EXECUTIVE ORDER NO. 105

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19 and; and

WHEREAS, as of March 18, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were more than 191,000 confirmed cases of COVID-19 worldwide, with over 7,800 of those cases having resulted in death; and

WHEREAS, as of March 18, 2020, there were more than 7,000 confirmed cases of COVID-19 in the United States, with at least 97 of those cases having resulted in death; and

WHEREAS, as of March 18, 2020, there were 427 positive cases of COVID-19 in New Jersey, spread across numerous counties; and

WHEREAS, State and Federal public health experts, including officials at CDC, believe that infections will continue to spread at exponential rates unless aggressive action is taken to minimize person-to-person contacts and to reduce any unnecessary interactions; and

WHEREAS, the COVID-19 emergency is unfolding alongside numerous contemporaneous local, State and Federal elections; and

WHEREAS, the New Jersey Secretary of State is legally obligated to ensure that all qualified voters within the State are able to fully exercise their constitutionally protected right to vote; and

WHEREAS, allowing certain upcoming elections to proceed during this unprecedented COVID-19 health crisis as they were originally planned will create hardships and health risks for voters, poll workers and candidates alike; and

WHEREAS, election officials require flexibility and sufficient lead time to adapt the State's voting infrastructure to confront the magnitude of the public health and safety risks of the COVID-19 pandemic; and

WHEREAS, social distancing measures are required for a period of as-yet-undetermined duration, and the COVID-19 outbreak may have significant effects on New Jersey's voting systems as long as social distancing measures are in place and for some time thereafter; and

WHEREAS, the full participation of voters and candidates is critical to a robust democracy; and

WHEREAS, failing to take proactive actions to mitigate the adverse impacts of the current health crisis on certain upcoming elections carries the risk of disenfranchising countless citizens; and

WHEREAS, pursuant to N.J.S.A. 19:23-14, petitions for candidates for the June 2, 2020 primary election are due by 4:00 p.m. on March 30, 2020; and

WHEREAS, allowing candidates to submit their petitions electronically, in addition to by hand delivery, will help limit unnecessary person-to-person contact; and

WHEREAS, allowing voters to fill out and submit petitions electronically, so that candidates and campaigns need not physically gather petitions by going to individual voters in person, will help limit unnecessary person-to-person contact; and

WHEREAS, the COVID-19 emergency will significantly hinder otherwise qualified candidates from meeting the nomination requirements set forth in N.J.S.A. 19:23-7, 19:23-11, 19:23-14, 19:23-15, 19:25-3, 19:34-8, and 19:24-4; and

WHEREAS, temporarily modifying the requirements of N.J.S.A. 19:23-8, 19:23-14, 19:24-4, and 19:25-3 to allow for electronic submission of petitions is needed to keep voters engaged during this unprecedented crisis; and

WHEREAS, States generally have discretion to dictate the time, manner and place of elections in the absence of controlling federal law; and

WHEREAS, requiring voters to report to public polling locations to vote under the current circumstances will hinder public participation in the democratic process, particularly among elderly and immune-compromised voters, and undermine the legislative intent of provisions like N.J.S.A. 19:8-2 and 19:8-3.1, which are designed to ensure that such voters can exercise their right to vote; and

WHEREAS, voting by mail is already an authorized mode of voting in New Jersey pursuant to Title 19, subtitles 62 and 63; and

WHEREAS, at least 34 states and the District of Columbia already allow voters to cast their ballot via mail and five states run entirely vote-by-mail elections; and

WHEREAS, in-person voting has declined over the years, while the total number of voters who voted early, absentee or by mail has steadily increased; and

WHEREAS, New Jersey citizens are presently faced with the choice of exercising their constitutional franchise, or endangering their health and safety; and

WHEREAS, a temporary delay in certain elections that are rapidly approaching will give the county and municipal election officials enough time to send vote-by-mail ballots to all registered voters for these elections, allowing voters to exercise their constitutional franchise without jeopardizing their health and safety; and

WHEREAS, in order to prepare vote-by-mail ballots for all registered voters in the upcoming elections, state, county and municipal election officials need sufficient preparation time; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, in order to protect the health, safety and welfare of the people of the State of New Jersey and in accordance with the authority vested in me by the New Jersey Constitution and statutes of the State of New Jersey, hereby ORDER and DIRECT the following:

1. In addition to accepting hand delivery of candidate and delegate petitions that are due by 4:00 p.m. on March 30, 2020, the Secretary of State, county clerks, and municipal

clerks shall allow for these candidate and delegate petitions to be submitted electronically.

2. The Secretary of State, county clerks, and municipal clerks shall also accept petitions with signatures collected via an online form created by the Secretary of State, which shall be available for use by Thursday, March 19, 2020. Following the availability of the online form, the Secretary of State, county clerks, and municipal clerks shall require that signatures be gathered via the online form. Hand signatures obtained prior to the effective date of this Executive Order shall also be accepted.

3. The online form shall be provided to county clerks and municipal clerks as a means of accepting petitions that are due to them by 4:00 p.m. on March 30, 2020.

4. The verification requirements of N.J.S.A. 19:23-11, insofar as they are not included on the online form created by the Secretary of State, shall be suspended for petitions due by 4:00 p.m. on March 30, 2020.

5. The requirements of N.J.S.A. 19:23-7 and N.J.S.A. 19:23-15 that a candidate provide a notarized oath of allegiance with their petition shall be suspended for petitions due by 4:00 pm on March 30, 2020. Candidates who have not already signed and notarized an oath of allegiance shall attach a signed pledge of allegiance to their petitions containing the same language as prescribed in N.J.S.A. 41:1-1.

6. The special election scheduled for March 21, 2020, in the Fire District 1 for the Township of Old Bridge in the County of Middlesex, the special election scheduled for March 31, 2020, in the Township of West Amwell in the County of Hunterdon, and the special election scheduled for March 31, 2020, in the City of Atlantic City in the County of Atlantic shall be postponed

until May 12, 2020, to be held concurrently with the elections currently scheduled for that date.

7. The elections that are scheduled for April 21, 2020, shall be postponed until May 12, 2020, also to be held concurrently with the elections currently scheduled for that date.

8. Any election scheduled for a date between March 19, 2020 and May 12, 2020, not specifically referenced in Paragraph 6 and 7, shall be postponed until May 12, 2020. Further, no other elections may be held or proceed prior to May 12, 2020.

9. All elections that take place on May 12, 2020, including those previously scheduled for that date and those rescheduled as a result of this Order, shall be conducted solely via vote-by-mail ballots, which will automatically be sent to all registered voters without the need for an application to receive a vote-by-mail ballot.

10. The requirements of N.J.S.A. 19:14-25 that sample ballots be sent shall be suspended. All registered voters will be receiving vote-by-mail ballots and there will be no polling places in the May 12, 2020 elections.

11. The time restrictions of N.J.S.A. 19:63-9 shall be suspended, and vote-by-mail ballots shall be mailed in compliance with a schedule to be prepared by the Secretary of State in a manner to ensure the timely receipt and return of ballots for counting in the May 12, 2020 elections.

12. To ensure that all registered voters, whether active or inactive, are provided with the opportunity to exercise their right to vote through the use of vote-by-mail ballots in the May 12, 2020 elections, N.J.S.A. 19:63-3(f), which prohibits the county clerk from sending a vote-by-mail ballot to inactive voters, shall be suspended.

13. Vote-by-mail ballots shall be processed and canvassed in compliance with standards established by the Secretary of State and in accordance with guidelines provided by the State Department of Health and where necessary, superseding the statutory deadlines established at N.J.S.A. 19:63-17 and 19:63-22, including the allowance of the early counting of vote-by-mail ballots prior to May 12, 2020.

14. All vote-by-mail return envelopes shall have prepaid postage in order to guarantee the proper delivery of all cast vote-by-mail ballots.

15. The Secretary of State shall establish appropriate standards for ensuring that all eligible citizens are able to exercise their right to vote through the use of vote-by-mail ballots in the May 12, 2020 elections.

16. This Order shall take effect immediately.

GIVEN, under my hand and seal this 19th day of March, Two Thousand and Twenty, and of the Independence of the United States, the Two Hundred and Forty-Fourth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor