divisional leadership is deficient and in constant disagreement with any administration which in turn compromises their responsibility towards our officers and divisional needs. Relief is often sought through the help of the Director and Deputy Director of Commerce. This system of management has disillusioned the majority of officers because we all look towards our division leaders for guidance and instead we find unfavorable and bias system. This system is not conducive to a productive agency because it leads us to this forum, requesting you our elected officials to seriously look into the years of neglect that we as a division has been forced to endure all that has been expressed to you, either direct or indirect in seeking other avenues such as why we are here today. What we hope Bill No. 529 will provide us is LEADERSHIP, PRIORITIZED

CUSTOMS MISSION, APPLICATION OF OUR MERIT SYSTEM, HAZARDOUS PAY, PROVIDE TRAINING AND DEVELOPMENT FOR ALL OFFICERS , EQUAL OPPORTUNITY TO SELECTED AREAS OF ASSIGNMENT BUT RECOGNIZING SENIORITY AT THE SAME TIME. IMPROVING CUSTOMS SERVICE TO THE GENERAL PUBLIC. PROVIDING DETAIL GUIDELINES IN OUR ENFORCEMENT PROGRAMS. PLAN FOR CONTINUOUS IMPROVEMENT OF OUR AGENCY, TO ESTABLISH A PROGRAM THAT WOULD BE CONDUCTED BY A RECOGNIZED INSTITUTE ON LAW ENFORCEMENT SIMILAR TO THAT OF OUR GUAM POLICE ACADEMY OR GUAM FIRE ACADEMY, WHICH IS CURRENTLY USED BY GAA POLICE FISH & WILD LIFE CONSERVATION OFFICER, PORT AUTHORITY SECURITY POLICE AND POSSIBLY BY FUTURE PARK RANGERS. THIS BILL WILL ALSO PROVIDE US WITH THE MUCH NEEDED AUTHORITY ENFORCEABLE BY PUBLIC LAW

INSTEAD OF EXECUTIVE ORDERS.

OUR CURRENT PUBLIC LAW 47100 TO 47135, DIRECTS MOST OF OUR AUTHORITY TO THE MARITIME PORT OF ENTRY. IN THE 20 YRS OF CUSTOMS SERVICE, I HAVE SEEN ONLY ONE OTHER PUBLIC LAW ENACTED INTO OUR ENFORCEMENT AUTHORITY WHICH IS PL. 20-25 DEALING IN THE CONTAINER FREIGHT STATIONS. DIVISION MANAGEMENT IS VERY MUCH RESPONSIBLE FOR THIS NEGLIGENCE BECAUSE IT WAS THEIR RESPONSIBILITY TO IDENTIFY WHAT WE LACK AS AN ENFORCEMENT ORGANIZATION AND PROVIDE FOR OUR NEEDS. INSTEAD WHAT WE GOT WAS "NOTHING" AND A CONTINUOUS USE OF AUTHORITY FROM OTHER REGULATORY AGENCIES SUCH AS DEPT. OF AGRICULTURE BOTH FEDERAL AND LOCAL, U.S AND LOCAL PUBLIC HEALTH, U.S. AND LOCAL FISH AND WILDLIFE.

ALL IN ALL, WHAT WE LACK AND WHAT THE UNIVERSITY OF GUAM CAN PROVIDE US AS AN AGENCY IS TO ESTABLISH A TOTAL QUALITY MANAGEMENT (TIM) COURSE THAT WOULD ASSIST THE HEALING PROCESS ON YEARS OF ABUSE. NEGLECT. MORALE PROBLEMS, MISTRUST, MANAGEMENT CREATED BY DIVISION MANAGEMENT. The use of the TIM concept will infant correct the problems of the past and allow for a cohesive working group towards the future of the customs and quarantine agency. TIM should be used as a guiding force in directing the development of our customs agency, that will foster a better relations with our working group by implementing project teams, project coordinator, identifying the needs of customs and facilitating those needs. There are programs currently in used by our counterparts in U.S. Customs in upgrading services to the general public that we as an enforcement agency would be wise to explore these concepts and apply them here as a workable system to improve the deteriorating

functions that we have.

We have established a program that is currently in used and I am sure that in one of your travels returning home you have experienced this process, the process has eliminated the long lines that the traveling public dreads, but even as I speak here today, this system is being complicated by the concerns of one carrier, which is a legitimate concern in today economy.

This concept was presented to the Director of Commerce in 1987 by officers returning from the Pacific Basin Conference in Kona Hawaii this program is the Customs Accelerated Passenger Inspection System (CAPIS) this system received alot of good comments and provided for an efficient and effective inspection program. We now realize that with the growth of our industry and the requirements being demanded of us that we need to rethink and revisit what our objectives are and pursue new avenues such as the one's now in used by U.S. Customs in Honolulu International Airport, Hawaii.

FUNDING:

Customs and Quarantine Agency can be a self sustaining unit that can draw their budget from the following possibilities:

On the implementation of the Customs User Fee of \$5.00 per arriving passengers from all points other than, residence of Guam, Commonwealth of the Northern Marianas, transit passengers with less than 24 hrs, Military personnel and dependant, government dignitaries on official business, holders of A-I VISA/DIPLOMATIC CORP.

On a rough figure as presented which was taken from September 26, 1993 to November 25, 1993, customs and quarantine officers processed 2,157 foreign flights which averages about 35 flights a day, 154 flights from our domestic ports which averages 2 flts a day, which then totals 166,649 foreign nationals processed by customs with an addition of 20,117 passengers from our domestic ports.

If the user fee was applied to the foreign passengers the net figure to customs would be approximately, \$833,245.00, that would be collected by the airline representative and submitted to customs. The carrier would then be assessed a flat fee depending on the configuration of their aircraft. Let's say a DC-10, L1011, and a 747 will be assessed a fee of 250.00 for clearance, administrative fees and entry fees, if collected on the same time frame (9/26 to 11/25) the fees collected will amount to \$242,500.00 for the wide body a/c, assessing fee of 250.00 per wide body which we took 45% of 2157 foreign arrivals, the balance which are the 727 a/c configuration and a balance of 1186 arrivals will total the assessment to about \$207,600.00 or a fee of 175.00 per a/c.

The additional user fee application will come in the form of Air way bills being processed for clearance, which can be assessed an amount of 1.75 per document. daily average on AWB's processing amounts to about 160 documents which amounts to 280.00 a day

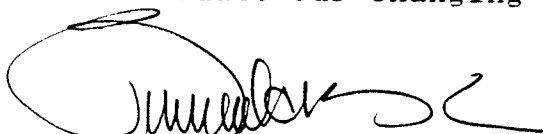
multiplied by 30 days = 8,400.00.

These are just some of the options Customs can implement to be a self sustaining agency.

The other alternative will come in the form of penalties and probably the most highest will be through the "USE TAX" program. From our understanding the customs division is the only agency outside Revenue and Taxation that can make the assessment to apply the USE TAX and basic application is the 4% collectable on taxable items.

If customs was allowed to take a 2% administrative fee and collected at our ports of entry, we will be able to average 400,000.00 out of a 20,000,000.00 figure that is identified as taxable commodity. However, this figure changes based on the type of business being conducted on island that would result in such assessments. The last figure that totals from all ports of entry was approximately 237 million dollar and if the 4% USE TAX was applied we are looking at a sizeable income of about 9.4 million which we ask 2 % of this figure.

In closing, we seek your support and hope that this body will address the needs of this growing agency that needs to expand to accommodate our changing island.



Ricardo C. Blas
Lt. Customs & Quarantine Division

TESTIMONY IN SUPPORT
OF CREATING A SEPARATE AGENCY FOR CUSTOMS DIVISION
TUESDAY, NOVEMBER 30, 1993

Good morning Senators, My name is James McDonald, and I've been a Customs Officer I for over 10 years now. I am here in support of bill 529 for the following reasons below.

1. To ensure that we get direct funding and not get short changed anymore by the Department of Commerce. Our task is too vital to set aside for other divisions which deal with statistics.

2. Upon inspecting and boarding large vessels at the commercial port, we have no firearms to protect ourselves against any criminals who are involve in the smuggling of dangerous drugs or firearms. The department is waiting until someone gets killed then that's when they will realized that we really do need protection out there in the line of duty.

3. The Department of Commerce has been long neglecting the customs division in all major areas, such as failure to establish a merit system that will benefit majority of custom officers, and not just a few. This is one of the contributing factors for the low morale that's been hampering the officers attitude and performance in the work environment. The officers are just not given any incentives to work for.

4. The training of all officers should be done professionally like the Police and Fire Department, and not just by hand picked officers by our management personnel. The officers don't even get any college credits from the Customs training because the trainers are not certified by any institution. Our problem is that we can't make legal arrests, and that is why we have to detain and refer the suspects to a DEA or GPD officer. Just recently, the Plant and Protection Quarantine officers of the Department of Agriculture have been sent to the Police Academy for training and these officers only inspect Plant material. It is embarrassing for the Customs Officer to receive no professional training. Maybe this is the reason why we were rated so low in the Hay study findings.

5. The Department of Commerce failed to establish a strong code of ethics so that officers with criminal records can no longer be employed with the Department. How can we continue to work with officers who violate the laws of Guam? I cannot understand this logic?

6. The Department of Commerce failed to upgrade all our outdated laws. We are in the 90's and we need to make major changes. We still have the same amount of officers that we had about fifteen years ago. Maybe our management personnel doesn't support hiring enough personnel because it will eliminate their overtime status. With the increase of drug smuggling and other crimes, we need to beef up our manpower so that we can efficiently control our ports of entry. Let's not forget, drugs and other contraband are introduced into our Island. We need to pick up our guards, because we are the first line of defense and

anything that goes through the customs area will have a dominal effect on our community. We need to create a better environment so that Guam could be a better and safer place to live. Look at all the serious crimes that are being committed in the past couple of weeks. Can you imagine how many of them are drug related, maybe about 95%. Our management needs to be pro-active, and not reactive.

7. Our present management needs to be reevaluated because, it is these people who continue to intimidate and harass lower ranking officers. We need new blood in the management area to help deter this kind of problem. It is this present management that did not support officers trying to continue there educational endeavors.

8. We can't even get paid on time with for our overtime. Furthermore, if you go to the Department of Commerce, it seems like you're in the space age. Try going to the Custom office and take a look at the kind of equipment that we have, it's very embarrassing.

Senators, these are only a few of the problems that I've mentioned. We need new managers who can stand up for the working people. There is to much power struggle between our management personnel and that is why we are greatly effected. Senators, let's make this an historic move so that we can grow and effectively control our ports of entry without any interference. Again, I want to remind you people that it is very important to separate our department from Commerce , which is promoting business. Customs needs to be on their own, so that they can start to impose fines on repeated violators. We need to impose a users fee to pay for all the free documentation that we deal with on a daily basis. Thank You.

Testimony of L. L. Duenas

on
Bill Nr. 529

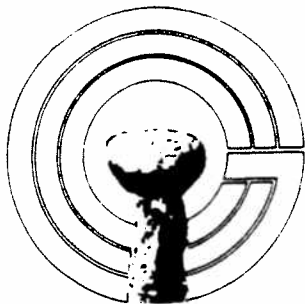
Good Morning. My name is Luis Duenas and I am a Customs Officer. I am here to testify in full support of Bill 529. Since the very beginning C&Q Division has been a part of the Dept. of Commerce. However, since the growth of tourism, the opening of new air routes, and an increased of cargo from foreign countries, the workload of the Division have increased tremendously without commensurate increase in manpower. The Division has been the whipping boy of Continental Air Micronesia because of high overtime cost to the airline, yet officials of the Dept of Commerce failed to recruit for nine budgeted positions. The FY '91 budget allotted for 78 FTE positions. We are now on the FY '94 budget and there are only 69 officers on the payroll. On November 2, 1993, the Director of Commerce order an increased of officer to passengers ratio which resulted a lot of angry complaints to the Governor's office. Instead of increasing the pax ratio, the Director should first fill the empty slots and then asked the Legislature for more personnel.

The mission of the Dept of Commerce is totally different from the mission of the C&Q Division. While the Department's objective is to serve as a catalyst in promoting economic activities for the island, the objective of the Division is to regulate what can and cannot enter into the island. According to some officers, there has been abuses of tampering with container seals, yet very seldom or none at all have fines been imposed.

The Division's budget is more than 50 per cent of the entire Dept of Commerce, yet little attention is given by high officials of the Dept to resolved some of the Division's problems.

On the eve of the first public hearing of Bill 529, the officers of C&Q Division were summoned to the Governor's office. Governor Ada told the officers that the Division would be his first priority of attention. Since then we have nothing from him nor seen anything on his first priority. This Division has been getting nothing but lip service. Today we are asking for action. We want to become a department.

L. J. Jones
Louis L. Jones



GUAM CHAMBER OF COMMERCE
PARTNERS IN PROGRESS

November 30, 1993

Senator Carl T.C. Gutierrez
Chairman
Committee on Ways and Means
22nd Guam Legislature
155 Hesler Street
Agana, Guam 96910

Re: Bill No. 529: Creation of Separate Customs and Quarantine Agency

Dear Mr. Chairman and Members of the Committee:

On behalf of the Guam Chamber of Commerce Board of Directors, I write to forward our comments on Bill No. 529 which proposes to create a separate Customs and Quarantine Agency within the Government of Guam.

We appreciate the assistance and support which our Customs and Quarantine officials have rendered to the business community these past years. We agree that Guam's responsibilities in the Customs and Quarantine area could increase in the coming years and that a greater level of priority is apparently warranted to assure that we are prepared to assume these responsibilities. We do not believe, however, that the creation of a separate Customs and Quarantine Agency is essential toward achieving this end. We are also very concerned that the creation of a new government agency would create another layer of bureaucracy and increase operational costs to aggravate the Government of Guam's already tenous financial situation.

We propose that that the Committee continue to employ the budgeting approval process to assure that a meaningful reorganization effort is undertaken by the Department of Commerce. We are confident that the Committee will also assure that any reorganization plan proffered by the Department of Commerce will help remove rather than intensify the apparent internal differences within the Department which seem to have prompted the introduction of Bill No. 529.

Si yuus maase, for your time and attention to our comments herein.

Sincerely,

ANTOINETTE D. SANFORD
Chairwoman, Board of Directors



Office of the Speaker

TWENTY-SECOND GUAM LEGISLATURE

155 Hesler St.

Agana, Guam U.S.A. 96910

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SENATOR JOE T. SAN AGUSTIN (D)
SPEAKER

November 15, 1993

MEMORANDUM

TO: Senator Herminia Dierking
Chairperson
Committee on Rules

FR: The Speaker

SUBJ: Bill No. 529

This is to advise you that I am hereby withdrawing my sponsorship of Bill No. 529, "AN ACT TO AMEND 5GCA, CHAPTER 3, BY ADDING SECITON 3127 TO CREATE A SEPERATE CUSTOMS AND QUARANTIVE AGENCY, WITH THE DIRECTOR OF CUSTOMS AND QUARANTINE TO BE APPOINTED BY THE GOVERNOR WITH THE CONSENT OF THE LEGISLATURE."

A handwritten signature in black ink, appearing to read "Joe T. San Agustin".


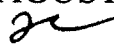
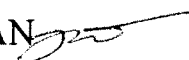
JOE T. SAN AGUSTIN

AUG 19 '93

TWENTY-SECOND GUAM LEGISLATURE
1993 (First) Regular Session

Bill No. 509 (LS)

Introduced by:


J.T. SAN AGUSTIN
T.C. ADA 
V.C. PANGELINAN 

AN ACT TO AMEND 5GCA, CHAPTER 3, BY ADDING SECTION 3127 TO
CREATE A SEPARATE CUSTOMS AND QUARANTINE AGENCY; WITH
THE DIRECTOR OF CUSTOMS AND QUARANTINE TO BE APPOINTED
BY THE GOVERNOR OF GUAM WITH THE CONSENT OF THE
LEGISLATURE.

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

1 Section 1. Legislative Findings. The Legislature finds that the Customs and
2 Quarantine Division has outgrown it's current subordinate portion within the
3 Department of Commerce. As in the case of the Airport Authority and the
4 Commercial Port, both of which used to be part of the Commerce Department and
5 which were subsequently created as independent authorities, the time has come for
6 the Customs & Quarantine Division to be separated from the Commerce
7 Department and established as a separate agency. This is necessary in order that the
8 mission of the current Customs & Quarantine Division may be more wholly
9 addressed. In this regard, the Legislature finds that establishing a separate Customs
10 & Quarantine Agency will facilitate the appropriate development of this entity as
11 an effective regulatory agency.

1 The Legislature further finds that the separation of the Customs & Quarantine
2 Division will also be beneficial to the Commerce Department, as a whole. The
3 Commerce Department's stated mission is clearly outlined in Section 47060,
4 Chapter I, Title XLIV of the Government Code. In no part of this section is
5 customs regulation mentioned as part of the Department's mission. In line with this
6 statutory intent, the Legislature further finds that divorcing customs responsibilities
7 from the Commerce Department will allow the Department to more fully
8 concentrate on it's business promotion and economic development goals which are
9 so vital to our island and which are clearly stated in Section 47060. Separation
10 of the Customs & Quarantine Division will also remove any potential conflicts
11 between the Commerce Department's overall business promotion goals and the
12 Customs & Quarantine Division's regulatory responsibilities.

13 Section 2. A new Section 3127 of 5GCA, Chapter 3 is hereby added to read:

14 "**Section 3127. Customs & Quarantine Agency.**

15 There is hereby established, within the Government of Guam, a Customs &
16 Quarantine Agency. The Director of Customs & Quarantine is the head of the
17 agency. The Director is appointed by the Governor with the advice and consent
18 of the Legislature. All property, equipment, and funding for the Customs &
19 Quarantine Division of the Department of Commerce are hereby transferred to the
20 Customs & Quarantine Agency. All personnel of the Customs & Quarantine

1 Division of the Department of Commerce are hereby transferred to the Customs &
2 Quarantine Agency with all duties, responsibilities, and compensation intact and
3 with no lapse in service to the Government of Guam."

4 Section 3. The Customs and Quarantine Agency, established in Section 2 of
5 the Act, is authorized to implement and enforce the provisions of Chapter II of
6 Title XLIV of the Government Code.