CHRISTOPHER T. SUNUNU
Governor

STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

STATE OF NEW HAMPSHIRE
BY HIS EXCELLENCY
CHRISTOPHER T. SUNUNU, GOVERNOR

Executive Order 2020-06

An order establishing the Governor's Office for Emergency Relief and Recovery and processes and procedures for allocation and expenditure of COVID-19 emergency funds

WHEREAS, on Friday, March 13, 2020, the President of the United States declared a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak; and

WHEREAS, on Friday, March 13, 2020, the Governor issued Executive Order 2020-04, An order declaring a state of emergency due to the Novel Coronavirus (COVID-19); and

WHEREAS, on Friday, March 13, 2020, the Governor activated the Emergency Operations Center at the Incident Planning and Operations Center in Concord to assist in the State's response to the COVID-19 outbreak; and

WHEREAS, on Friday, April 3, 2020, the Governor issued Executive Order 2020-05, which extended the State of Emergency declared in Executive Order 2020-04, and all emergency orders issued pursuant thereto, for an additional 21 days; and

WHEREAS, as of April 13, 2020, the Centers for Disease Control and Prevention (CDC) reports that every U.S. state has reported cases of COVID-19 to the CDC, and that 554,849 confirmed cases of COVID-19 have occurred in the United States and territorial partners with 21,942 deaths; and

WHEREAS, experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have severe symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS, experts indicate that COVID-19 is most commonly spread from an infected symptomatic person to others through respiratory droplets, including:

- Through the air by coughing and sneezing;
- Close personal contact, such as touching or shaking hands;
- Touching an object or surface with the virus on it, then touching your mouth, nose, or eyes before washing your hands.

WHEREAS, the CDC reports that COVID-19 may be spread may be spread by people who are not showing symptoms; and

WHEREAS, the CDC reports that COVID-19 is spread mainly from person to person, that COVID-19 is currently spreading very easily and sustainably, and that the best way to prevent illness is to avoid being exposed to COVID-19; and

WHEREAS, as of April 13, 2020, the CDC reports that 49 U.S. states and territorial partners are reporting some community spread of COVID-19, meaning people have been infected with the virus who may not have the usual risks of international travel or known contact with a confirmed case; and

WHEREAS, in the 31 days since the Governor declared a State of Emergency, the COVID-19 outbreak in New Hampshire has expanded significantly; and

WHEREAS, as of April 13, 2020, the Department of Health and Human Services, Division of Public Health Services has reported 1,020 cases of COVID-19; 23 deaths; 152 hospitalizations; 2,250 individuals are being monitored; and all counties in the State have been impacted; and

WHEREAS, the Department of Health and Human Services, Division of Public Health has found that community-based transmission of COVID-19 continues to increase in the State and has been identified in the majority of counties; and

WHEREAS, the White House and CDC have extended their Slow the Spread Guidelines for COVID-19 to April 30, and these guidelines direct Americans to, among other things, work from home whenever possible; avoid social gatherings of more than 10 people; avoid eating and drinking at bars, restaurants and food courts; and avoid discretionary travel; and

WHEREAS, state and local health and emergency response organizations must continue to use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS, if COVID-19 spreads in New Hampshire at a rate comparable to the rate of spread in other states and countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of New Hampshire, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS, it is imperative to continue to prepare for and respond to suspected or confirmed COVID-19 cases in New Hampshire, implement measures to mitigate the spread of COVID-19, and prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS, as of April 13, 2020, during the State of Emergency the Governor has issued emergency orders that, among other things, (i) require public K-12 schools to transition to remote instruction and support, (ii) prohibit scheduled gatherings of 10 or more and require restaurants and bars to transition to take out and delivery only, (iii) temporarily prohibit disconnection or discontinuance of certain services, including public utilities, in the event of non-payment, (iv) temporarily prohibit evictions and foreclosures; (v) dramatically expand access to State unemployment benefits for individuals impacted by COVID-19, (vi) close non-essential businesses and mandate that Granite Staters stay home with limited exceptions (vii) expand access to Telehealth Services to protect the public and health care providers, and (viii) restrict hotels and other lodging providers to provision of lodging for vulnerable populations and essential workers; and

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WHEREAS, the COVID-19 pandemic has caused unprecedented financial and economic damage across numerous sectors of the State's economy, including healthcare, manufacturing, hospitality, and numerous other sectors, and this damage must be addressed immediately in order to minimize long term and detrimental economic impacts to the greatest extent possible; and

WHEREAS, since issuing Emergency Order #5 on March 17, 2020 expanding eligibility for unemployment compensation benefits for those whose employment has been impacted by COVID-19, there have been over 100,000 new claims for unemployment benefits filed in New Hampshire thus exceeding in three weeks the total number of initial claims filed in the past three years; and

WHEREAS, on March 27, 2020, the United States Congress passed the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") and President Donald Trump signed the CARES Act into law; and

WHEREAS, the CARES Act provides significant emergency relief funding to New Hampshire, including the following (all of which hereafter referred to as "CARES Act emergency relief funds"): (i) $7,496,020 in Community Development Block Grant funds, (ii) $3,800,000 in Emergency Solutions funds, (iii) $404,880 in Housing for Persons with AIDS (HOPWA) funds, (iv) $3,262,422 in Election Security Grant funds, (v) $4,410,342 in Byrne-JAG State and Local Law Enforcement Grant funds, (vi) $6,947,671 in Childcare and Development Block Grant funds, (vii) $82,534,000 in Education Stabilization funds, (viii) $5,448,000 in Public Health Emergency Preparedness (PHEP) funds, (ix) $37,891,454 in Federal Transit Administration Grant funds, (x) $5,541,000 in Low Income Home Energy Assistance Program funds, (xi) $427,000 in National Endowment for the Arts funds, (xii) $423,000 in National Endowment for the Humanities funds, and (xiii) $1,250,000,000 from the CARES Act Coronavirus Relief Fund ("flex funds"); and

WHEREAS, the $1,250,000,000 in flex funds that New Hampshire is set to receive may only be used to cover costs incurred by the State that (i) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (ii) were not accounted for in the budget most recently approved as of the date of enactment of the CARES Act; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and

WHEREAS, it is reasonable to expect that the United States Congress may enact additional legislation that provides increased and additional federal relief and stimulus funding to the State of New Hampshire; and

WHEREAS, in the wake of the September 11, 2001 terrorist attacks, the General Court enacted legislation giving the Governor broad authority to take necessary and extraordinary actions, which includes the expenditure of funds, during a State of Emergency, with this authority now codified in various statutes including RSAs 4:45, 4:47, 21-P:35, 21-P:37, and 21-P:43; and

WHEREAS, RSA 21-P:35, V defines "emergency management" as "preparation for and the carrying out of all emergency functions, including but not limited to emergency response and training functions, to prevent, minimize, and repair injury or damage resulting from the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or human cause, including but not limited to fire, flood, earthquake, windstorm, wave actions, technological incidents, oil or chemical spill, or water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, infestation, explosion, terrorist act, or riot."; and

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WHEREAS, pursuant to RSA 21-P:37, "In the event of disaster beyond local control, the governor may assume direct operational control over all or any part of the emergency management functions within the state."; and

WHEREAS, pursuant to RSA 21-P:43, "Whenever the federal government or any federal agency or officer offers to the state, or through the state to any of its political subdivisions, services, equipment, supplies, materials, or funds by way of gift, grant or loan for purposes of emergency management the state, acting through the governor...may accept such offer, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer."; and

WHEREAS, during a State of Emergency, RSA 4:45, III(b) gives the Governor the authority to "sell, lend, lease, give, transfer, receive, or deliver materials or perform services for emergency management purposes on such terms and conditions as the governor shall prescribe and without regard to the limitations of any existing law, and to account to the state treasurer for any funds received for such property."; and

WHEREAS, during a State of Emergency, the Governor has the authority, pursuant to RSA 4:45, III(e), to "perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population."; and

WHEREAS, during a State of Emergency, the Governor has the authority, pursuant to RSA 4:47, III, to "make, amend, suspend and rescind necessary orders, rules and regulations to carry out the provisions of this subdivision in the event of a disaster beyond local control."; and

WHEREAS, the outbreak of COVID-19 has confronted the State with an unprecedented public health emergency and with financial and economic devastation resulting therefrom, which require the State to respond rapidly to ensure that necessary supplies, economic infrastructure, and other appropriate emergency responses are provided immediately; and

WHEREAS, the State must manage and expend emergency relief funds consistent with the urgent need and required expedited timetable for expending CARES Act emergency relief funds; and

WHEREAS, it is critical that the process for expending CARES Act emergency relief funds be transparent and provide for accountability and appropriate oversight; and

WHEREAS, it is appropriate to provide for greater Legislative involvement in the development of proposals for allocation and expenditure of these emergency funds than is typical for other types of federal funds, while still allowing for a process that enables quick and nimble action; and

WHEREAS, it is also appropriate to solicit the input of a wide variety of public and private sector stakeholders in determining the appropriate allocation of CARES Act emergency relief funds; and

WHEREAS, it is necessary to establish an expedited schedule for the development of a plan for the allocation and expenditure of CARES Act emergency relief funds and an infrastructure for the oversight and management of such funds; and

WHEREAS, it is necessary to establish an infrastructure for the oversight and management of additional emergency funds that the State may receive from subsequent Federal legislation; and

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WHEREAS, the Governor has the authority to create offices for the purpose of receiving federal funds and implementing federal grant programs[1].

NOW, THEREFORE, I, Christopher T. Sununu, Governor of the State of New Hampshire, by the authority vested in me pursuant to Part II, Article 41 of the New Hampshire Constitution, Executive Order 2020-04 as extended by Executive Order 2020-5, and New Hampshire RSAs 4:45, 4:47, 21-P:35, 21-P:37, and 21-P:43, do hereby order, effective immediately, that:

1. There is hereby established within the Executive Department the Governor's Office for Emergency Relief and Recovery ("GOFERR"), which shall have the power and responsibilities to assist the Governor and Legislature with and direct State agencies on the management and expenditure of (i) emergency relief funds received under the CARES Act and (ii) any additional Federal emergency funds received to address the impacts of the Novel Coronavirus (COVID-19). All Executive Branch agencies shall coordinate with and report to GOFERR on the allocation and expenditure of such funds.

2. GOFERR shall be led by a Director (the "Director") appointed by and serving at the pleasure of the Governor. The Director shall be in charge of the operations of GOFERR and directly responsible to the Governor.

3. The Director shall, with prior approval of the Governor, appoint a Deputy Director and such additional staff as the Director deems necessary to carry out the operations of GOFERR. To the maximum extent feasible, the staff of GOFERR shall be made up of current State employees who the Governor may, in consultation with the Director, temporarily assign to GOFERR. Any State employee who is temporarily assigned to GOFERR shall be entitled to the same salary and benefits to which they would otherwise be entitled in their position as a State employee and shall remain employees of their State agencies for all other purposes, except that their duties during the period of temporary assignment shall be supervised by the Director.

4. There is hereby established the GOFERR Legislative Advisory Board (the "Legislative Board") which shall work with the Director, the staff of GOFERR, and the GOFERR Stakeholder Advisory Board to develop recommendations for the allocation and expenditure of CARES Act emergency relief funds, or other Federal COVID-19 emergency funds received by the State, consistent with the processes specified in this Order or amendments thereto. The Legislative Board shall meet regularly and as often as it deems necessary to develop its recommendations. Meetings of the Legislative Board shall be conducted in compliance with RSA chapter 91-A. Membership of the Legislative Board shall consist of four members of the Senate and four members of the House of Representatives, with equal representation from the two largest parties in each body, appointed by the Governor. The members of the Legislative Board shall elect a chair from among their membership. The Legislative Board shall remain in existence for the duration of the existence of GOFERR.

5. There is hereby established the GOFERR Stakeholder Advisory Board (the "Stakeholder Board") which shall with work with the Director, the staff of GOFERR, and the Legislative Board to develop recommendations for the allocation and expenditure of CARES Act emergency relief funds, or other Federal COVID-19 relief and recovery funds received by the State, consistent with the processes specified in this Order or amendments thereto. The Stakeholder Board shall meet regularly and as often as it deems necessary to develop its recommendations. Meetings of the Stakeholder Board shall be conducted in compliance with RSA chapter 91-A. The Stakeholder Board shall consist of nine members appointed by the Governor, and the members of the Board shall elect a chair from among

[1] See Executive Order 2009-01, issued by Governor John H. Lynch on January 30, 2009.

their membership. The Stakeholder Board shall remain in existence for the duration of the existence of GOFERR.

6. The Legislative Board and Stakeholder Board shall coordinate dates and times for their meetings to avoid overlap. The Legislative Board and Stakeholder Board may hold joint meetings that, if held, shall be chaired by the Chair of the Legislative Board.

7. Due to the urgent need for timely disbursement of CARES Act emergency relief funds, GOFERR, the Legislative Board, and the Stakeholder Board shall develop their recommendations for allocation and expenditure of CARES Act emergency relief funds, and the Governor shall authorize plans for allocation and expenditure of such funds, according to the following process, to the extent practicable:

    a) The Legislative Board and Stakeholder Board shall work with GOFERR staff to provide to the Director any initial advice and recommendations they develop for allocation and expenditure of CARES Act emergency relief funds.
    b) The Director shall work with GOFERR staff to review the advice and recommendations of the Legislative Board and the Stakeholder Board and meet with the Boards as necessary to discuss their recommendations.
    c) After consultation with the Legislative Board and the Stakeholder Board, the Director and GOFERR staff shall present initial recommendations for allocation and expenditure of CARES Act emergency relief funds to the Governor.
    d) The Governor shall review GOFERR's initial recommendations for allocation and expenditure of CARES Act emergency relief funds and authorize initial plans, with any changes the Governor deems necessary, for allocation and expenditure for CARES Act emergency relief funds.
    e) Upon the Governor's final authorization of any plan for allocation and expenditure of portions of CARES Act emergency relief funds, such plans shall be published and publicly available on the GOFERR webpage and GOFERR shall oversee the allocation and expenditure of CARES Act emergency relief funds according to any authorized and published plans.
    f) After publication and implementation of initial allocation and expenditure plans, the Legislative Board and the Stakeholder Board shall continue to meet and advise GOFERR and the Governor on the allocation and expenditure of CARES Act emergency relief funds and shall, as necessary, continue to submit recommendations for additional plans related to allocation and expenditure of CARES Act emergency relief funds.
    g) The Legislative Board, Stakeholder Board, GOFERR and the Governor shall continue to work to develop additional plans for allocation and expenditure of CARES Act emergency relief funds as necessary and on timelines mutually agreed upon. Any additional plans developed for allocation and expenditure of CARES Act emergency relief funds shall be published and publicly available on the GOFERR webpage.

8. Additional processes and procedures for development of plans for allocation and expenditure of subsequent COVID-19 emergency funds, other than CARES Act emergency relief funds, that the State may receive shall be developed based on the timing of receipt and the required uses of such funds.

9. The Director shall establish administrative processes and procedures for the operation of GOFERR with approval of the Governor, consistent with existing State personnel policies. The Director shall develop a budget for the operation of GOFERR that shall be approved by the Governor and supported, to the maximum extent possible, by available Federal funding.

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10. Nothing herein shall be construed to limit the Governor's authority to immediately expend COVID-19 emergency funds pursuant to RSA 4:45, RSA 4:47, and RSA 21-P:43.

11. A webpage for GOFERR shall be established on the Governor's Office website, and all meetings documents, meeting minutes, and any other public documents related to GOFERR shall be published on the GOFERR webpage.

12. Amendments to this Order shall be published as exhibits to this Order. Such exhibits shall be published separately and shall be identified as follows: "Exhibit [x] to Executive Order 2020-06, [date]" and shall be published on the Governor's Office website.

Given under my hand and seal at the Executive Chambers in Concord, this 14th day of April, in the year of Our Lord, two thousand and twenty, and the independence of the United States of America, two hundred and forty-four.

GOVERNOR OF NEW HAMPSHIRE

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