

TITLE 1: GOVERNMENT
DIVISION 2: EXECUTIVE BRANCH

§ 2001. Short Title.

This division may be cited as the Executive Branch Organization Act.

Source: PL 1-8, § 1, modified.

Commission Comment: PL 1-8 took effect August 10, 1978.

Many Commonwealth Code sections have effectively been revised by Executive Order 94-3, the “Second Reorganization Plan of 1994” (effective August 23, 1994), which reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. The Governor’s reorganization authority derives from N.M.I. Const. art. III, § 15, which provides, in part:

The governor may make changes in the allocation of offices, agencies and instrumentalities and in their functions and duties that are necessary for efficient administration. If these changes affect existing law, they shall be set forth in executive orders which shall be submitted to the legislature and shall become effective sixty days after submission, unless specifically modified or disapproved by a majority of the members of each house of the legislature.

Governor Froilan Tenorio submitted Executive Order 94-3 to the Commonwealth Legislature on June 24, 1994. The Commonwealth House of Representatives approved the order by resolution on August 16, 1994. The Commonwealth Senate took no action with respect to the order. Accordingly, the order took effect August 23, 1994.

Previously, in *Marianas Visitors Bureau v. Commonwealth*, Civ. No. 94-0516 (N.M.I. Super. Ct. June 23, 1994) (Memorandum Decision and Judgment), the Commonwealth Superior Court had upheld the Governor’s authority to reorganize the executive branch pursuant to an order similar to Executive Order 94-3, which was nonetheless ruled invalid because of a procedural defect. A party challenging the ruling subsequently abandoned an appeal to the Commonwealth Supreme Court.

In *Sonoda v. Cabrera*, Certified Question No. 96-001 (N.M.I. Sup. Ct. Apr. 9, 1997) (Opinion on Certified Question of Law), the Commonwealth Supreme Court ruled that section 509 of the order, authorizing the Governor to appoint certain officials as non-civil service employees, violated N.M.I. Const. art. XX, § 1, which vests the Commonwealth Legislature with plenary authority to exempt employees from the civil service system. *Sonoda*, slip op. at 3 (citing *Manglona v. Civil Service Comm’n*, 3 N.M.I. 243 (1992)).

The full text of Executive Order 94-3 is set forth below:

EXECUTIVE ORDER NO. 94-3

SUBJECT: Re-organization Plan No. 2 of 1994

AUTHORITY: [N.M.I. Const. art. III, § 15]

WHEREAS, [N.M.I. Const. art. III, § 15] requires that Executive Branch offices, agencies, and instrumentalities of the Commonwealth Government be allocated among and within not more than fifteen

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principal departments, grouped as far as practicable according to major purposes; and

WHEREAS, pursuant to such section, regulatory, quasi-judicial, and temporary agencies may be so allocated, but need not be; and

WHEREAS, the Governor may make changes in the allocation of offices, agencies, and instrumentalities, and in their functions and duties, as necessary for efficient administration; and

WHEREAS, such changes may affect existing law; and

WHEREAS, the existence of a multitude of offices, agencies, and instrumentalities outside of the principal departments has resulted in duplication of functions, overlaps of responsibility, lack of coordination, and other forms of inefficient administration; and,

WHEREAS, the power of the Governor to reorganize the Executive Branch, has been affirmed and upheld by the Superior Court of the Commonwealth of the Northern Mariana Islands in its Decision and Judgment dated June 23, 1994, in the case of [*Marianas Visitors Bureau v. Commonwealth*];

NOW, THEREFORE, to comply with the mandate of the Constitution and to promote efficient administration, it is hereby

ORDERED:

That the following provisions shall constitute Re-organization Plan No. 2 of 1994:

PART 1. RE-DESIGNATIONS.

Section 101. Special Assistant for Management and Budget. The Special Assistant for Planning and Budgeting is re-designated the Special Assistant for Management and Budget and shall head the Office of Management and Budget.

Section 102. Special Assistant for Public Liaison. The Special Assistant for Political Affairs is re-designated the Special Assistant to the Governor for Public Liaison and shall head the Office of Public Liaison.

Section 103. Department of Commerce. The Department of Commerce and Labor is re-designated the Department of Commerce.

Section 104. Department of Lands and Natural Resources. The Department of Natural Resources is re-designated the Department of Lands and Natural Resources.

Section 105. Department of Public Health. The Department of Public Health and Environmental Services is re-designated the Department of Public Health.

Section 106. Changes in Departmental Components and Titles.

(a) **Department Secretaries.** Each department director, except the Attorney General and the Director of Public Safety, is re-designated a secretary. The Director of Public Safety is re-designated the Commissioner of Public Safety.

(b) **Division Directors.** Except as otherwise provided in this plan, the major components of a department shall be known as divisions. Each chief of a major component of a department is re-designated a director. For example, the Chief of Labor is re-designated Director of Labor. If the head of a division has a title other than chief, that title may be retained at the discretion of the head of the department,

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adjusted as necessary to reflect any re-allocation of duties or functions made by this plan.

(c) **Office Chiefs.** Except as otherwise provided in this plan, minor components of a department, whether or not within a division, shall be known as offices. Each office head is re-designated a chief.

(d) **Renaming by Department Heads.** With the approval of the Governor, the head of a department may vary the designation of any component of such department or the title of the head of any such component from the designations and titles provided in subsections (a) through (c) of this section.

PART 2. OFFICE OF THE GOVERNOR

Transfers, abolishments, creations, and changes in functions and duties, not otherwise provided for, relating to the Office of the Governor are hereby effected as set forth in this part.

Section 201. Passports and Certificates of Identity. The functions of the Attorney General and the Immigration and Naturalization Officer (including those as Chief of Immigration) relating to Certificates of Identity or United States passports are transferred to the Governor and delegated to the Special Assistant for Administration. The Special Assistant for Administration may designate any qualified officer or employee of the Commonwealth Government to serve as an examining officer pursuant to 3 CMC § 4126.

Section 202. Planning and Management Functions.

(a) There is hereby established a Planning Office in the Office of the Governor, which shall have at its head a Special Assistant for Planning, who shall be appointed by and serve at the pleasure of the Governor.

(b) The planning functions of the Special Assistant for Management and Budget, other than those relating to land use planning, are transferred to the Special Assistant for Planning.

(c) The functions of the Special Assistant for Management and Budget relating to land use planning are transferred to the Secretary of Lands and Natural Resources.

(d) The Special Assistant for Management and Budget shall, in addition to any other duties, be responsible for improving and coordinating the management of the Commonwealth Government. In this regard, the Special Assistant shall ensure discipline in government programs and activities for consistency with the Governor's policies and budget, improve government efficiency by reducing duplication and overlaps between and among agencies, and assist department and activity heads in internal organization and management to achieve maximum effectiveness at minimum cost to the taxpayers.

Section 203. Special Assistant for Youth. [Section 203 VACATED by PL 11-47, § 2]

(a) There is established the Office of Youth Affairs, which shall have at its head a Special Assistant for Youth, who shall be appointed by and serve at the pleasure of the Governor.

(b) The Special Assistant for Youth shall coordinate all Commonwealth Government programs and activities for youth. The

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Special Assistant may also conduct programs and activities for youth that are not being conducted by other agencies and, in particular, may develop and implement innovative programs and activities for youth.

(c) As used in this section, the term “programs and activities for youth” means programs and activities with substantial participation by, or designed for the benefit of, non-delinquent and non-criminal individuals under the age of twenty-three years, except primarily academic programs of the Public School System or the Northern Marianas College, and except primarily medical programs of the Department of Public Health.

Section 204. Constitutional Officers.

(a) The following officers and their respective offices are transferred to the Department of Community and Cultural Affairs:

- (1) Executive Assistant for Carolinian Affairs;
- (2) Special Assistant for Women’s affairs; and
- (3) Resident Executive for Indigenous Affairs.

(b) Except as provided in subsection (c) of this section, the Secretary of Community and Cultural Affairs shall coordinate the activities of the officers and offices transferred pursuant to this section to reduce or eliminate conflict and overlaps and to promote productivity and efficiency.

(c) Notwithstanding the provisions of subsection (b) of this section, all rights, powers, and responsibilities of the officers transferred pursuant to this section shall be preserved as set forth in the Constitution and shall not be derogated by the Secretary of Community and Cultural Affairs. For example, pursuant to the Constitution, the Executive Assistant for Carolinian Affairs, without the permission of the Secretary, may require information in writing (even from the Secretary), conduct investigations, report findings, and make recommendations to the Governor.

Section 205. Health Planning and Coordination. The Health Planning and Development Agency and the Health Coordinat[ing] Council are allocated to the Department of Public Health for purposes of administration and coordination.

Section 206. Coastal Resources Management. [Section 206 VACATED by PL 11-109, § 2(a)]

(a) The Coastal Resources Management Office is transferred to the Department of Lands and Natural Resources.

(b) The Coastal Advisory Council is abolished and its functions transferred to the Development Advisory Council established by Section 402 of this plan.

Section 207. Corporate Charters. All functions of the governor relating to corporate charters pursuant to Chapter 1 of 4 CMC, Division 4 [4 CMC § 4101 et seq.], are delegated to the Attorney General.

Section 208. Weights and Measures. All functions of the Governor relating to weights and measures pursuant to Chapter 4 of 4 CMC, Division 5 [4 CMC § 5411 et seq.], are transferred to the Secretary of Commerce.

Section 209. Temporary Alcoholic Beverage Licenses. The authority of the Governor under 4 CMC § 5525 to issue temporary

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licenses for the sale of alcoholic beverages by nonprofit organizations is transferred to the Secretary of Commerce.

Section 210. Public Liaison. The Special Assistant for Public Liaison shall coordinate the government's participation in community events and celebrations and provide outreach to various organizations, association, and other groups.

Section 211. Scholarships.

(a) All functions of the Northern Marianas College Board of Regents relating to student scholarships, except those donated, bequeathed, or granted to the College by parties outside the Commonwealth Government, are transferred to the Office of the Governor.

(b) There is hereby established in the Office of the Governor a Scholarship Advisory Board consisting of nine members who shall be appointed by and serve at the pleasure of the Governor. At least two of the members shall be from Tinian, and at least two from Rota. Not more than five of the board members shall be associated with a single political party. The Board shall review applications for scholarships and make recommendations to the Governor with respect thereto. The Board shall also recommend objective standards for the award of scholarships. The provisions of [PL 8-41] shall not apply to the Board.

(c) As used in this section, the term "scholarships" includes student grants, student loans, and other programs of student financial assistance.

Section 211. Energy Office. The Energy Office is transferred to the Department of Public Works.

Section 213. Board of Parole. [Section 213 REPEALED by PL 11-8, § 6]

(a) The Board of Parole is allocated to the Office of the Special Assistant for Administration for purposes of administration and coordination. After the effective date of this section, appointments to the Board shall be made by the Governor with the advice and consent of the Senate.

(b) Subsection (a) of 6 CMC § 4205, relative to probation, is repealed and succeeding subsections re-designated accordingly.

(c) [1 CMC § 4207] is revised to read as follows:

"§ 4207. Board of Parole: Staff.

The Special Assistant for Administration shall provide staff support to the Board, including a Probation Officer who shall have the power of arrest of persons under the jurisdiction of the Board."

(d) Any existing staff of the Board of Parole is transferred to the Office of the Special Assistant for Administration.

Section 214. Personnel Management. [REPEALED & REENACTED by PL 12-54; REINSTATED in entirety by PL 13-1 § 3; REPEALED by PL 17-80 (Section 214 and PL 12-54 not revived by repealer)]

Section 215. Special Assistant for Drugs & Substance Abuse.

(a) There is established in the Office of the Governor the Office of Drugs and Substance Abuse, which shall be headed by a Special

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Assistant for Drugs and Substance Abuse, who shall be appointed by and shall serve at the pleasure of the Governor.

(b) The Special Assistant for Drugs and Substance Abuse shall coordinate all activities of the Commonwealth Government relating to drugs and substance abuse, including education, prevention, interdiction, enforcement, treatment, and rehabilitation.

(c) The heads of Public Health and Environmental Safety, Finance, Community and Cultural Affairs, Public Safety, and all other relevant agencies shall advise the Special Assistant regarding programs and activities of their respective offices and departments relating to drug control and substance abuse and shall coordinate such programs and activities with each other and with the Special Assistant; provided, that nothing in this subsection shall be taken to require advice or coordination where such action would compromise a pending investigation or legal proceeding or would violate any law.

The Special Assistant shall also coordinate with private and voluntary organizations, religious groups, businesses, health care practitioners (including practitioners of traditional medicine) and other persons or groups in the Commonwealth expressing an interest in controlling drugs and combating substance abuse.

(d) The Special Assistant may stimulate or supplement programs and activities conducted by other agencies, or may initiate new programs and activities, subject to the availability of funding.

(e) All applications for grants or grant renewals from the Federal Government or other sources in the areas of drug control and substance abuse shall be coordinated by and require the approval of the Special Assistant.

(f) The Special Assistant shall utilize funds appropriated or otherwise available to the Office of the Governor and designated for such purpose by the Governor and may, with the approval of the Governor, employ staff or procure the services of independent contractors.

(g) The position of Special Assistant for Drugs and Substance Abuse shall continue in existence for four years from the effective date of this order. If still needed, it may be renewed thereafter by a subsequent Executive Order.

Section 216. Emergency Operations. The Disaster Control Office and the Office of Civil Defense are consolidated in a Division of Emergency Operations within the Office of the Governor, which shall have at its head a Director of Emergency Operations.

PART 3. THE DEPARTMENTS

Transfers, abolishments, creations, and changes in functions and duties relating to the major departments, not otherwise provided for, are hereby effected as set forth in this part.

Section 301. Department of Labor and Immigration.

(a) **Department Established.** There is hereby established a Department of Labor and Immigration which shall have at its head a Secretary of Labor and Immigration.

(b) **Labor and Employment Services.**

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(1) The Division of Labor and the Division of Employment Services are transferred from the Department of Commerce to the Department of Labor and Immigration. The Secretary of Labor and Immigration shall strengthen the Division of Employment Services to increase its ability to encourage and locate private sector employment for Commonwealth residents. The Secretary shall coordinate the functions of the two offices such that the availability of resident workers known to the Division of Employment Services is considered by the Division of Labor before non-resident worker certificates are issued.

(2) The functions of the Secretary of Commerce under Chapter 2 [of] 4 CMC, Division 9 [4 CMC § 9211 et seq.], relating to minimum wages and hours, are transferred to the Secretary of Labor and Immigration.

(3) The Wage and Salary Review Board is abolished and its records, property, facilities, equipment, and supplies transferred to the Department of Labor and Immigration.

(4) The State Job Training Coordination Council/Private Industry Council and the JTPA office are allocated to the Department of Labor and Immigration for purposes of administration and coordination.

(5) Pursuant to paragraph (2) of 3 CMC § 4424(a), the Secretary of Labor and Immigration shall by regulation increase to not less than \$200 the annual fee for the processing of the initial application and for each annual renewal of a non-resident worker certificate, provided that the additional funds collected as a result of such increase shall be covered into the General Fund. On October 1, 1994, any funds remaining in the Commonwealth Non-resident Worker Fee Fund or in any account established pursuant to paragraph (1) of such subsection, shall be covered into the General Fund, may be reprogrammed by the Governor, and shall remain available for obligation until expended. The Governor may transmit to the legislature revised budget estimates for Fiscal Year 1995 as necessary to conform to the provisions of this paragraph.

(c) Immigration.

(1) The Office of Immigration and Naturalization is re-designated the Immigration Service and is transferred to the Department of Labor and Immigration as a division of that department. The Immigration Service shall have at its head a Director of Immigration, who shall have all the powers assigned by law to the Immigration and Naturalization Officer, except any power transferred pursuant to Section 201 of this plan. The position of Immigration and Naturalization Officer is abolished.

(2) All functions of the Attorney General relating to immigration and naturalization, are transferred to the Secretary of Labor and Immigration except:

(A) any function transferred pursuant to Section 201 of this plan,

(B) the hearing of immigration appeals as provided in 3 CMC § 4336(d), and

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(C) the constitutional function of legal representation.

Section 302. Department of Commerce.

(a) **Taxicab Bureau.** The Taxicab Bureau is abolished and its functions transferred from the Department of Finance to the Department of Commerce.

(b) **Marianas Visitors Bureau.** [This subsection (b) VACATED by PL 11-15, § 22]

(1) The Marianas Visitors Bureau is allocated to the Department of Commerce for purposes of administration and coordination.

(2) The Board of Directors is increased from 9 members to 14 members.

(3) (i) Nine of the members of the Board shall be appointed by the Governor with the advice and consent of the Senate and shall serve a term of four years. At least two of the members appointed by the Governor shall be from Rota and at least two shall be from Tinian.

(ii) The present members of the Board shall serve out their terms, the Governor appointing replacements as their terms expire.

(4) One representative apiece from each of the following groups shall serve as a member of the Board.

(A) All the hotels serving the Commonwealth

(B) All the airlines serving the Commonwealth

(C) The major retailers of the Commonwealth

(D) The small businesses of the Commonwealth that are members of the Marianas Visitors Bureau; and

(E) The travel agencies of the Commonwealth.

The Secretary of Commerce may provide definitions of “major retailer”, “small business”, and “travel agency” by regulation. Each group may select its representative by consensus. If a consensus is not reached within a group, the Secretary of Commerce shall conduct an election with each member of the group having one vote.

The five members selected pursuant to this subsection shall each serve a term of one year. Neither such member may serve two successive terms, nor may an airline, a travel agency, or a major retailer be represented twice in succession.

The five members selected pursuant to this subsection shall take office as soon as a consensus may be reached, or an election held, after the effective date of this Order.

(c) **Alcoholic Beverage Control.** The Commonwealth Alcoholic Beverage Control Board is abolished and its functions transferred to the Secretary of Commerce.

(d) **Statistical Advisory Council.** The Statistical Advisory Council is abolished and its records, property, facilities, equipment, and supplies transferred to the Department of Commerce. The Secretary of Commerce shall solicit from all activities of the Commonwealth Government, including those of the Legislative and judicial Branches, and from the private sector as appropriate, their needs for government

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statistics and shall consider such needs when determining what statistics to collect, compile, and report.

[(e)] [Executive Order 97-03, which was signed on November 13, 1997, called for the addition of a new subsection (e) to Section 302 of EO 94-3 which would state, "To register corporations and businesses." Essentially, EO 97-03 transferred the subject duty of registering corporations and businesses (set forth in 1 CMC § 2153(b)) and related duties and responsibilities of the Registrar of Corporations (set forth in 4 CMC §§ 4201-4204) to the Department of Commerce. As of March 31, 2003, no transfers had taken place.]

Section 303. Department of Public Safety.

(a) **Criminal Justice System.** The Criminal Justice Planning Agency, CJPA, Youth Advisory Council, and the Council for the Improvement of the Criminal Justice System are allocated to the Department of Public Safety; for purposes of coordination and administration. **[This subsection 303(a) VACATED by PL 11-47, § 2]**

(b) **Alternative Programs.**

(1) The Secretary of Public Safety shall investigate and, if appropriate, establish military-style programs of rigorous discipline and training for youth and adults as an alternative or supplement to traditional secure care and correctional facilities. If such a program is established for youth, the Secretary of Public Safety shall coordinate such program with the Secretary of Community and Cultural Affairs. Youth shall be strictly separated from adults in such programs, except that the programs for youth may include young adults under an age to be determined by the Secretary of Public Safety after consultation with the Secretary of Community and Cultural Affairs.

(2) The Secretary of Public Safety, in coordination with the Special Assistant for Youth, may conduct voluntary programs for youth and young adults similar to, but separate from, the alternative programs described in paragraph (1) of this subsection.

Section 304. Department of Public Works.

(a) **Commonwealth Ports Authority.** The Commonwealth Ports Authority is allocated to the Department of Public Works for purposes of administration and coordination. **[This subsection 304(a) VACATED by PL 11-109, § 2(b)]**

(b) **Commonwealth Utilities Corporation.** The Commonwealth Utilities Corporation is allocated to the Department of Public Works for purposes of administration and coordination.

(c) **Board of Professional Licensing.** The Board of Professional Licensing is abolished and its functions transferred to a Division of Professional Licensing in the Department of Public Works, which shall have at its head a Director of Professional Licensing.

(d) **Environmental Quality.** The Division of Environmental Quality is transferred from the Department of Public Health to the Department of Public Works. To the maximum extent practicable, the Secretary of Public Works shall integrate land-based earth moving

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permits into the building permit process. [This subsection 304(d) VACATED by PL 11-108, § 2]

Section 305. Department of Public Health.

(a) **Board of Public Health and Environmental Quality.** The Board of Public Health and Environmental Quality is abolished and its functions transferred to the Secretary of Public Health.

(b) **Federally-Mandated Councils.** The State Planning Council on Developmental Disabilities and the State Rehabilitation Advisory Council are allocated to the Department of Public Health for the purposes of administration and coordination. [This subsection 305(b) VACATED by PL 12-10, § 2]

Section 306. Department of Lands and Natural Resources.
[Section 306 VACATED by PL 10-57, § 4]

(a) **Marianas Public Land Corporation.** Pursuant to [N.M.I. Const. art. XI, § 4(f)], the Marianas Public Land Corporation is dissolved and its functions transferred to a Division of Public Lands in the Department of Lands and Natural Resources, which shall have at its head a Director of Public Lands.

(b) **Land Commission.** The Land Commission is abolished and its functions transferred to a Division of Land Registration in the Department of Lands and Natural Resources, which shall have at its head the Senior Land Commissioner who is re-designated as the Director of Land Registration and who shall report to and serve under the direction of the Secretary of Lands and Natural Resources. The Deputy Land Commissioners are re-designated as Deputy Directors of Land Registration.

(c) **Zoning Board.** The Zoning Board is abolished and, except as provided in Section 401(c) of this plan, its functions transferred to a Division of Zoning in the Department of Lands and Natural Resources, which shall have at its head a Director of Zoning. The Zoning Board of Rota, established by [Rota LL 8-2], is not affected by this subsection.

(d) **Permit Simplification and Coordination.** The Secretary of Lands and Natural Resources shall simplify, coordinate, and, to the extent practicable, integrate the development permitting process and public land leasing process within the Department of Lands and Natural Resources. The Secretary of Lands and Natural Resources, the Secretary of Public Works, and the head of any other agency regulating development shall coordinate and may, by agreement, integrate the permitting and regulatory processes of their agencies in order to expedite government decisions incident to private sector development. If two or more agencies disagree regarding such coordination or integration, the head of any such agency may refer the matter to the Special Assistant for Management and Budget and the Special Assistant for Administration for resolution.

Section 307. Department of Finance.

(a) **Lottery Commission.** The Commonwealth Lottery Commission is abolished and its functions transferred to the Department of Finance. The Secretary of Finance shall consult with

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the Secretary of Commerce and the Attorney General as necessary for the effective administration of such functions.

(b) Procurement.

(1) To the extent that any provision of law may be interpreted to authorize the Civil Service Commission or the Personnel Officer to exercise any function relating to the procurement of services from outside contractors, that function is transferred to the Secretary of Finance. The function of deciding whether it is in the public interest for the government to obtain professional services by employing more people to work for the government (either in the classified Civil Service or the Excepted Service as determined by the Personnel Officer) or by procuring such services from the private sector is allocated to the Office of the Governor, the Marianas Public Land Trust, and the various boards and commissions.

(2) In order to implement any transfer or allocation made by paragraph (1) of this subsection, existing law is affected, for clarification purposes only, to interpret 1 CMC § 8131(a)(2) henceforth to apply to government employees and not to outside contractors.

(3) In order to further implement any transfer or allocation made by paragraph (1) of this subsection, existing law is affected by changing the definition of “employee” in 1 CMC § 8243 to exclude, rather than include, independent service contractors, consultants, and professional services contractors.

(c) Government Health and Life Insurance. Any function of the Personnel Office relating to administration of group health or life insurance programs for government officials or employees is transferred to the Department of Finance. The Public Auditor shall conduct an audit of such programs in connection with such transfer and shall report the results of such audit to the Governor, the Legislature, and the public.

Section 308. Department of Community and Cultural Affairs.

(a) Sports and Recreation. There is established in the Department of Community and Cultural Affairs a Division of Sports and Recreation, which shall have at its head a Director of Sports and Recreation. The Division shall develop and administer programs relating to team and individual sports, recreational activities, and physical fitness for youth and adults, including senior citizens and persons with mental or physical disabilities.

(b) Amateur Sports Association. The Northern Marianas Amateur Sports Association is allocated to the Division of Sports and Recreation of the Department of Community and Cultural Affairs for purposes of administration and coordination.

(c) Council for Arts and Culture. The Commonwealth Council for Arts and Culture is allocated to the Department of Community and Cultural Affairs for purposes of administration and coordination.

(d) Chamorro-Carolinian Language Policy Commission. The Chamorro-Carolinian Language Policy Commission is allocated to the

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Department of Community and Cultural Affairs for purposes of administration and coordination.

(e) **Library Council.** The Commonwealth Library Council is allocated to the Department of Community and Cultural Affairs for purposes of administration and coordination.

(f) **Historic Preservation Review Board.** The Historic Preservation Review Board is abolished and its functions transferred to the Historic Preservation Office in the Department of Community and Cultural Affairs.

(g) **Hall of Fame.** The Commonwealth Hall of Fame is abolished and its records, property, facilities, equipment, and supplies transferred to the Department of Community and Cultural Affairs.

Section 309. Attorney General. The Division of Intergovernmental Relations is abolished and its functions assigned by the Attorney General as the Attorney General determines to be the most productive use of available resources.

PART 4. OTHER AGENCIES AND INSTRUMENTALITIES

Transfers, abolishments, creations, and changes in functions and duties relating to other agencies and instrumentalities of the Commonwealth, not otherwise provided for, are hereby effected as set forth in this part.

Section 401. Development Appeals Board. [Section 401 VACATED by PL 11-47, § 2]

(a) There is hereby established a Development Appeals Board consisting of nine members, including five from Saipan, two from Rota, and two from Tinian. Not more than three of the members from Saipan, and not more than five members of the entire Board shall be associated with a single political party. Members of the Board shall be appointed by the Governor with the advice and consent of the Senate for terms of two years, except that of the members first appointed, five shall serve for one year and four shall serve for two years, as the Governor shall determine. The members of the Board shall be compensated at the rate established for board members of government corporations and councils by 1 CMC § 8247.

(b) Except as provided in subsection (c) of this Section, the Development Appeals Board shall hear appeals of adverse decisions of agencies and instrumentalities regarding permits and other approvals for private sector development.

(c) To the extent that changes in zone boundaries or changes of zones for individual parcels are decided by the Saipan Legislative Delegation by local law, the Board shall not hear any appeal from a decision or recommendation of the Division of Zoning on a request from any person regarding a change of zone or of zone boundary. Any function of the Zoning Board abolished by Section 306(c) of this plan relating to variances is transferred to the Development Appeals Board, and the five Saipan members of the Board shall sit as a Board of Zoning Appeals and shall hear and decide upon applications for variances from the Saipan Zoning Law as approved by [Saipan LL 8-7] and as may from time-to-time be amended.

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(d) The Board may, subject to appropriations, hire employees under Civil Service procedures or contract for professional services to assist it in carrying out its duties. The Board may, by agreement, utilize the services of employees of other agencies of the government on a reimbursable or non-reimbursable basis.

(e) The Coastal Resources Appeals Board and the Building Safety Code Review Board are abolished and their functions transferred to the Development Appeals Board.

(f) The functions of the Governor regarding historic preservation appeals pursuant to 2 CMC § 4831(c) are transferred to the Development Appeals Board. Decisions of the Development Review Board relating to historic preservation, shall, in lieu of the procedure set forth in such section, be subject to judicial review as provided in subsection (h) of this section.

(g) The Development Appeals Board and that portion thereof designated as the Board of Zoning Appeals shall each meet as necessary to discharge its responsibilities without undue delay and not less frequently than once a month when there are matters pending consideration, except that by-laws may provide for hearings by panels consisting of less than the full membership of the Board (or of the Board of Zoning Appeals). At least one member of any such panel of the Development Appeals Board shall be from the senatorial district involved. All members of any such panel of the Board of Zoning Appeals shall be from Saipan.

(h) Decisions of the Development Appeals Board, including those of the Board of Zoning Appeals, shall be subject to judicial review pursuant to the provisions of 1 CMC § 9112, except that the court shall act upon such review within 60 days after the written record of the proceedings is made available to the court.

Section 402. Development Advisory Council.

(a) There is hereby established a Development Advisory council consisting of nine members, including five from Saipan, two from Rota and two from Tinian, who shall be appointed by and serve at the pleasure of the Governor. The Council is allocated to the Department of Lands and Natural Resources for purposes of administration and coordination. The Council shall advise the governor, the head of any agency involved in the development process, the Development Appeals Board (including the Board of Zoning Appeals), the Zoning Board of Rota, the mayors, the Legislature, and the respective delegations regarding the effect of government policies and actions on private sector development in the Commonwealth. The Council may comment upon or intervene in any application for or hearing, appeal, or other proceeding concerning any permit or approval required for development.

(b) To the extent that the Zoning Advisory Council has not fully disbanded as required by 2 CMC § 7223(d), it is abolished and its records, property, facilities, equipment, and supplies transferred to the Development Advisory Council.

Section 403. Board of Education. For purposes of administration and coordination, the State Education Advisory Council, the State

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Interagency Coordinating Council, and the Special Education State Advisory Panel are allocated to the Board of Education, which may assign any of them to the Public School System for such purposes.

Section 404. Saipan Street Directory Commission. The Saipan Street Directory Commission is abolished and its records, property, facilities, equipment, and supplies are transferred to the Office of the Mayor of Saipan.

Section 405. Taxation Task Force. The Task Force on Income and Sales Taxation and Business Tax Incentives is abolished and its records, property, facilities, equipment, and supplies transferred to the Department of Finance.

Section 406. Other Task Forces. The Termination and Trusteeship Task Force and the Task Force on Privatization of Government Services are abolished and their records, property, facilities, equipment, and supplies transferred to the Office of the Governor.

Section 407. Marianas Housing Authority.

(a) The Marianas Housing Authority is abolished and its functions transferred to a Division of Housing within the Commonwealth Development Authority, which shall have at its head a Director of Housing.

(b) Any bond or other indebtedness of the Mariana Island Housing Authority shall be assumed by the Commonwealth Government, but only upon such terms and security as shall have been agreed to previously by the Authority. The full faith and credit of the Commonwealth shall not secure such bond or other indebtedness, except as may have been pledged prior to such assumption or as otherwise provided by law.

PART 5. GENERAL PROVISIONS

Section 501. Definition of Agency. As used in this part, the term “agency” means any office, division, bureau, board, commission, authority, corporation, instrumentality, or other entity or component of the Commonwealth Government, other than one within the Legislative or Judicial branches.

Section 502. Legal and Regulatory References. All references in law or regulation to any agency of official re-designated by this plan shall be deemed to be a reference to such agency of official as so re-designated. In addition, references to an agency and to the head of such agency are used interchangeably in this plan as regards the authority or a function thereof.

Section 503. Authority Transferred. Except as otherwise provided in this plan, the functions of the head of any department or other agency (including those of a collective head, such as a board or commission) relating to the administration of any agency or function transferred pursuant to this plan are hereby transferred to, and shall be exercised by the head of the department or other agency to which such transferred agency or function is transferred by this plan.

Section 504. Transfer of Records, Property and Personnel.

(a) All records and property (including office equipment) of the various agencies, and all records and property used primarily in the

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administration of any function, transferred by this plan and, except as otherwise provided, all the personnel used in the administration of such agencies and functions (including employees whose chief duties relate to such administration) are hereby transferred to the respective departments or other agencies concerned for use in the administration of the agencies and functions transferred by this plan.

(b) The Special Assistant for Management and budget, the Special Assistant for Administration, and the Director of Personnel shall consult with each other regarding appropriate procedures for the integration of the personnel of any abolished agency, the functions of which are transferred to another agency, into the employment of the gaining agency. The three officials shall, within 30 days after the effective date of this plan, make recommendations to the Civil Service Commission, which shall, within 30 days thereafter, promulgate regulations for such integration. If such regulations provide for the appointment of such personnel to positions in the classified Civil Service of the Excepted Service, the individuals involved must be qualified to perform the duties of such positions.

(c) Pending the integration of personnel provided for in subsection (b) of this section, their terms of employment with the abolished agency shall continue to apply to the extent permitted by law.

(d) As used in this section, the term “gaining agency” means any agency to which an agency or any of its functions is transferred.

Section 505. Transfer of Funds. So much of the unexpended balances of appropriations, allocations, allotments, or other funds available for the use of any agency in the exercise of any function transferred by this plan, or for the use of the head of any department or other agency in the exercise of any function so transferred, as the Special Assistant for Management and Budget with the approval of the Governor shall determine, shall be transferred to the department or other agency concerned for use in connection with the exercise of the function so transferred. In the transfer of such funds, an amount may be included for the liquidation of obligations incurred prior to the transfer. Any portion of such balances not so transferred may be reprogrammed by the Governor.

Section 506. Interim Appointments. Whenever an appointment of a member of a board, commission, or other collective head of an agency is pending before the Senate for confirmation, the Governor may appoint an individual as an interim or acting member to serve until the Senate acts on the permanent appointment. If an individual is confirmed as a permanent member while serving as an interim or acting member, the term of office of that member shall be deemed to have begun on the date of the interim or acting appointment.

Section 507. Administration and Coordination. When an agency is allocated by this plan to another agency “for purposes of administration and coordination”, the allocated agency shall not be integrated into the other agency. The individual or collective head of the allocated agency shall not report to or serve under the direction of the head of the other agency. However, there shall be regular communication between the two agencies, such that the officials and personnel of the allocated agency are

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aware of the policies and actions of the other agency. The two agencies may, at their discretion, enter into an agreement to coordinate any of their activities, to share staff or administrative services, or otherwise to improve efficiency and effectiveness. The annual budget for an allocated agency shall be set forth in the Governor's Budget as a separate entry under the general heading of the agency to which it is allocated.

Section 508. Independence of Board members. Notwithstanding any other provision of this plan, the independence of any member of a board or commission to whom the provisions of [N.M.I. Const. art. III, § 21] apply, shall be preserved.

Section 509. Governor's Appointments; Excepted Service. [REPEALED & REENACTED by PL 12-54; PL 12-54 REPEALED by PL 13-1, § 2]

(a) In order to assure the accountability of government managers, all officials at or above the level of division director, or the equivalent by whatever title known, shall be appointed by and serve at the pleasure of the Governor, provided that such official shall report to and serve under the direction of the head of any supervisory official, such as a department head.

(b) In order further to ensure accountability, the executive director or other principal officer of any board, commission, or of any agency headed by a board or commission, shall be appointed by the Governor with the concurrence of a majority of the members of the relevant board or commission present and voting, a quorum thereof being present. Once appointed, such officer shall serve at the pleasure of the board or commission and shall also be subject to removal by the Governor for cause. Pursuant to [N.M.I. Const. art. XV], the provisions of this subsection shall not apply to the Commissioner of Education or the President of the Northern Marianas College.

(c) In order to assure consistency in government policies, and to ensure confidentiality in the formulation of policy, the following positions, if not subject to appointment by the Governor or otherwise exempt from the Civil Service system, shall be in the Excepted Service:

(1) Any position in the Office of the Governor (including the Office of the Lieutenant governor), except the administrative staff of the Office of Personnel Management.

(2) Any position the duties of which include direct involvement in the making of government policy.

(3) Any position which requires a confidential relationship with an official appointed by the Governor or with a person appointed to a position described in paragraph (2) of this subsection.

(d) Any person appointed by the Governor, or appointed to a position described in subsection (c) of this section, who was a member of the classified Civil Service immediately before such appointment, shall, upon termination from such position, be reinstated in the classified Civil Service in a position for which such person is qualified at the grade and step previously held, except that, if the performance of such person has been sufficiently satisfactory, any within grade step

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increase that such person would have earned had that person remained in the classified Civil Service shall be awarded.

Section 510. Codification of Change. The Law Revision Commission shall codify the designations, allocations, and changes in existing law affected by this plan.

Section 511. Effective Date. In accordance with the Constitution, this plan shall become effective sixty days after submission to the Legislature, unless specifically modified or disapproved by a majority of the members of each house of the Legislature, provided, that in case it shall appear to the Governor that the interests of economy or management require that any transfer, consolidation, or abolishment be delayed beyond the date this plan becomes effective, the Governor may, in his discretion, fix a later date therefor, and he may for like cause further defer such date from time to time.

DONE this 24th day of June, 1994.

/s/Froilan C. Tenorio

FROILAN C. TENORIO

Governor

Section 306 of Executive Order 94-3 was vacated by PL 10-57, § 4. PL 10-57 took effect on April 18, 1997.

Section 213 of Executive Order 94-3 was repealed in its entirety by PL 11-8, § 6. PL 11-8 took effect on April 8, 1997.

Section 302(b) of Executive Order 94-3 was vacated in its entirety by PL 11-15, § 22. PL 11-15 took effect on June 17, 1998.

Sections 203, 303(a), and 401 of Executive Order 94-3 were vacated in their entirety by PL 11-47, § 2. PL 11-47 took effect on November 20, 1998.

Section 1 of PL 11-47 stated the following findings and § 3 effectuated further changes in the Office of the Governor. The text of §§ 1 and 3 are as follows:

Section 1. Findings. The Legislature finds that the re-organization of the government pursuant to Executive Order 94-3, § 204 (“E.O. 94-3”) unnecessarily and unconstitutionally removed constitutional officers from the Office of the Governor. The Legislature further finds that E.O. 94-3, § 303(a) placement of the Criminal Justice Planning Agency (CJPA), Youth Advisory Council and the Council for the Improvement of the Criminal Justice System within the Department of Public Safety does not advance realization of, and is inconsistent with, their respective mission and duties. of these entities and thus, it is in the public interest for them to be placed within the Office of the Governor. The Legislature intends that this Act shall repeal each and every section of E.O. 94-3 which affect in any manner whatsoever the functions, locations, and duties of the Executive Assistant for Carolinian Affairs, Special Assistant for Women's Affairs; and Resident Executive for Indigenous Affairs as well as CJPA, Youth Advisory Council and the Council for the Improvement of the Criminal Justice System.

Therefore, it is the purpose of this Act that these agencies, officers, and councils shall be considered as part of the Office of the Governor.

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. . .

Section 3. Placement in the Office of the Governor. The following officers, offices, agencies and councils shall be considered as part of the Office of the Governor and any funds, records, property and personnel transferred pursuant to §§ 503, 504, and 505 shall revert to the respective officer, council, and agency which retained control prior to the enactment of E.O. 94-3:

- Executive Assistant for Carolinian Affairs;
- Special Assistant for Women's Affairs;
- Resident Executive for Indigenous Affairs;
- Criminal Justice Planning Agency;
- Youth Advisory Council; and
- Council for the Improvement of the Criminal Justice System.