STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

At Charleston

EXECUTIVE ORDER NO. 5-21

By the Governor

WHEREAS, a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the "State of Emergency Declaration"), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

WHEREAS, Chapter 15, Article 5, Section 6 of the Code of West Virginia authorizes the Governor to, among other things, control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area, and the occupancy of premises therein, and to perform and exercise other functions, powers, and duties that are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, Executive Order 9-20 required all businesses and operations in West Virginia, except Essential Businesses and Operations as defined therein, to cease all activities within the state except for such minimum basic operations as are necessary to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or related functions, and the minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences, and provided exceptions for businesses such as home-based businesses and certain small businesses while requiring proper social distancing and hygiene practices be maintained at such businesses; and

WHEREAS, since the issuance of Executive Order 9-20 and other executive orders ordering closed or otherwise limiting occupancy of certain establishments and facilities in this state, implementation of successful public health measures has resulted in revised projections of

rates of infection and COVID-19 related deaths in West Virginia, as well as ever-strengthening supply chains for personal protective equipment and other medical equipment and supplies, resulting in greater preparedness and response capacity throughout the state; and

WHEREAS, on April 27, 2020, I, Governor Jim Justice, announced the state's reopening plan, West Virginia Strong: *The Comeback* (the "Comeback Plan"), to phase in the reopening of businesses in the state of West Virginia on a week by week basis to most effectively monitor and respond to the public health effects of this phased reopening, to be based upon certain metrics and conditions to safely reopen segments of West Virginia's economy and get our citizens back to work, while ensuring the health and protection of all West Virginians, and especially the state's significant elder and vulnerable population who are at most risk from the COVID-19 virus; and

WHEREAS, Executive Order 28-20 and Executive Order 30-20 allowed for the resumption of all medical procedures throughout the state while requiring that hospitals and ambulatory surgical centers around the state limit procedures to only more urgent procedures to ensure adequate response capacity and preserve necessary personal protective equipment and other resources at such facilities in the event of any surge of COVID-19; and

WHEREAS, under the Comeback Plan, various executive orders have been issued to transition the State to a safer-at-home policy and to allow certain types of businesses and activities to begin to resume or expand their operations, provided that certain safety measures are in place; and

WHEREAS, reopening additional segments of the state's economy in accordance with the Comeback Plan, utilizing a phased approach to reopen sectors of the economy week by week, while continuing to prioritize and provide for the health and protection of all West Virginians, and especially the state's significant elder and vulnerable population, is in the public interest; and

WHEREAS, clarifying what indoor live performances may be conducted, provided certain safety precautions and protocols are in place, is appropriate at this time; and

NOW, THEREFORE, I, JIM JUSTICE, pursuant to the authority vested in me pursuant to the provisions of Chapter 15, Article 5, Section 6 and Chapter 15, Article 5, Section 1 of the Code of West Virginia, hereby **DECLARE** and **ORDER**, as follows:

1. The following provisions of Executive Order 9-20, as previously amended, are hereby further amended and supplemented as follows:

    a. Section 4, as amended, is hereby deleted in its entirety and replaced with the following to clarify what live music events are allowed at this time:

> "4. **Prohibited activities.** Carnivals, fairs, concert and music halls, adult entertainment venues, and other similar businesses shall be closed, live indoor performances incorporating vocals or using wind instruments are prohibited, provided, however, that live music incorporating vocals or using wind instruments may be performed indoors only for simulcast or other broadcast to remote audiences, where no audience is physically present where such live music is being performed indoors, and provided that any live music performance, whether held outdoors or indoors, is held in accordance with applicable guidance relating to the safe operation of live music performances, *A Guide to Safely Hosting Live Performances*, available at governor.wv.gov, as the same may be amended from time to time; and provided, that the following specific outdoor recreational businesses and activities may resume operations as follows:
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> a. The Hatfield McCoy Trail System may reopen in accordance with the guidance, *A Guide to Safely Opening & Operating the Hatfield McCoy Trail System*, available at governor.wv.gov;
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> b. Outdoor recreation outfitters may reopen in accordance with the guidance, *A Guide to Safely Reopening Outdoor Recreation Outfitters*, available at governor.wv.gov;
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> c. Whitewater rafting businesses may resume operations in accordance with the guidance, *A Guide to Safely Reopening Whitewater Rafting*, available at governor.wv.gov; and

d. Ziplining businesses may resume operations in accordance with the guidance, *A Guide to Safely Reopening Zipline Outfitters*, available at governor.wv.gov."

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.

DONE at the Capitol in the City of Charleston, State of West Virginia, this Seventeenth day of February, in the year of our Lord, Two Thousand Twenty-One in the One Hundred Fifty-eighth year of the State.

GOVERNOR

By the Governor

SECRETARY OF STATE