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# D 2020 203

## EXECUTIVE ORDER

### Declaring Insufficient Revenues Available for Expenditures and Ordering Mandatory Furloughs for Certain State Employees

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to Article IV, Section 2 of the Colorado Constitution and C.R.S. § 24-2-102(4), I, Jared Polis, Governor of the State of Colorado, hereby issue this Executive Order declaring that there are insufficient revenues available for expenditures and ordering mandatory furloughs for certain state employees.

## I. Background and Purpose

On March 5, 2020, the Colorado Department of Public Health and Environment's (CDPHE) public health laboratory confirmed the first presumptive positive coronavirus disease 2019 (COVID-19) test result in Colorado. Since then, we have evidence of community spread throughout the State. I verbally declared a disaster emergency on March 10, 2020, and on March 11, 2020, I issued the corresponding Executive Order D 2020 003, as amended by Executive Orders D 2020 018, D 2020 032, D 2020 058, D 2020 076, D 2020 109, D 2020 125, D 2020 152, and D 2020 176. On March 25, 2020, I requested that the President of the United States declare a Major Disaster for the State of Colorado, pursuant to the Stafford Act. The President approved that request on March 28, 2020.

The economic impacts of COVID-19 are significant. Colorado is facing its toughest economic crisis since 2008, and by some measures one of the toughest of all time. Because of the challenges brought on by the COVID-19 pandemic and the resulting budget constraints, leaders across the State are facing difficult decisions. Agencies are focused on providing services that Coloradans depend on while protecting crucial programs and jobs. We have taken steps to shore up and protect our economy, but we have not been immune to the economic downturn caused by COVID-19. To meet the budget reductions already established in the Fiscal Year 2020-21 Long Bill, a limited number of furloughs are necessary to manage personal service costs while continuing to protect and maintain operations of State services and programs.

I understand that these furloughs will be a hardship for many state employees and their families, as well as those who rely on the services that those employees provide. But these difficult times demand sacrifices from all of us. We must implement the State's budget in a fair and responsible manner, while continuing to protect public health and contain the spread of COVID-19.

Staff in the Governor's Office and the State Personnel Director worked in partnership with Colorado Workers for Innovative and New Solutions (WINS) to come to agreement, both in philosophy and in implementation, on how these mandatory furloughs will impact state employees, as required by the Executive Order.

State employees, unless exempt, will take mandatory furlough days. The number of mandatory furlough days is based on an employee's annual salary. Exempted employees are those necessary to respond to the COVID-19 pandemic, assist Coloradans in finding jobs, and protect public safety and roads. Additionally, workers earning fifty thousand dollars ($50,000) per year or less will not be furloughed. A description of the positions that will be exempted from mandatory furloughs is set forth in the Directives section below. In order to minimize the impact of furloughs on state services, most State offices will be closed on Friday, November 27, 2020, the day after Thanksgiving. Though this Executive Order is in effect for three (3) months under C.R.S. § 24-2-102(4), furlough days can be taken after the expiration of this Executive Order and will be the subject of a subsequent Executive Order that will be issued later this year.

I will continue to work with the Executive Directors, the State Personnel Director, other elected officials, certified employee organizations, and frontline employees to implement budget reductions with the smallest possible impact to government services and state employees. While the September 2020 forecast is modestly improved from the June 2020 forecast, significant uncertainty about the pace of economic recovery remains, and additional reductions may be required in this or following fiscal years.

In addition, the State constitution vests management of the Judicial and Legislative branches in the heads of those branches, so employees of those branches will be exempt from the furloughs ordered by this Executive Order. State law provides the leaders of the State's institutions of higher education with the independent authority to furlough non-classified employees. Through this Executive Order, I also direct the State's institutions of higher education to furlough classified employees if needed to manage their budgets accordingly. The departments of Law, State, Treasury and Education are not included in this Executive Order.

## II. Directives

A. I hereby find that during fiscal year 2020-2021 there are not sufficient revenues available for expenditures to carry on the functions of the state government and to support its agencies and institutions such that mandatory furloughs of certain state employees are necessary.

B. I hereby order that state employees in departments and offices subject to this Executive Order, notwithstanding the exemptions and conditions set forth below,

shall take mandatory furlough days without pay according to the following parameters:

1. Employees who earn a salary between fifty thousand dollars and one cent ($50,000.01) per year and seventy thousand dollars ($70,000) per year shall take one (1) mandatory furlough day;

2. Employees who earn a salary between seventy thousand dollars and one cent ($70,000.01) per year and ninety thousand dollars ($90,000) per year shall take two (2) mandatory furlough days;

3. Employees who earn a salary between ninety thousand dollars and one cent ($90,000.01) per year and one hundred and forty thousand dollars ($140,000) per year shall take three (3) mandatory furlough days; and

4. Employees who earn a salary at or above one hundred and forty thousand dollars and one cent ($140,000.01) per year shall take four (4) mandatory furlough days.

C. For full time employees, each mandatory furlough day required by this Executive Order shall be for an eight-hour work day; for part-time employees, the mandatory furlough day required by this Executive Order shall be proportionately adjusted.

D. To the extent practical and to minimize the impact of furloughs on state services, most State offices will be closed on Friday, November 27, 2020. Because certain offices and divisions of State government are not able to entirely shut down on a designated day without imposing a substantial hardship on the citizens of the State, or because doing so would substantially impair the ability of a department, division, or office to meet its legal obligations, I hereby grant each Executive Director of an affected department the authority to determine, in the exercise of their discretion, that it is necessary and in the best interest of the State to permit certain employees subject to mandatory furlough under this Executive Order to take such furlough day on a day other than Friday, November 27, 2020. Executive Directors may not, however, require an employee to take more than one mandatory furlough day during any calendar month or during any single pay period, and no more than two furlough days should be scheduled in a single work week.

E. Subject to the exemptions set forth below, the mandatory furlough ordered in this Executive Order shall apply to all state employees in all offices in the Governor's Office, the Lieutenant Governor's Office, and all employees in the following departments: Department of Agriculture; Department of Corrections; Department of Higher Education; Department of Health Care Policy and Financing;

Department of Human Services; Department of Labor and Employment; Department of Local Affairs; Department of Military and Veterans Affairs; Department of Natural Resources; Department of Personnel and Administration; Department of Public Health and Environment; Department of Public Safety; Department of Regulatory Agencies; Department of Revenue; and Department of Transportation.

F. The following is a general description of the state employees who are exempt from the mandatory furloughs:

1. Department of Corrections: to ensure the safe and continuous operation of state correctional facilities, designated employees that have direct responsibility for inmate and staff safety, correctional support trade supervisors, correctional officers, and clinical services direct care employees.

2. Department of Health Care Policy and Financing: to assist Medicare enrollees and members, designated call center agents and related member call center support professionals.

3. Department of Human Services: to ensure the safety of people in the custody or care of the Department of Human Services, designated employees that have direct responsibility for patient and staff safety, diagnostic procedures technology employees, laboratory technology employees and pharmacists in the Mental Health Institutes, food service managers and psychologists at the Colorado Mental Health Institute at Pueblo, and safety securities officers at the Colorado Mental Health Institute at Fort Logan.

4. Department of Labor and Employment: to support Coloradans looking for employment and unemployment benefits, designated employees who provide direct employment services at the Division of Vocational Rehabilitation and Colorado Workforce Centers, employees who administer unemployment insurance benefits, and employees who provide direct employment services to veterans.

5. Department of Military and Veterans Affairs: designated air traffic controllers necessary to ensure continuous and safe operation of the Buckley Air Force Base and the Air Sovereignty Alert Mission of the 140th Wing, Air National Guard patrol officers who are necessary to provide security for the Greeley Air National Guard Station, and transportation maintenance employees to ensure runway clearance and safety on the Colorado Air National Guard’s portion of Buckley Air Force base.

6. Department of Public Health and Environment: designated employees who are critical to the COVID-19 response and work in the State Laboratory, employees dedicated to prevent outbreaks in health facilities, employees who are responsible for administering Women, Infants and Children programs, employees who administer child and adult care food programs, and employees responsible for the newborn screening program at the State Laboratory.

7. Department of Public Safety: to ensure the welfare and safety of Coloradans, designated Colorado State Patrol troopers, corporals, sergeants; communication officers and supervisors; Executive Security Unit security officers; and Port of Entry officers and first line supervisors.

8. Department of Transportation: to preserve the safety and continuity of operations of Colorado's roads through functions including response to weather events such as snow and ice, vehicle crashes, and emergency road repairs, designated transportation maintenance employees.

G. I direct the leadership of the State's institutions of higher education to furlough classified employees if needed to manage their budgets accordingly.

H. Executive Directors of departments subject to this Executive Order, in consultation with and subject to the approval of the State Personnel Director, may modify the list of positions exempt from the furloughs from time to time in order to adapt to changes in the workforce, unforeseen events, or emergencies.

I. Decisions made in connection with implementing this Executive Order, including but not limited to determinations regarding which positions are and are not exempt from mandatory furlough and whether and when to require employees to take alternative furlough days, are not subject to review or appeal, except for claims of discrimination, whistleblower, or those claims expressly provided a right of appeal or hearing in the State Constitution or under Colorado statute.

J. The State Personnel Director is hereby ordered and authorized to issue technical guidance to departments with respect to implementing and administering the mandatory furloughs required by this Executive Order.

## III. Duration

This Executive Order shall take effect on October 1, 2020, and remain in effect until December 31, 2020, unless modified or rescinded by future Executive Order of the Governor.

GIVEN under my hand and the Executive Seal of the State of Colorado, this twenty-third day of September, 2020.

Jared Polis
Governor