



## COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Benigno R. Fitial**  
Governor

**Eloy S. Inos**  
Lieutenant Governor

### EXECUTIVE ORDER 2010-11

#### DECLARATION OF A STATE OF EMERGENCY:

PURSUANT TO ARTICLE III, SECTION 9(a) OF THE NORTHERN MARIANA ISLANDS CONSTITUTION, IF NO APPROPRIATIONS ACT IS IN EFFECT ON OCTOBER 1, 2010, THE GOVERNMENT OF THE NORTHERN MARIANA ISLANDS MAY NOT, ACCORDING TO LAW, DRAW FUNDS FROM THE GENERAL FUND WITH THE EXCEPTION OF CERTAIN ESSENTIAL SERVICES AND SUCH A RESTRICTION CONSTITUTES A STATE OF EMERGENCY FOR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

I, BENIGNO R. FITIAL, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10, of the Commonwealth Constitution, do hereby declare a State of Emergency for the Commonwealth of the Northern Mariana Islands, as no balanced budget for Fiscal Year 2011 was in effect at 12:00 a.m., on October 1, 2010, and this has triggered the provisions of Art. III, Sec. (9)(a), and the Commonwealth government is now  
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constitutionally forbidden from drawing monies from the general fund except for “essential services.” The complete text of Legislative Initiative 16-11 is as follows:

“If a balanced budget is not approved before the first day of the fiscal year, no money shall be drawn from the General Fund, provided that certain government services and employees shall remain available as provided by law in order to deliver services essential to the health, safety, and welfare of the people of the Commonwealth and to protect against damage to and destruction of property; provided further, that if the governor does not submit a detailed and balanced budget to the legislature by April 1<sup>st</sup>, the governor’s salary shall be suspended until such time that detailed and balanced budget is submitted to the legislature and if the legislature does not pass a balanced budget by October 1<sup>st</sup>, the legislators’s (sic) salaries shall be suspended until such time that a balanced budget is passed by the legislature.”

This Executive Order is intended to, and does, invoke my emergency powers to determine and operate the government’s essential services under the Commonwealth’s Constitution, and to declare what those services entail and include. This Executive Order shall expire on the 31<sup>st</sup> day following the date of my signature unless I have reason to extend, and act to extend, this Executive Order, or appropriations are passed by the legislature, and approved by me, which constitute a balanced budget for Fiscal Year 2011, whichever occurs first.

#### I. FINDINGS

I find that:

1. No appropriations bill or bills were passed by the legislature and approved by me which would constitute a balanced budget for Fiscal Year 2011 within the meaning of Art. III, Sec. 9(a). Therefore, no balanced budget was in effect as of 12:00 a.m. on October 1, 2010.
2. The Constitution of the Northern Mariana Islands, at Article III, Section 9(a), requires the government of the Commonwealth to have enacted into law a

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balanced budget which is in effect by October 1<sup>st</sup> of each fiscal year, or all but essential government services will be curtailed

3. As the Legislature has not determined “essential services,” it falls to the Governor to determine which services of the government are “essential.”
4. Where the Governor is required to respond to an emergency and where the essential services necessary to respond to such an emergency are not defined, the Governor may determine the scope of such services.

## **II. AUTHORITY TO ACT**

The Constitution of the Commonwealth of the Northern Mariana Islands provides that if a balanced budget is not approved such that it becomes law before the first day of a new fiscal year, which occurs on October 1<sup>st</sup> of each year, funds may not be drawn from the treasury of the Commonwealth until a balanced budget becomes law. Certain governmental services are exempted from this prohibition and such services, which are deemed to be ‘essential’ government services, will continue to be provided even if no balanced budget appropriations bill is signed into or has become law. Since there is no legislative definition of the term ‘essential’ the Governor, under Art. III, Section 10, is empowered to determine which government services are “essential.”

The suspension of governmental services due to the failure to enact a balanced budget, with the prohibition on expenditures from the General Fund of the Treasury, creates a serious governmental emergency in that some ordinary and necessary government services will be suspended during the absence of a balanced budget. As such, the Governor may, under the emergency powers provided by Art. III, Sec. 10, operate the government in such a manner as to insure the health, safety, and welfare of the people; prevent damage to and destruction of property; maintain civil order, and determine which

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governmental services are essential. Those services, and the designated employees providing such services, shall continue to be paid out of the General Fund. All other services and expenditures, including salaries of non-essential employees and members of the Legislature, shall be suspended until such time as a balanced budget appropriations bill is enacted into law.

### **III. BACKGROUND**

During the 2009 General Election, 59% of Commonwealth voters passed House Legislative Initiative 16-11 and amended the language of Article III, Section 9, of the Constitution concerning the creation of a balanced budget. The stated purpose of this amendment was to prohibit the expenditure of governmental funds from the Treasury except by appropriations made by law. This amendment was necessary because the CNMI Government has previously failed to pass a balanced budget and this failure has contributed to a \$170 million dollar budget deficit. This deficit is in violation of Article X, Section 6, of the Constitution of the Commonwealth of the Northern Mariana Islands.

Accordingly, Legislative Initiative 16-11 imposed penalties to ensure a budget would be passed and in effect by the first day of the fiscal year on October 1<sup>st</sup> of each year. The penalties include the suspension of government services, except for those deemed to be "essential." This was done in order to ensure that funds are not drawn from the General Fund if such funds are not appropriated pursuant to a balanced budget.

As stated in Legislative Initiative 16-11, the balanced budget must be approved prior to the first day of the fiscal year. Once an appropriations act is transmitted to the Governor, it can be signed into law, vetoed or become law if it is not signed or vetoed. As of the date of this Executive Order, no such appropriations bill has been transmitted to the Governor's office for action.

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Pursuant to Article III, Section 9(a) of the constitutional amendment, if a balanced budget is not enacted into law by the first day of the fiscal year:

“no money shall be drawn from the General Fund, provided that certain government services and employees shall remain available as provided by law in order to deliver services essential to the health, safety, and welfare of the people of the Commonwealth and to protect against damage to and destruction of property.”

Thus, during a period of suspension of governmental services pending the passage of a balanced budget, those services that are deemed to be “essential” will be provided. However, Art. III, Section 9(a), does not state which services are “essential,” other than “as provided by law.” Consequently, as the legislature has not enacted a statutory definition of the term “essential services,” nor otherwise “provided by law” which services will continue during a no-budget period, the duty to clarify this term falls to the Governor under his Constitutional emergency powers.

#### IV. DIRECTIVES

I direct the following:

Directive 1: The following functions are deemed to be ‘essential’ to governmental services during the period following October 1, 2010:

- **TIMEKEEPERS FOR ALL BRANCHES, DEPARTMENTS, AGENCIES, ETC.** – 1 timekeeper for each branch, department, agency, shall report on **OCTOBER 12, 2010 only** to process timesheets for payroll due on October 22, 2010.
- **Board of Parole**
  - 2 Parole officers
- **Commonwealth Ports Authority (ALL)**
- **Commonwealth Utilities Corporation (ALL)**
- **Department of Commerce**
  - Secretary of Commerce

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- **Department of Community and Cultural Affairs**
  - Child Protection Unit
    - Assistant Social Worker
    - Social Worker
    - Supervisor
  - Division of Youth Services (Juvenile Probation & Secured Custody)
    - Adolescent Counselor
    - Juvenile Correction Officer
    - Juvenile Correction Workers
    - Social Worker I, II, III
  - Emergency Shelter/Foster Care Unit
    - Caretaker
    - Community Development Officer
    - Community Development Trainee
    - Juvenile Correction Worker
    - Social worker
    - Family Support Services Supervisor
  - Juvenile Probation Unit/Community Based Supervision
    - Social Workers
  - Rota DYS
    - Social Workers
  - Tinian DYS
    - Social Worker
- **Department of Corrections**
  - Corrections Cadets
  - Corrections Captain
  - Corrections Lieutenant
  - Corrections Officers I, II, III
  - Corrections Sergeant
  - Custodial Worker II
  - Secretary of Corrections
- **Department of Finance Saipan**
  - Division of Customs Seaport Compliance Section
    - Inspector I, II
    - Lieutenant
    - Warrant Officer
  - Division of Customs Seaport
    - Customs Trainee
    - Inspector I, II, III
    - Lieutenant
    - Warrant Officer
  - Division of Customs Airport
    - Customs Trainee
    - Inspector I, II, III
    - Lieutenant
    - Warrant Officer
  - Division of Customs, Drug Task Force will be *ON-CALL*
  - Electronic Data Processing

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- Computer Operator 1 will be *ON-CALL*
- Computer Programmer will be *ON-CALL*
- Network Administrator 1 will be *ON-CALL*
- K-9 Units
  - Bomb dog handler will be *ON-CALL*
  - Drug dog handler will be *ON-CALL*
  - Senior Instructor/Supervisor will be *ON-CALL*
- Postal Services
  - Custom Trainee
  - Inspector I, II
  - Warrant Officer
- Revenue and Tax Collections Branch
  - Revenue Technician I, II
  - Revenue Officer I, II
  - Revenue Enforcement Officer III
- Treasury
  - Treasurer
  - Accountant II
- **Department of Finance, Division of Customs Rota passenger, luggage, cargo, and container inspection activities only.**
- **Department of Lands and Natural Resources**
  - Quarantine: (Saipan, Tinian, and Rota) passenger, luggage, cargo, and container inspection activities **only**.
    - Inspector trainees
    - Inspector I, II
    - Officer I, II
  - DOA Animal Health:
    - Animal Health Officer II (should also assume duties of Animal Health Specialist during the shutdown)
  - Fish and Wildlife (Saipan, Tinian, and Rota: federally funded positions **only** and the following)
    - Conservation Officers I, II, III
  - Parks and Recreation (Saipan, Tinian, Rota)
    - Equipment Operator I, II, III
    - Gardener
    - General Maintenance
    - Grounds Maintenance Coordinator
    - Grounds Maintenance Foreman I
    - Grounds Maintenance Supervisor
    - Nurseryman
    - Trades Helper
    - Trades Technician I
    - Tradesman
- **Department of Public Health Saipan**
  - Secretary of DPH
  - Biomedical
    - Trades Specialist I (1 on duty, 1 on call)
  - Business Office

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- Eligibility Worker I, II,
- Clinic Operations (FCC)
  - Clinical Attendant III
  - Staff Nurse
- Communication
  - Communications Operator I, II
- Dietary
  - Cook I, II, III
  - Food Service Supervisor I, II
- EEG
  - EEG Technician
- Emergency Room
  - Clerk II
  - Licensed Practical Nurse
  - Staff Nurse
- Health Information
  - Medical Records Technician I, II
  - Medical Transcriptionist
- Hemodialysis
  - Hemodialysis Technician
  - Licensed Practical Nurse
  - Nursing Assistant
  - Staff Nurse
- Housekeeping
  - Custodial Worker I
- Intensive Care Unit
  - Staff Nurse
- Labor and Delivery
  - Manager, Nursing Unit
  - Midwife
  - Nurse Midwife
  - Staff Nurse
- Laboratory
  - Clinical Laboratory Scientist
  - Clinical Laboratory Technician
  - Phlebotomist Trainee
  - Phlebotomist I, II
- Materials Management
  - Medical Supply Officer
  - Medical Supply Specialist II, IV
  - Warehouseman III
- Medical Surgery
  - Licensed Practical Nurse
  - Nursing Assistant
  - Staff Nurse
- Medical Referral Guam
  - Med Ref Assistant
  - Med Ref Officer

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- Supply Specialist
- Medical Referral Honolulu
  - Administrative Officer/Fiscal Officer
  - Med Ref Assistant (limit to 2 per shift)
- Medical Referral Saipan
  - Med Ref Assistant (limit to 2 per shift)
- Mental Health Division
  - Clinical Psychologist
  - Nursing Assistant
- Neonatal Intensive Care Unit
  - Head Nurse
  - Staff Nurse
- Nursing Administration
  - Director of Nursing
  - Hospital Nursing Supervisor
  - Nurse Practitioner
- Obstetrics Unit
  - Licensed Practical Nurse
  - Nursing Assistant
  - Staff Nurse I, II
- Operating Room
  - Manager, Nursing Unit
  - Nursing Assistant
  - Staff Nurse
- Pediatrics
  - Licensed Practical Nurse
  - Nursing Assistant
  - Staff Nurse
- Pharmacy
  - Manager, Inpatient Pharmacy Service
  - Pharmacist
  - Pharmacy Specialist
- Physical Therapy
  - Clinical Attendant I
  - Physical Therapist Technician
  - Staff Physical Therapist
- Physicians (ALL)
- Plant Operations
  - Engineer Technician II
  - Medical Supply Technician
  - Trades Helper
  - Trades Specialist II
  - Trades Technician I, II
- Psychiatric Unit
  - Licensed Practical Nurse
  - Manager, Nursing Unit
  - Nursing Assistant
  - Staff Nurse

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- Public Health Division
  - Licensed Practical Nurse
  - Medical Records Assistant
  - Nurse Practitioner
  - Registered Nurse
- Radiology
  - Manager, Radiology Services
  - Radiography Technician
  - Ultrasonographer
  - X Ray Technician II, III
- Respiratory Therapy
  - Respiratory Therapist
- Security
  - Security Guard II
- Social Services
  - Social Worker II, III
- Women's Clinic
  - Clinical Attendant I
  - Clinical Attendant Coordinator
  - Licensed Practical Nurse
  - Staff Nurse
- **Department of Public Health (Rota Health Center)**
  - Biomedical
  - Clinical Attendant II
  - Cook I, II, III
  - Housekeeping
  - Licensed Practical Nurse
  - Maintenance
  - Medical Records Technician
  - Medical Referral
  - Nursing Assistant
  - Pharmacy
  - Physicians
  - Radiology Technician
  - Trades Specialist
  - Ultrasonography Technician
- **Department of Public Health (Tinian Health Center)**
  - Cashier/Accounting
  - Dental Assistant
  - Dentist
  - Family Nurse Practitioner
  - Housekeeping
  - Laboratory Technician
  - Maintenance
  - Medical Records
  - Physician
  - Physician Assistant
  - Pharmacy

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- Radiology
- Staff Nurse
- **Department of Public Lands**
  - Ranger I, II for Managaha Operations **only**.
- **Department of Public Safety Saipan**
  - Commissioner of DPS
  - Boating Safety Unit will be *ON-CALL*
  - Criminal Investigation Bureau will be *ON-CALL*
  - Emergency Dispatch section
    - Dispatchers
  - Fire Division (No more than 9 total firefighters per shift)
    - Firefighters I, II, III
    - Lieutenants
    - Wild land Firefighters
  - Sworn Officers except for CIB
- **Department of Public Safety Rota** excluding administrative personnel
- **Department of Public Safety Tinian** excluding administrative personnel
- **Department of Public Works**
  - Solid Waste Management Division:
    - Accounting Technician I
    - Trades helper
    - Tradesman
    - Equipment Operator II, III, IV
  - Technical Services (only those dealing with Federal Highways projects)
    - Civil/Highway Branch Manager
    - Highway Administrator
    - Highway Cad Designer
    - Highway Engineer I, II, III
    - Highway Inspector
- **Emergency Management Office**
  - Communications Operators
  - Response and Recovery will be *ON-CALL*
- **Northern Marianas College (ALL)**
- **Office of the Attorney General:**
  - Attorneys
- **Office of Adult Probation**
  - Probation Officers
- **Office of Governor and Lieutenant Governor**
  - Assistant Legislative Affairs Officer will be *ON-CALL*
  - Executive Assistant to the Governor
  - Governor's Press Secretary
  - Legal Counsel
  - Special Assistant to the Administration
  - Special Assistant for Management and Budget
  - Special Assistant for Programs and Legislative Review will be *ON-CALL*
- **Public Defender's Office**
  - Attorneys

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- **Public School System (ALL)**
- **Tinian Liaison Office**
  - Medical Attendant
  - Tinian Liaison Officer

Directive 2: Secretaries of the Employees included in these essential governmental services shall identify, by name, the names of the employees who shall perform these essential services and forward such names to the Office of Personnel Management and Department of Finance not later than five (5) days following this Executive Order.

Directive 3: Employees identified as performing essential services based on Directive 2, above, shall receive their regular pay and benefits for the duration of this Executive Order.

Directive 4: The following agencies are exempt from the suspension of government services as they are completely funded by federal programs and have no impact on general fund resources:

- **Coastal Resources Management**
- **Commonwealth Development Authority**
- **Department of Commerce**
  - CNMI ARRA Office
  - Military Integration and Management Committee
- **Department of Community and Cultural Affairs**
  - Nutrition Assistance Program
- **Division of Environmental Quality**
- **Department of Public Health**
  - Project Brabu
  - Women, Infant, Children program (Saipan, Tinian, and Rota)
- **Department of Public Works**
  - Energy Division
- **Joeten Kiyu Public Library Outreach**
  - Bookmobile Assistant
  - Homework Assistant
  - IT Assistant

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• Northern Marianas Housing Corporation

Signed this 30<sup>th</sup> Day of SEPTEMBER 2010, at 2:23 o'clock, PM . m.

  
BENIGNO R. FITIAL  
Governor

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