



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta  
Governor

Diego T. Benavente  
Lieutenant Governor

MAR 10 2003

Honorable Paul A. Manglona  
President, The Senate  
Thirteenth Northern Marianas  
Commonwealth Legislature  
Capital Hill  
Saipan, MP 96950

Honorable Heinz S. Hofschneider  
Speaker of the House of Representatives  
Thirteenth Northern Marianas  
Commonwealth Legislature  
Capital Hill  
Saipan, MP 96950

Dear President Manglona and Speaker Hofschneider:

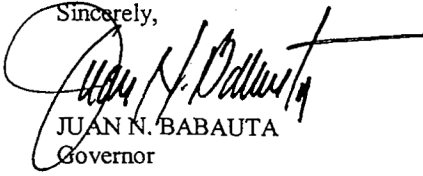
I have the pleasure of transmitting herewith ~~Executive Order 03-01~~, the Department of Labor and Immigration Reorganization Plan of 2003.

Pursuant to the authority set forth in Article III, Section 15 of the Commonwealth Constitution, the Administration believes that efficient administration of labor and immigration law and policies mandates the return of the immigration functions of the Executive Branch to the Office of the Attorney General. The Administration has also determined that with the transferring of immigration duties, responsibilities and functions to the Office of the Attorney General, a newly constituted Department of Labor will concentrate its resources on two vital areas of labor concern: employment services and training for resident workers and enforcement of labor laws in the employment of nonresident workers.

Although the Department of Labor and Immigration will no longer unilaterally issue entry permits, the actual processing of nonresident workers will continue to physically co-exist in order to provide more efficient, convenient service to the public. Further, while organizationally placed within the Office of the Governor, the Labor and Immigration Identification Data System will continue to serve both as a critical resource for both labor and immigration.

This Department of Labor and Immigration Reorganization Plan of 2003 will become law sixty (60) days from the date of this transmittal subject to modification or rejection by a vote of each house of the Thirteenth Northern Marianas Commonwealth Legislature.

Sincerely,

A handwritten signature in black ink, appearing to read 'Juan N. Babauta', with a long horizontal flourish extending to the right.

JUAN N. BABAUTA  
Governor

Attachment

**EXECUTIVE ORDER NO. 03-01**

**SUBJECT:** Reorganization of Department of Labor and Immigration,

**AUTHORITY:** NMI Constitution, Article III, Section 15.

**WHEREAS**, Section 15 of Article III of the Constitution of the Commonwealth of the Northern Mariana Islands (“Commonwealth 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**, the Governor may make changes in the allocation of offices, agencies, and instrumentalities, and in their functions and duties, as necessary for efficient administration, pursuant to his reorganization power under Article III, Section 15 of the Commonwealth Constitution; and

**WHEREAS**, such changes may affect existing law if set forth in executive orders and submitted to the legislature pursuant to the constitutional mandate; 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. CNMI;

**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 the Department of Labor and Immigration Reorganization Plan of 2003:

**PART I. EXECUTIVE DEPARTMENTS**

Section 101. **Office of Attorney General: Division of Immigration.** The Division of Immigration, Department of Labor and Immigration is transferred to the Office of the Attorney General to be headed by a Director of Immigration who shall be appointed by and serve at the pleasure of the Attorney General. The position shall be exempted from the civil service system pursuant to P.L. 13-1.

a) The Director of Immigration shall:

- 1) have powers and duties set forth in 3 CMC §4311;

- 2) enforce, under the supervision of the Attorney General, 3 CMC §4121 *et seq.*, the Commonwealth Entry and Deportation Act, as amended; and
  - 3) perform any function regarding immigration and naturalization matters including passport matters transferred pursuant to Executive Order 94-3, §201 to the Special Assistant for Administration.
- b) The Attorney General shall:
- 1) supervise the Director of Immigration and overall functions of the Division;
  - 2) enforce the provisions of the Commonwealth Entry and Deportation Act, as amended and may prosecute all violations thereof;
  - 3) promulgate rules and regulations as may from time to time be useful or required in enforcing the Commonwealth Entry and Deportation Act, as amended;
  - 4) obtain warrants for the arrest of, or order continued detention of, aliens pending exclusion or deportation proceedings;
  - 5) review the detention of persons arrested pursuant to 3 CMC §§4334 and, if deemed appropriate, order the continued detention or release of such persons; and
  - 6) prepare the annual report required pursuant to 3 CMC §4348.
- c) The Labor and Immigration Identification Data System Office within the Division of Immigration, Department of Labor and Immigration is transferred to the Office of the Governor for organizational purposes but shall continue to provide critical resource data to the Department of Labor and the Division of Immigration.
- d) The Department of Labor and Immigration shall be renamed the Department of Labor to be headed by a Secretary who shall be appointed by, and serve at the pleasure of, the Governor with advice and consent of the Senate. The Department of Labor shall consist of the Division of Labor, Division of Employment Services and Training, and Administrative Hearing Office. Each division shall be headed by a Director who shall be appointed by, and serve at the pleasure of, the Secretary. The Administrative Hearing Office shall be headed by a Hearing

Office Administrator, who shall be appointed by, and serve at the pleasure of, the Secretary. These three positions shall be exempt from the civil service system pursuant to P.L. 13-1

**PART II. GENERAL AND TRANSITIONAL PROVISIONS**

**Section 201. Transfer of Records, Property and Personnel**

- a) As used in this section, "agency" shall mean any office or program of the Division of Immigration, Department of Labor and Immigration, whose duties and functions are transferred to a gaining agency by this Executive Order. As used in this section, "gaining agency" shall mean the Office of the Attorney General and the Office of the Governor to which an agency or any of its functions are transferred by this Executive Order.
- b) All records and property including office equipment and supplies in the various agencies including all records and property used primarily in the administration of any function transferred by this plan, and all the personnel used in the administration of such agencies and functions are hereby transferred to the gaining agencies for use in the administration of the agencies and functions transferred by this Executive Order.

**Section 202. 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 gaining agency 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. The Governor may reprogram any portion of such balances not so transferred.

**Section 203. Codification of Changes.** The Commonwealth Law Revision Commission shall codify the designations, allocations, and changes in existing law affected by this Order.

**Section 204. Effective Date.** In accordance with Article III, Section 15 of the Commonwealth 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.

Done this 16<sup>th</sup> day of March, 2003.



JUAN N. BABAUTA  
Governor