EXECUTIVE ORDER NO. 164

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 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, through Executive Order Nos. 119, 138, 151, and 162, issued on April 7, 2020, May 6, 2020, June 4, 2020, and July 2, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-163 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, as of July 12, 2020, according to the World Health Organization, there were more than 12,552,000 confirmed cases of COVID-19 worldwide, with over 561,000 of those cases having resulted in death; and

WHEREAS, as of July 12, 2020, according to the Centers for Disease Control and Prevention, there were more than 3,236,000 confirmed cases of COVID-19 in the United States, with over 134,000 of those cases having resulted in death; and

WHEREAS, as of July 12, 2020, there were over 175,000 cases of COVID-19 in New Jersey, with at least 13,594 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, pursuant to Executive Order No. 120 (2020), the primary elections set to take place on June 2, 2020, were postponed until July 7, 2020 ("July primary elections"), because preparing for elections to take place in June during the potential height of the COVID-19 emergency would have negatively impacted election officials' preparation efforts; and

WHEREAS, on May 15, 2020, I issued Executive Order No. 144, which declared that the July primary elections would be conducted primarily via vote-by-mail ballots with a minimum number of polling places open in each municipality; and

WHEREAS, to accommodate the increase in vote-by-mail ballots, Executive Order No. 144 (2020) extended the time that ballots must be received by five (5) days, provided that such ballots must be postmarked by July 7, 2020, and received by July 14, 2020, in order to be counted; and

WHEREAS, Executive Order No. 144 (2020) extended the deadline to certify election results under N.J.S.A. 19:23-55 by five (5) days in order to account for the revised timeframe that Boards of Elections had to receive vote-by-mail ballots, thereby extending the certification deadline to July 24, 2020; and

WHEREAS, pursuant to N.J.S.A. 19:5-2, the annual meetings of municipal party committees, where reorganizations of the committees and the election of municipal party chairpersons occur, are the first Monday following the primary elections, which is July 13, 2020; and

WHEREAS, pursuant to N.J.S.A. 19:5-3, the annual meetings of county party committees, where reorganizations of the committees and the election of county party chairpersons occur, are the first Tuesday following the primary election, which is July 14, 2020; and

WHEREAS, pursuant to N.J.S.A. 19:5-2 and 19:5-3, members of municipal party committees and members of county party committees are to take office on the first Saturday following their election; and

WHEREAS, because election results will not be certified until July 24, 2020, the first Saturday following the election of municipal and county party members will be July 25, 2020; and

WHEREAS, due to the extensions for certifying the July primary election results, in order to ensure the timely seating of municipal and county political party members, it is necessary to extend the timeline for seating those party members; and

WHEREAS, on March 19, 2020, I issued Executive Order No. 105, which declared that certain elections set to take place in March and April were postponed until May 12, 2020 (“May elections”),

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

WHEREAS, pursuant to N.J.S.A. 40A:16-16, whenever the office of a governing body is deemed vacant, pursuant to N.J.S.A. 19:3-25, a special election is triggered, and the special election must be held not less than forty-five (45) days nor more than fifty (50) days from the date of the vacancy; and

WHEREAS, in at least one jurisdiction, the Superior Court has recently deemed there to be a vacancy following the May elections, triggering a special election in August; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, the COVID-19 emergency and its impact are likely to extend for an as-yet-undetermined period of time; and

WHEREAS, the COVID-19 emergency makes it difficult for election officials, candidates, and voters to properly plan and prepare for and fully participate in special elections if they were to proceed as they would under normal circumstances; and

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

WHEREAS, allowing the special elections to proceed as they would under normal circumstances during this unprecedented COVID-19 health crisis will create hardships and health risks for voters, poll workers, and candidates alike; and

WHEREAS, the July primary election required special accommodations for and increased costs for COVID-19-mitigation efforts that are not normally associated with election administration, such as social-distancing measures, sanitization, and face coverings; and

WHEREAS, because there are no federal elections tied to the special elections, local jurisdictions will have to bear the burden of those costs in spite of the dire financial impact of the COVID-19 health crisis on local budgets; and

WHEREAS, Boards of Elections had difficulty retaining poll workers for the July primary election due to the COVID-19 pandemic and are likely to face the same issue for special elections so long as the health crisis exists; and

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

WHEREAS, failing to take proactive actions to mitigate the adverse impacts of the current health crisis on upcoming special elections carries the risk of disenfranchising citizens; 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, failing to offer voters a ready alternative to reporting to public polling locations to vote in special elections in the midst of the COVID-19 crisis will hinder public participation in the democratic process, particularly among

elderly and immune-compromised voters, and undermine the legislative intent of provisions such as 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, 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, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The deadline in N.J.S.A. 19:5-2 for the annual meetings of municipal party committees and the deadline in N.J.S.A. 19:5-3 for the annual meetings of county party committees are hereby suspended for 2020.

2. To allow newly elected and re-elected municipal party committee members and county party committee members to be properly seated during their parties' reorganization meetings, for 2020, the annual meetings for municipal party committees shall be held on the first Monday after the July primary election results are certified and the annual meetings for county party committees shall be held on the first Tuesday after the July primary election results are certified.

3. Any election scheduled for a date between July 7, 2020 and November 3, 2020, shall be postponed until November 3, 2020. Further, no other elections may be held or proceed prior to November 3, 2020.

4. This Order shall take effect immediately.

GIVEN, under my hand and seal this 13th day of July, Two Thousand and Twenty, and of the Independence of the United States, the Two Hundred and Forty-Fifth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor