



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

FROILAN C. TENORIO
Governor

JESUS C. BORJA
Lt. Governor

16 FEB 1994

Capitol Hill
Saipan, MP 96950
Telephone: (670) 322-5091-3
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The Honorable Jesus R. Sablan
President of the Senate
Ninth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

The Honorable Diego T. Benavente
Speaker, House of Representatives
Ninth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear President Sablan and Speaker Benavente:

Enclosed is a copy of Executive Order 94-1. This Executive Order ensures that the provisions of Section 11 or Article III of our Constitution will be fully complied with by all agencies of the Commonwealth Government.

Since this Order is not a re-organization and does not affect existing law, it is effective immediately.

Sincerely,

A handwritten signature in black ink, appearing to read "Froilan C. Tenorio".

FROILAN C. TENORIO
Governor

Enclosures

CC: Lt. Governor
All Mayors
Chief Justice, Supreme Court
Chief Judge, Superior Court
Executive Director, Commonwealth Utilities Corporation
Executive Director, Mariana Islands Housing Authority
Executive Director, Commonwealth Ports Authority
Executive Director, Marianas Public Land Corporation
Executive Director, Commonwealth Development Corporation
Managing Director, Marianas Visitors Bureau
Commissioner of Education
President, Northern Marianas College
All Department and Activity Heads

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
EXECUTIVE ORDER OF THE GOVERNOR
EXECUTIVE ORDER NO. 94-1

SUBJECT: Legal Representation

AUTHORITY: Constitution, Section 11, Article III

1. Section 11 of Article III of the Commonwealth Constitution provides that the Attorney General is "responsible for . . . representing the Commonwealth in all legal matters . . ." Effective immediately, all agencies of the Commonwealth Government will comply fully with the letter and the spirit of this Section.
2. No agency may contract for, retain, employ, or otherwise engage legal counsel for the purpose of representing such agency (or any individual connected with such agency in that individual's official capacity) in any legal or administrative law action without the approval of the Attorney General. Any such agency that has legal counsel engaged for purposes of representation on the effective date of this order that wishes to continue to utilize the services of such counsel for such purposes shall request approval of the Attorney General. If such approval is not granted, the agency immediately shall cease using its counsel for such purpose.
3. Any official or employee of an agency, including a member of a governing body of an agency regardless of whether such person receives compensation for service as a member, shall inform the head of the agency immediately upon receipt of legal process or other legal action involving the agency or involving any individual in an official capacity. The head of the agency shall then immediately inform the Attorney General or an Assistant Attorney General and follow the instructions thereof. Pending such instructions, no person shall make any answer, admission, stipulation, settlement, compromise, motion, or other response, except that questions of a law enforcement official may be answered in connection with a criminal investigation. If the head of the agency is not available, the Office of the Attorney General shall be contacted directly by the person receiving process or other action. The procedures of this section shall also be followed whenever any individual connected with any agency has reason to believe that legal action described herein is being contemplated by any party.
4. No agency, nor any individual acting on behalf of an agency, shall initiate or pursue legal action against any party without the express consent and guidance of the Attorney General.
5. No agency shall conduct or participate in any administrative law proceeding without the express consent and guidance of the Attorney General.
6. No agency shall enter into any consent order or decree or otherwise take any voluntary action to bind the agency or the government without the express consent and guidance of the Attorney General.
7. The Attorney General may permit an agency to employ or otherwise engage counsel to represent the agency in a single instance, a class of instances, or for all purposes. The Attorney General may refuse such permission without stating a reason therefor and may withdraw such permission at any time, even after an appearance has been entered by such counsel. Any such counsel shall conduct such representation under the guidance of the Attorney General. The Attorney General may delegate any authority under this Executive Order to any other attorney in or connected with the Office of the Attorney General and may retain such authority concurrently with such delegation.
8. As used in this Executive Order, the term "agency" means any department, office, board, commission, authority, committee, instrumentality, or other entity of the Commonwealth Government.


FROILAN C. TENORIO

Date: 2/16/94



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Dear President Sablan and Speaker Benavente:

I am respectfully submitting to you my re-organization plan for the Commonwealth Government.

This is one of the highest priorities of my Administration. Our government is long overdue for a re-organization, from top to bottom. I believe that this plan will improve government efficiency and the quality of services to the public as well.

I am presenting this plan to you, simultaneously, in two formats: as an Executive Order and as a bill for an act.

The Executive Order is submitted to you pursuant to the Constitution. It will automatically have the force of law if you do not amend or modify it within sixty (60) days.

The bill is a standard bill and, after introduction, may be modified, passed, or rejected in the same manner as any other bill.

I humbly solicit your favorable and expeditious action.

Sincerely,

A handwritten signature in cursive script, appearing to read "Froilan C. Tenorio".

FROILAN C. TENORIO

EXECUTIVE REORGANIZATION ACT OF 1994

SECTION-BY-SECTION ANALYSIS

Section 1. This section gives the short title of the bill as the Executive Reorganization Act of 1994.

Sections 2-3. Several findings of the Legislature are listed, as well as the purposes of the Act. Section 15 of Article III of the Constitution requires "Executive branch offices, agencies and instrumentalities of the government" to be allocated among up to 15 principal departments and permits the Legislature to reallocate them and change their functions and duties. This Act does that in the interest of efficient and accountable government, while protecting the constitutional independence of board and commission members, the Civil Service, etc.

PART 1. REDESIGNATIONS

Sections 101-102. These sections assign new titles to two special assistants to the Governor. The Special Assistant for Planning and Budgeting becomes Special Assistant for Management and Budget and the Special Assistant for Political Affairs becomes Special Assistant for Public Liaison (see Section 210 for duties).

Sections 103-106. Four departments get new titles. The plan clarifies that the Attorney General heads a full principal department by renaming the Office of the Attorney General as the Department of Justice. Because of changes made in Section 301, the Department of Commerce and Labor is redesignated the Department of Commerce. The Department of Natural Resources becomes the Department of Lands and Natural Resources. Because of changes made in Section 304(d), the Department of Public Health and Environmental Services will be known simply as the Department of Public Health.

Section 107. This section sets out the basic organizational scheme for the departments. Except for the Attorney General, department heads will be called secretaries, rather than directors. The director title will be used for the heads of the major components of a department, generally known as divisions. Smaller departmental units, either free-standing or within offices, will generally be known as offices and headed by chiefs. Heads of departments are given flexibility to vary these designations and titles with the approval of the Governor.

PART 2. OFFICE OF THE GOVERNOR

Section 201. Functions relating to Certificates of Identity are consolidated in the Office of the Governor. They are presently divided between the Governor and the Attorney General. The Governor also will conduct any function relating to U.S. passports.

Section 202. A new Planning Office is established in the Office of the Governor, which will be headed by a new Special Assistant for Planning. Most of the planning functions of the Office of Management and Budget are transferred to the Planning Office. However, land use planning joins the other land use functions at the Department of Lands and Natural Resources. The Special Assistant for Management and Budget is given a new duty, that of improving and coordinating government management. The Special Assistant will oversee the continuing process of streamlining within, between, and among government agencies.

Section 203. The position of Special Assistant for Youth is established with the responsibility to coordinate all programs for non-delinquent, non-criminal youth in the Commonwealth under 23 years of age. In addition, the Special Assistant, as the head of a new Office of Youth Affairs, may conduct innovative or supplemental programs for youth. Programs that are primarily educational or medical in nature are exempt from coordination by the Special Assistant.

Section 204. The Executive Assistant for Carolinian Affairs, Special Assistant for Women's Affairs, and Resident Executive for Indigenous Affairs are transferred to the Department of Community and Cultural Affairs, but with their constitutional duties intact. This is appropriate, because all three offices have either cultural or community affairs functions. However, there are significant overlaps in the duties of these officials, and the Secretary of CCA is required to reduce or eliminate them and promote productivity and efficiency. If there is a conflict between the location of these officials in CCA and their duties under the Constitution, the Constitution will prevail.

Section 205. Two federally-mandated health agencies are transferred from the Office of the Governor and allocated to the Department of Public Health "for purposes of administration and coordination." This phrase is explained in Section 507.

Section 206. The Coastal Resources Management Office is transferred to the Department of Lands and Natural Resources. Also, the Coastal Advisory Council is abolished, but its functions will be consolidated with other land use advisory functions. See Section 402.

Section 207. The Governor's authority to issue corporate charters is transferred to the Attorney General. All other charter-related work already is performed by the Department of Justice.

Sections 208 and 209. The Governor's authority to regulate and inspect weights and measures and to issue temporary alcoholic beverage control licenses to non-profit groups is transferred to the Secretary of Commerce.

Section 210. This section specifies that the Special Assistant for Public Liaison is responsible for coordinating government participation in community events and celebration and for outreach to various Commonwealth groups.

Section 211. The various CNMI scholarship and student loan programs are transferred from the Northern Marianas College to the Office of the Governor. This does not apply to outside donations, bequests, or grants specifically for the College. The section also establishes a nonpartisan Scholarship Board to suggest objective standards for scholarships and loans, review applications, and recommend potential recipients. For reasons of confidentiality of student records and related information, the Board is exempt from the Open Government Act.

Section 212. This section transfers the Energy Office from the Office of the Governor to the Department of Public Works.

Section 213. For purposes of administration and coordination, the Board of Parole is allocated to the Office of the Special Assistant for Administration, who will provide the staff functions for the Board. The Board will concentrate on its duties as a quasi-judicial agency. Future Board members will be appointed by the Governor subject to Senate confirmation. Now that the CNMI has a fully-functioning judicial system, there no longer is a need for the Parole Board also to supervise probationers, and that function is fully vested in the courts. As a result, the Parole and Probation Officer is redesignated Parole Officer. The Parole Officer formally is given the power of arrest over parolees (any anyone else who may come under the jurisdiction of the Board).

Section 214. This section reorganizes the personnel management functions of the Government, while respecting the personnel policy functions assigned to the Civil Service Commission by the Constitution.

Subsections (a) and (b) establish a new Office of Personnel Management (OPM) in the Office of the Governor and abolish the Personnel Office under the Civil Service Commission. OPM will be headed by a Director of Personnel appointed by the Governor with the advice and consent of the Senate. The Director of Personnel

will have the same status as a special assistant to the Governor. Most personnel management functions are transferred to OPM.

Subsection (c) permits boards and commissions, MPLT, the Board of Education/Public School System, Northern Marianas College, and the Legislative and Judicial branches to handle their own personnel management functions or to arrange with OPM to act on their behalf.

To protect the integrity of the Civil Service system, the Civil Service Commission, under subsection (d) will retain the functions of exempting positions from the classified Civil Service (required by the Constitution), position classification and compensation plans, examinations and related activities, appeals and grievances, and setting performance and appraisal standards.

Subsection (e) clarifies that the actual taking of personnel actions is a function of line management. OPM and the other personnel management officials fulfill a staff function of documenting such actions. Copies of such documents will be sent to the Civil Service Commission, so that it can monitor the actions of the appointing authorities.

Subsection (f) transfers training programs to the Northern Marianas College and permits agencies to supplement the College's offerings with their own programs.

Subsection (g) clarifies that nothing in this section should be interpreted to interfere with the prerogatives of the Civil Service Commission under the Constitution.

PART 3. THE DEPARTMENTS

Section 301. Subsection (a) of this section creates a new principal department, the Department of Labor, Immigration, and Customs ("LIC") to consolidate these functions.

Subsection (b) transfers the Division of Labor and the Division of Employment Services from the Department of Commerce to the new department. The two divisions are required to work together to ensure that nonresident workers are not given jobs when there are known resident workers to fill them. Wage and hour responsibilities are also transferred to LIC. The Wage and Salary Review Board is abolished. Two federally-funded programs, the State Job Training Coordination Council/Private Industry Council and the JTPA office, are allocated to LIC for administration and coordination. The Secretary of LIC is required to increase nonresident worker fees to at least \$200. Until the end of FY 1994, funds will continue to be earmarked for

vocational education at the old (\$85) level, after which such activities will be subject to the normal budgetary process.

Subsection (c) moves immigration functions from the Department of Justice to LIC. The so-called naturalization functions were moved to the Governor's Office by Section 201. A Director of Immigration will head an Immigration Service, which will be a division of LIC. The Attorney General will continue to hear immigration appeals and handle legal representation on these issues.

Subsection (d) moves customs and excise tax enforcement from the Department of Finance to LIC. The Customs Service will be a division of the department and will be headed by a Director of Customs.

Section 302. This section sets out changes involving the Department of Commerce ("DOC") not provided for elsewhere.

Subsection (a) abolishes the Taxicab Bureau and transfers its functions to DOC, where it will join other business licensing and regulatory functions.

Subsection (b) transfers the Marianas Visitors Bureau to DOC, where it will have the status of a division. It will be headed by a Chief Executive Officer with the rank of a division director. Beginning with FY 1995 a request for appropriated funds for MVB will be included in the regular budget submission of the Governor. The earmarking of a portion of the receipts from the hotel occupancy tax and alcoholic beverage container tax will terminate when the first funds are appropriated. The Secretary of Commerce is required to investigate alternative institutional structures for tourism promotion that could be more effective and/or efficient.

Subsection (c) abolishes the Alcoholic Beverage Control Board and transfers its functions to DOC. See also Section 209.

Subsection (d) abolishes the Statistical Advisory Council. The Secretary of Commerce, however, is required to invite suggestions from other government agencies and the private sector when deciding what statistics to collect, compile, and report.

Section 303. Subsection (a) allocates the Criminal Justice Planning Agency, CJPA Youth Advisory Council, and the Council for the Improvement of the Criminal Justice System, three federally-funded programs primarily related to law enforcement, to the Department of Public Safety.

Subsection (b) requires the Secretary of Public Safety to investigate "boot camp" type programs as sentencing alternatives for delinquent or criminal youth and for criminal adults. Such

programs may be undertaken, if the Secretary decides they are appropriate for the Commonwealth. Children and adults must be kept separated. However, at the discretion of the Secretary of Public Safety after consultation with CCA, certain youth might be combined with young adults, perhaps through college age. The Secretary is also authorized to conduct separate voluntary boot-camp programs for non-delinquent, non-criminal youth.

Subsection (c) establishes a Division of Emergency Operations in DPS to consolidate the functions of the Disaster Control Office (currently part of the Office of the Governor, although attached to DPS) and the Office of Civil Defense. The Division will be headed by a Director of Emergency Operations.

Section 304. The Commonwealth Ports Authority and the Commonwealth Utilities Corporation are allocated to the Department of Public Works (DPW) for administration and coordination. The Board of Professional Licensing is abolished. Its functions go to a new Division of Professional Licensing in DPW, to be headed by a Director of Professional Licensing. DEQ is transferred to DPW. As far as practicable, land-based earthmoving permits will be integrated with building permits.

Section 305. This section abolishes the Board of Public Health and Environmental Quality, which makes policy for the Department of Public Health (DPH). Policy and implementation will now be consolidated in the Secretary of Public Health. Two federally-mandated organizations, the State Planning Council on Developmental Disabilities and the State Rehabilitation Advisory Council are allocated to DPH for administration and coordination.

Section 306. This section consolidates nearly all land use functions in the Department of Lands and Natural Resources ("LNR"). Notable exceptions are earthmoving, which Section 304(d) assigns to DPW, and building safety, which remains there.

Subsection (a) fulfills the mandate of Article XI, Section 4(f) of the Constitution by abolishing the Marianas Public Land Corporation and transferring its duties to a Division of Public Lands in LNR. The Division will be headed by a Director of Public Lands.

Subsection (b) abolishes the Land Commission and transfers its duties to a Division of Land Registration in LNR. The Senior Land Commission will become the Director of Land Registration and the Deputy Land Commissioners will become Deputy Directors.

Subsection (c) abolishes the Zoning Board and transfers most its functions to a Division of Zoning in LNR to be headed by a Director of Zoning. See Section 401(c) for an exception. Since the Zoning Board covers Saipan only, the authority of the Zoning

Board of Rota (another designation for the Rota Municipal Council) is not affected by this change.

Subsection (d) abolishes the Mariana Islands Housing Authority and transfers its functions to a Division of Housing in LNR to be headed by a Director of Housing. All of MIHA's debts will be taken over by the government, but only with the same security as before. The full faith and credit of the government will not be added as a credit enhancement, except by other provisions of law.

Subsection (e) requires the Secretary of LNR to simplify, coordinate and integrate the land use permit process within the Department. The Secretary is also required to coordinate the processes of LNR with those of the other land use permit agencies. The goal is to integrate these as well into a single process that is fast, simple, and requires fewer developer visits to fewer offices. The Special Assistant for Management and Budget and the Special Assistant for Administration will resolve any disputes among the permit agencies.

Section 307. Subsection (a) abolishes the Lottery Commission (consisting of the Attorney General and the Secretaries of Finance and Commerce) and transfers its functions to the Department of Finance.

Subsection (b)(1) separates the personnel function from the procurement of services from the private sector. The subsection clarifies that outside procurement is a function of the Department of Finance and that the decision whether to contract out a service rests with the Office of the Governor, MPLT, and the boards and commissions.

Subsection (b)(2) interprets 1 CMC §8131(a)(2) to clarify that the procurement of outside contractors has nothing to do with government employment and that such contractors, therefore, need no exemption from the regular recruitment procedures for employees. The code section relates to employee contracts, not to non-employee contracts.

Subsection (b)(3) further implements this separation of functions by applying the salary cap for government employees only to bona fide employees of the government (including those under employment contracts) and not to outside contractors. The outside contractors do not receive salaries or government benefits, and their services are obtained pursuant to procurement regulations.

Subsection (c) transfers the government health and life insurance programs to the Department of Finance. The Public Auditor is required to audit these programs upon their transfer.

Section 308. A new Division of Sports and Recreation is established in the Department of Community and Cultural Affairs. The Northern Marianas Amateur Sports Association is allocated to the Division. The Council for Arts and Culture, Chamorro-Carolinian Language Policy Commission, and the Commonwealth Library Council are allocated to CCA generally, all for purposes of administration and coordination. The Historic Preservation Review Board is abolished. Its functions are transferred to the Historic Preservation Office. The Commonwealth Hall of Fame is also abolished. (Note: this is not the Indigenous Hall of Fame mentioned in Article III, Section 23(b) of the Constitution.)

Section 309. The Division of Intergovernmental Relations in the Department of Justice is abolished. The Attorney General will assign its functions for the most productive use of available resources.

PART 4. OTHER AGENCIES AND INSTRUMENTALITIES

Section 401. This section establishes a consolidated Development Appeals Board to hear all development-related appeals, except to the extent that rezoning is accomplished by local law. The Board will have nine members--five from Saipan, two from Rota, and two from Tinian. The five Saipan members will also sit as a Zoning Board of Appeals for Saipan and will hear requests for variances within existing zones.

Subsection (d) permits the Board to hire its employees under Civil Service, contract out for professional services, or use professionals from other government agencies by agreement. Under such agreement, the other agencies may provide assistance under their own budgets or may be reimbursed by the Board.

Subsection (e) abolishes the Coastal Resources Appeals Board and the Building Safety Code Review Board and transfers their functions to the Development Appeals Board.

Subsection (f) transfers to the Board the Governor's authority to decide historic preservation appeals. Since the legislative override of the Governor's decision is no longer appropriate, historic preservation decisions will be subject to judicial review as provided in subsection (h).

Under subsection (g), the full Board and the Saipan members must meet often enough not to delay the development process and in any case at least once a month when there are appeals or variances pending. They may also use smaller panels of their members to expedite consideration of appeals or variances.

Subsection (h) provides for expedited judicial review of the decisions of the Board. The court is required to act on such review within 60 days after the written record is made available. This is the same procedure provided by law for appeals from decisions of the former Zoning Board.

Sections 402. A Development Advisory Council is established and allocated to the Department of LNR. However, it will advise all relevant government entities and officials on the effect of the Government's development processes and actions on private sector development. The Council will have nine members appointed by the Governor--five from Saipan, two from Tinian, and two from Rota. The Zoning Advisory Council was supposed to have disbanded when the Zoning Board submitted its zoning plan. If this has not been completed, the reorganization completes the process and abolishes that body.

Section 403. Three federally-funded agencies, the State Education Advisory Council, the State Interagency Coordinating Council, and the Special Education State Advisory Panel, are allocated to the Board of Education for administration and coordination. The Board may coordinate these agencies directly or through the Public School System.

Sections 404-406. These sections abolish the Saipan Street Commission (transferring its functions to the Mayor of Saipan, one of its members), the Task Force on Income and Sales Taxation and Business Tax Incentives, the Termination and Trusteeship Task Force, and the Task Force on Privatization of Government Services.

PART 5. GENERAL PROVISIONS

Section 501. This section defines "agency" for purposes of Part 5. Agency means any component of the Commonwealth government, whether or not within another agency, except the Legislative or Judicial branches or any of their components.

Section 502. This section clarifies that laws and regulations that name an agency or an official continue to apply to that agency or official as redesignated by this plan. The plan itself refers interchangeably to agencies and their heads.

Section 503. This section clarifies that when an agency or any of its functions are transferred, the functions and authority of the department head or other head of that agency are transferred to the head of the new agency. For example, in the transfer of the Division of Labor from the Department of Commerce to the Department of Labor, Immigration, and Customs, functions of the Secretary of Commerce relating to the activities of the Division of Labor are transferred to the Secretary of Labor, Immigration,

and Customs. Likewise, the functions of the Board of Directors of the Mariana Islands Housing Authority are transferred to and exercised by the Secretary of Lands and Natural Resources.

Section 504. When an agency or any of its functions are transferred, its records, property, and personnel generally go with it, as well as the related records and property of any supervisory agency. Employees of a supervisory agency are also transferred, if their chief duties relate to the transferred agency or function. The Special Assistant for Management and Budget, the Special Assistant for Administration, and the Director of Personnel are required within 30 days to recommend to the Civil Service Commission procedures to integrate the transferred employees into their new agencies. The Commission then has 30 days to promulgate the new procedures. Transferred personnel to be newly-appointed to Civil Service positions must be qualified to carry out their assigned duties. Until the integration takes place, the old terms of employment of transferred personnel who have not been part of the Civil Service system will continue to apply, unless forbidden by law.

Section 505. When an agency or any of its functions are transferred, its funds also go along with it, as well as funds of a supervisory agency used in its administration. However, if a lesser amount is needed, the gaining agency will only get what it needs, and the Governor may reprogram the excess.

Section 506. In order for boards and commissions to function properly, they must have members able to vote. This has been a problem, especially when membership falls below a quorum. Traditionally, interim or acting appointments have not been made, although there is no Constitutional provision forbidding the practice. This section expressly permits the Governor to make such interim or acting appointments. The temporary member may or may not be the person nominated for the permanent position. To prevent abuse, the interim or acting members will only serve while the Senate has a permanent appointment pending before it for its advice and consent. If the Senate rejects the nominee, the interim or acting appointment terminates. The Governor cannot make a new interim or acting appointment unless and until the appointment of a new permanent member is sent to the Senate for confirmation. If the interim or acting member is the person confirmed for the permanent position, any fixed term of office of such person will be counted from the date of the interim or acting appointment.

Section 507. This section explains that when an agency is allocated to another agency "for purposes of administration and coordination", it keeps its character as a separate agency. The head of the umbrella agency has no direct power over the head of the allocated agency. They are expected to confer with each other, however, on a regular basis, and may enter into agreements

to coordinate or consolidate any of their activities. Any budget request for appropriations for the allocated agency will be set forth as a separate item under the heading of the umbrella agency.

Section 508. This section assures that the independence of members of boards or commissions who come under Article III, Section 21 of the Constitution is preserved.

Section 509. This section assures accountability of management, consistency of policy, and, where necessary, confidentiality in the formation of policy.

Under subsection (a), all management officials at or above the level of division director will be appointed by and serve at the pleasure of the Governor. That means the Governor can fire them if they do not do a good job and that the Governor is responsible to the people for their performance. Despite such appointment, if these appointees have a supervisory official between them and the Governor, the appointees shall report to and be under the direction of the supervisory official. For example, the Director of Professional Licensing will be appointed by the Governor, but serve under the Secretary of Public Works.

Subsection (b) applies the same procedure to the top official of any board or commission or other agency with a collective head. However, to keep faith with Article III, Section 21, and not to force an executive director or similar officer on a reluctant board or commission, the Governor's appointment is subject to confirmation by a vote of the board or commission. After confirmation the appointee will serve at the pleasure of the board or commission, and the Governor also will be able to remove the appointee for cause. The Governor will not appoint the Commissioner of Education or the President of the Northern Marianas College, since Article XV of Constitution provides other means for their appointment.

Subsection (c) specifies certain policy and confidential positions that will be in the Excepted Service, if not already exempt as appointments of the Governor or otherwise. These include positions in the Office of the Governor (including the Office of the Lieutenant Governor), except OPM's administrative staff; positions directly involved with the making of policy; and positions requiring confidence in the policy-making process. It is expected that the last two of these categories will be subject to certification by the Civil Service Commission that a position does, in fact, meet the criteria for exemption.

Subsection (d) provides reinstatement rights for anyone who gives up career Civil Service Status to accept an appointment of the Governor or appointment to a position under subsection (c). They may return to the Civil Service and be appointed to any

position for which they are qualified (without competition) at the same grade and step which they left. However, if their work has been satisfactory, and they would have earned one or more within-grade step increases, those increases will be awarded upon their return to career status.

Section 510. This section requires the Law Revision to codify the redesignations, allocations, and changes in existing law made by this reorganization plan.

Section 511. This section indicates that, pursuant to Article III, Section 15 of the Constitution, this reorganization plan will take effect sixty days after it is submitted to the Legislature, unless modified or rejected by a majority of each house. However, if the Governor determines that it is necessary for reasons of economy or management to delay any aspect of the reorganization, he may do so at his discretion.

SUBJECT: Reorganization Plan No. 1 of 1994

AUTHORITY: Constitution, Article III, Section 15

WHEREAS, Section 15 of Article III of the Constitution requires that Executive branch offices, agencies, and instrumentalities of the Commonwealth government be allocated among and within not more than fifteen 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;

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 Reorganization Plan No. 1 of 1994:

PART 1. REDESIGNATIONS.

Section 101. Special Assistant for Management and Budget. The Special Assistant for Planning and Budgeting is redesignated 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 redesignated the Special Assistant to the Governor for Public Liaison and shall head the Office of Public Liaison.

Section 103. Department of Justice. The Office of the Attorney General is redesignated the Department of Justice.

Section 104. Department of Commerce. The Department of Commerce and Labor is redesignated the Department of Commerce.

Section 105. Department of Lands and Natural Resources. The Department of Natural Resources is redesignated the Department of Lands and Natural Resources.

Section 106. Department of Public Health. The Department of Public Health and Environmental Services is redesignated the Department of Public Health.

Section 107. Changes in Departmental Components and Titles.

(a) **Department Secretaries.** Each department director, except the Attorney General, is redesignated a secretary. For example the Director of Public Safety is redesignated Secretary 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 redesignated a director. For example the Chief of Labor is redesignated 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, adjusted as necessary to reflect any reallocation 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 redesignated 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.

(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 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 conflicts 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 Coordination Council are allocated to the Department of Public Health for purposes of administration and coordination.

Section 206. Coastal Resources Management.

(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, 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, 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 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, associations, 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 Public Law No. 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 212. Energy Office. The Energy Office is transferred to the Department of Public Works.

Section 213. Board of Parole.

(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 redesignated accordingly.

(c) Section 4207 of 1 CMC 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.

(a) There is hereby established an Office of Personnel Management, which shall have at its head a Director of Personnel, who shall be appointed by the Governor with the advice and consent of the Senate and who shall have the rank of a special assistant to the Governor.

(b) The Personnel Office is abolished and, except as otherwise provided in this section or in Section 307, its functions transferred to the Office of Personnel Management.

(c) Boards and commissions (including the Civil Service Commission for its own employees), the Marianas Public Land Trust, the Board of Education/Public School System, the Northern Marianas College, and the Legislative and Judicial Branches (for their administrative staffs) may, to the extent of budgetary resources, retain or establish personnel management functions within their organizations, or they may, by agreement, arrange with the Office of Personnel Management to perform such functions on their behalf.

(d) The following functions of the Personnel Office shall be retained by the Civil Service Commission (which may establish an appropriate administrative structure for such purpose) and may be delegated in whole or in part to any or all of the appointing authorities:

- (1) Exemption of positions from Civil Service classifications.
- (2) Position classification and compensation plans.
- (3) Examinations or other determinations of competence, including certification of eligibles and preparation of merit promotion certificates.
- (4) Employee appeals and grievances.
- (5) Development, evaluation, and improvement of the Personnel Service Performance Standards and Appraisal System.

(e) Notwithstanding any other provision of law, the function of taking any personnel action is, subject to the policies set forth by the Civil Service Commission, vested in the respective appointing authorities and shall not require further approval. Such actions shall be documented by the Office of Personnel Management (or by any office or employee conducting personnel management functions pursuant to subsection (b) of this section), and a copy of such documentation forwarded to the Civil Service Commission.

(f) The functions of the Personnel Office relating to training programs for government employees are transferred to the Northern Marianas College. The Board of Regents of the Northern Marianas College shall consult as necessary with the Director of Personnel regarding such programs. Government agencies and instrumentalities may, after consultation with the College, supplement such programs as budgetary resources may permit.

(g) Nothing in this section shall be taken to derogate from the constitutional authority of the Civil Service Commission.

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, Immigration, and Customs.

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

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

(1) The Division of Labor and the Division of Employment Services are transferred from the Department of Commerce to the Department of Labor, Immigration, and Customs. The Secretary of Labor, Immigration, and Customs 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 nonresident worker certificates are issued.

(2) The functions of the Secretary of Commerce under Chapter 2 of 4 CMC, Division 9, relating to minimum wages and hours, are transferred to the Secretary of Labor, Immigration, and Customs.

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

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

(5) Pursuant to paragraph (2) of 3 CMC §4424(a), the Secretary of Labor, Immigration, and Customs 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 nonresident worker certificate, provided that the additional funds collected as a result of such increase be covered into the General Fund. On October 1, 1994, any funds remaining in the Commonwealth Nonresident 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 redesignated the Immigration Service and is transferred to the Department of Labor, Immigration, and Customs 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, Immigration, and Customs 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

(C) the Constitutional function of legal representation.

(d) **Customs.** The Customs Service is transferred to the Department of Labor, Immigration, and Customs as a division of that department and shall have at its head a Director of Customs.

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.

(1) The Marianas Visitors Bureau is transferred to the Department of Commerce as a major component of the department equivalent to a division and shall have at its head a Chief Executive Officer who shall have the rank of a division director. The Board of Directors of the Marianas Visitors Bureau is abolished and its functions transferred to the Secretary of Commerce.

(2) The distribution of revenues to the Marianas Visitors Bureau pursuant to 4 CMC §1803(b) shall continue until September 30, 1994, and thereafter until appropriations are enacted for tourism promotion as part of the regular budget of the Government. After the effective date of this section, the Governor will revise

the budget estimates for the Fiscal Year ending September 30, 1995 to reflect this change.

(3) The Secretary of Commerce shall investigate alternative institutional structures and recommend to the Governor any such structure that, in the opinion of the Secretary, could improve the performance or efficiency of tourism promotion by the Commonwealth or its tourism industry.

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

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.

(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 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.

(c) **Emergency Operations.** The Disaster Control Office and the Office of Civil Defense are consolidated in a Division of Emergency Operations in the Department of Public Safety, which shall have at its head a Director of Emergency Operations.

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.

(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 earthmoving permits into the building permit process.

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 purposes of administration and coordination.

Section 306. Department of Lands and Natural Resources.

(a) **Marianas Public Land Corporation.** Pursuant to Section 4(f) of Article XI of the Constitution, 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 redesignated 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 redesignated 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 Local Law No. 8-2 is not affected by this subsection.

(d) **Marianas Housing Authority.**

(1) The Marianas Housing Authority is abolished and its functions transferred to a Division of Housing in the Department of Lands and Natural Resources, which shall have at its head a Director of Housing.

(2) Any bond or other indebtedness of the Mariana Islands 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.

(e) **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 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 only 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 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. Department of Justice. 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.

(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 Local Law No. 8-7 and as may from time-to-time be amended.

(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 nonreimbursable 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 legislative 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 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 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.

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 or official redesignated by this plan shall be deemed to be a reference to such agency or official as so redesignated. 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 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 or 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 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 Section 21 of Article III of the Constitution apply, shall be preserved.

Section 509. Governor's Appointments; Excepted Service.

(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 Article XV of the Constitution, 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 consistent 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.

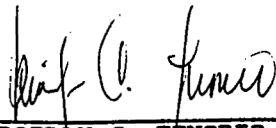
(3) Any position which requires a confidential relationship with an official appointed by the Governor or with a person appointed to a position described in paragraph (2) of this subsection.

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

Section 510. Codification of Changes. 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 17th day of March, 1994.



FROILAN C. TENORIO
Governor