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 2020-16

Seventh Extension of State of Emergency Declared in Executive Order 2020-04

WHEREAS, on March 13, 2020, the President of the United States declared a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak. This declaration remains in effect as of the date of this Executive Order; and

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

WHEREAS, on April 3, 2020, the Governor issued Executive Order 2020-05, an order extending the State of Emergency declared in Executive Order 2020-04, for an additional 21 days; and

WHEREAS, since April 3, 2020, the Governor issued emergency orders that, among other things, (i) extended and modified the temporary prohibition of evictions and foreclosures, (ii) temporarily modified the interest penalty for late payment of property taxes, (iii) restricted hotels and other lodging providers to provision of lodging for vulnerable populations and essential workers, (iv) ordered a plan and partner with local communities to assist shelters to reduce the

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numbers of individuals in shelters to provide adequate social distancing in an effort to stop the spread of COVID-19, (v) temporarily modified executive branch deadlines and requirements, (vi) temporarily modified requirements regarding healthcare provided in alternative settings, (vii) established the COVID-19 Long Term Care Stabilization Program, (viii) and activated Crisis Standards of Care in New Hampshire; and

WHEREAS, on April 24, 2020, the Governor issued Executive Order 2020-08, an order extending the State of Emergency declared in Executive Order 2020-04, for an additional 21 days; and

WHEREAS, since April 24, 2020, during the State of Emergency, the Governor issued additional emergency orders that, among other things, (i) temporarily authorized health partners to assist in responding to COVID-19 in long-term care facilities (ii) ensured worker's compensation coverage for New Hampshire first responders exposed to COVID-19, (iii) authorized additional Medicaid eligibility for the uninsured, and (iv) authorizing flexibility to school boards and school districts in order to remain operational; and

WHEREAS, on May 15, 2020, the Governor issued Executive Order 2020-09, an order extending the State of Emergency declared in Executive Order 2020-04, for an additional 21 days; and

WHEREAS, since May 15, 2020, during the State of Emergency, the Governor issued emergency orders that, among other things, (i) further expanded access to medical providers by authorizing the reactivation of medical provider licenses, (ii) expanded access to COVID-19 testing via licensed pharmacists, and (iii) ensured school districts adopt special education requirements to support remote instruction; and

WHEREAS, since May 15, 2020, and as of June 5, 2020, the Governor continued to provide guidance, under Emergency Order 40, that modified many of the restrictions on businesses, organizations, places of worship, and other places of commerce or gathering to allow them to transition to full re-opening while limiting the risk of multiplying the spread of COVID-19 in New Hampshire. The Governor anticipated continuing to ease restrictions as the status of COVID-19 in New Hampshire, the emerging science and medical understanding of COVID-19, and other data and information about COVID-19 permit; and

WHEREAS, on June 5, 2020, the Governor issued Executive Order 2020-10, an order extending the State of Emergency declared in Executive Order 2020-04, for an additional 21 days; and

WHEREAS, since June 5, 2020, and as of June 26, 2020, the Governor continued to provide guidance, under Emergency Order , that transitioned from a Stay at Home Order to a Safer at Home Advisory, and that modified many of the restrictions on businesses, organizations, places of worship, and other places of commerce or gathering to allow them to continue to transition to full re-opening while limiting the risk of multiplying the spread of COVID-19 in New Hampshire. The Governor anticipated continuing to ease restrictions as the status of COVID-19 in New Hampshire, the emerging science and medical understanding of COVID-19, and other data and information about COVID-19 permit; and

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WHEREAS, on June 26, 2020, the Governor issued Executive Order 2020-14, an order extending the State of Emergency declared in Executive Order 2020-04, for an additional 21 days; and

WHEREAS, since June 26, 2020, and as of July 17, 2020,, the Governor issued emergency orders that, among other things, (i) temporarily enhanced wages for certain employees of the New Hampshire Department of Natural and Cultural Resources who bear a heightened risk of exposure to and community transmission of COVID-19, (ii) terminated Emergency Order 3, thereby lifting restrictions on utility providers from disconnecting or discontinuing service for non-payment, and (iii) issued guidance to public K-12 schools regarding developing and implementing re-opening plans for the 2020-2021 school year; and

WHEREAS, on July 17, 2020, the Governor issued Executive Order 2020-15, an order extending the State of Emergency declared in Executive Order 2020-04, for an additional 21 days; and

WHEREAS, since July 17, 2020, during the State of Emergency, the Governor issued emergency orders that, among other things, (i) temporarily modified the Department of Health and Human Services rules and statutes regarding Medicaid for Employed Adults with Disabilities premium and signature requirements, (ii) terminated Emergency Order 10 as it required all sellers of groceries to temporarily transition to single-use paper or plastic bags, and (iii) extended Emergency Order 52's Safer at Home Advisory; and

WHEREAS, given the necessary restrictions on the operations of businesses, organizations, and government agencies during the pandemic, all sectors of the economy, including and most significantly the State's second largest industry sector of tourism and hospitality, have been significantly and negatively impacted by decreased revenues. Consumer spending, which accounts for more than two-thirds of the U.S. economic activity, decreased by 6.6 percent in March 2020 and then decreased by 13.6 percent in April 2020; and

WHEREAS, weekly traffic volumes on I-93 in Concord in 2020 decreased by as much as 50 percent in March when compared with the same week in 2019. And, traffic volumes for the week of June 28, 2020, continued to show a 16 percent drop when compared to the same time last year; and

WHEREAS, due to the closure of many offices and facilities and the Stay at Home/Safer at Home orders, traffic volume decreased to the point that the 2020 road toll (gas tax) revenues, when compared with revenues collected during the same months in 2019, have decreased by 15.5 percent in April 2020, 35.6 percent in May, and approximately 24.7 percent as of June 26, 2020. Additionally, statewide 2020 turnpike toll revenues have decreased by 16.5 percent in March 2020 and by 50 percent in April 2020 when compared with revenues collected during the same months in 2019; and

WHEREAS, from the declaration of the State of Emergency through the end of June 2020, 227,969 New Hampshire citizens have filed initial unemployment claims. In the beginning of March 2020, New Hampshire's unemployment rate was 2.4 percent. New Hampshire's

unemployment rate increased to 17.1 percent in April and 15.3 percent in May 2019. As of June 2020, New Hampshire's unadjusted unemployment rate was 11.7 percent, while in June 2019, New Hampshire's unadjusted unemployment rate was 2.5 percent; and

WHEREAS, on April 21, 2020, the Governor initiated the Governor's Economic Re-Opening Task Force, a task force composed of bipartisan legislators, private-sector leaders, and state officials, with the goal of developing a plan and overseeing state and private-sector actions needed to re-open New Hampshire's economy while minimizing the adverse impact on public health; and

WHEREAS, the Governor's Economic Re-Opening Task Force met with stakeholders across the state in more than a dozen industries to examine the economic impact of the COVID-19 pandemic and the standing public health and Emergency Orders, and to understand the logistical, economic, and societal factors in re-opening New Hampshire's economy; and

WHEREAS, the Governor's Economic Re-Opening Task Force has received and reviewed more than 7,309 public comments; and

WHEREAS, the Governor's Economic Re-Opening Task Force has developed detailed guidance that received input from industry leaders and community members to ensure reasonable and workable steps are implemented in a phased re-opening of the state; and

WHEREAS, as of Tuesday, August 3, 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 4,748,806 confirmed cases of COVID-19 have occurred in the United States and territorial partners with 156,311 deaths; and

WHEREAS, the CDC anticipates that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or have underlying chronic health conditions; and

WHEREAS, the CDC reports that COVID-19 is most commonly spread from an infected person to others through respiratory droplets, including:

- Between people who are in close contact with one another (within about 6 feet);
- Through respiratory droplets produced when an infected person coughs, sneezes, or talks;
- When the droplets land in the mouths or noses of people who are nearby or are possibly inhaled into the lungs; or
- By people who are not showing symptoms but who are infected with COVID-19.

WHEREAS, the CDC reports that COVID-19 is spread mainly from person to person, that COVID-19 is currently spreading very easily and sustainably, that COVID-19 is spreading more efficiently than influenza, and that the best way to prevent illness is to avoid being exposed to COVID-19 by taking the following steps:

- Maintain good physical distance (about 6 feet);
- Wash your hands often with soap and water, and if soap and water are not available, use a hand sanitizer that contains at least 60% alcohol;
- Routinely clean and disinfect frequently touched surfaces; and
- Cover your mouth and nose with a cloth face covering when around others.

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

WHEREAS, as of August 5, 2020, the Department of Health and Human Services, Division of Public Health reports 6,693 cases of COVID-19; 418 deaths; 698 hospitalizations; approximately 2,975 individuals being monitored; and all 10 counties in the State have been impacted; and

WHEREAS, since the beginning of the COVID-19 pandemic, New Hampshire has substantially increased its testing ability to the point where more than 2,000 people per day are now tested. This increased testing capability provides a more accurate count of the number of individuals who are COVID-19 positive; and

WHEREAS, as of August 5, 2020, New Hampshire continues to have positive cases of COVID-19 each day; and

WHEREAS, as of August 5, 2020, states neighboring New Hampshire have reported significant numbers of COVID-19 cases: Massachusetts has reported 111,033 confirmed positive cases and 8,436 deaths, Rhode Island has reported 19,481 positive cases and 1,012 deaths, and Connecticut has reported 50,110 positive cases and 4,437 deaths; and

WHEREAS, as of August 7, 2020, the New Hampshire counties experiencing the highest number of COVID-19 cases are those that border Massachusetts; and

WHEREAS, the Department of Health and Human Services, Division of Public Health has found that community-based transmission of COVID-19 continues to occur in the State and has been identified in all 10 counties; and

WHEREAS, if COVID-19 continues to spread 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. 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, the CDC reports that while a face covering protects others in case the wearer is infected, a cloth face covering is not a substitute for physical distancing; and

WHEREAS, the CDC reports that community mitigation, including physical distancing, is especially important before a vaccine for COVID-19 becomes available; and

WHEREAS, on June 23, 2020, Dr. Anthony Fauci, an immunologist and director of the National Institute of Allergy and Infectious Diseases, testified to the U.S. House of Representatives' Energy and Commerce Committee that COVID-19 activity would likely

continue for some time and if there is COVID-19 and influenza activity at the same time, it could place a tremendous burden on the healthcare system related to bed occupancy, laboratory testing needs, personal protective equipment, and health and safety worker safety; and

WHEREAS, Dr. Fauci testified before the U.S. Senate, on May 12, 2020, that cities or states that do not experience a 14-day decrease in new COVID-19 cases may experience spikes in infections after re-opening that tum into new outbreaks; and

WHEREAS, Dr. Fauci testified that states or cities that do not open in a phased manner may trigger further or new outbreaks of COVID-19, risk avoidable suffering and death, and tum the clock back on mitigation and economic-recovery efforts; and

WHEREAS, Dr. Fauci testified that decreasing community mitigation efforts will result in additional COVID-19 cases thereby requiring increased capabilities to respond to inevitable increases in COVID-19 cases; and

WHEREAS, Dr. Fauci testified that the best protection for the general public is to maintain physical and social distancing; and

WHEREAS, CDC Director Robert Redfield stated, on June 25, 2020, that the number of actual COVID-19 infections in the United States may be up to 10 times higher than the number of officially confirmed cases; and

WHEREAS, states that have phased out mitigation measures earlier than New Hampshire have seen significant increases in their numbers of average daily positive COVID-19 cases; and

WHEREAS, states that significantly phased out mitigation measures before May 1, such as South Carolina, Alabama, Oklahoma, Tennessee, Georgia, and Mississippi, are reporting significant increases in average daily positive COVID-19 cases since re-opening; and

WHEREAS, states that significantly phased out mitigation measures before May 15, such as Florida, Arkansas, Arizona, Nevada, Texas, West Virginia, Utah, North Carolina, Missouri, Wisconsin, Ohio, Kansas, and Maine, are reporting significant increases in average daily positive COVID-19 cases since re-opening; and

WHEREAS, Florida, which had permitted bars and entertainment venues to re-open in June 2020, has experienced a more than tenfold increase in its average daily positive COVID-19 cases since May 2020, reporting 15,300 new positive COVID-19 cases on July 12, 2020, alone; and

WHEREAS, states that re-opened after May 15, such as Oregon, California, Louisiana, Washington, Kentucky, New Mexico, Delaware, and Michigan, are also experiencing significant increases in average daily positive COVID-19 cases since re-opening; and

WHEREAS, because of surges of new COVID-19 cases, some states have had to reverse their re-opening measures including closing bars and gyms, and requiring people to wear face masks in public; and

WHEREAS, California, where restrictions were eased in June 2020, saw record numbers of hospitalizations and use of intensive care unit beds for COVID-19 positive cases in July 2020,

resulting in the re-imposition of restrictions including closing places of worship, gyms, bars, and barbershops, and prohibiting indoor dining at restaurants; and

WHEREAS, Ohio has seen 50 percent more hospitalizations for COVID-19 in July 2020 than it saw on an average day in June 2020, and Ohio counties covering about 60 percent of its population are now under face covering mandates; and

WHEREAS, in an interview with the Dean of Stanford University's School of Medicine on July 13, 2020, Dr. Fauci stated present surges of COVID-19 infections have resulted from states re-opening. Dr. Fauci stated that while a complete shutdown of an economy for a prolonged period of time is untenable, re-opening must be gradual and may require states to "pull back a bit, and then proceed in a very prudent way"; and

WHEREAS, Dr. Fauci stated that states should not move from a shutdown to a re-opening of bars with crowds of people who are not wearing masks, but rather states need to observe the guidelines proposed that recommend physically distancing, wearing a mask, avoiding crowds, and washing hands; and

WHEREAS, on July 14, 2020, in an interview with the Georgetown University Global Health Initiative, Dr. Fauci stated that the remedial measures of shutting down economic operations and physical distancing have played important roles in bringing the number of COVID-19 cases down but that, while re-opening the economy is important, re-opening in a way that creates a surge of COVID-19 cases would be a step backward; and

WHEREAS, on July 9, 2020, Dr. Fauci, in an interview with *The Hill*, called for states that experience high rates of new COVID-19 cases to pause their opening process to look at what did not work well and try to mitigate that. He also stated that steps, such as closing bars and having the citizenry follow the fundamental steps of avoiding congregations of large numbers of people, wearing masks, maintaining six foot distance from others, and washing hands, should be taken before resorting to shutting down; and

WHEREAS, on August 3, 2020, Dr. Fauci stated, during an interview with Dr. Howard Bauchner, the editor of the *Journal of the American Medical Association*, that the United States continues to see 50,000 to 60,000 new cases of COVID-19 and 1,000 deaths per day, suggesting that the country is "right in the middle of the first wave," and that it is crucial that the outbreak be contained before autumn, when influenza cases are likely to spike alongside COVID-19 and when more people begin to move indoors, increasing the risk of contagion; and

WHEREAS, on August 5, 2020, Dr. Fauci stated, in an interview with CNN's Dr. Sanjay Gupta, that states could avoid surges of COVID-19 with an approach "in the middle," between locking down or foregoing remedial measures altogether; and

WHEREAS, New Hampshire State Epidemiologist Dr. Benjamin Chan has determined that, while the State's mitigation strategy has been effective in controlling the spread of COVID-19, community mitigation has been and continues to be critically important; and

WHEREAS, Dr. Chan advises that relaxing community mitigation efforts risks additional COVID-19 outbreaks; and

WHEREAS, the New Hampshire Department of Health and Human Services, Bureau of Infectious Disease Control advises that the United States is currently experiencing an accelerating pandemicwhere most states outside of New England are experiencing worsening outbreaks or uncontrolled community transmission; and

WHEREAS, a Level 3 Global Pandemic Travel Health Notice is still in place by the CDC, which recommends against any non-essential travel to global destinations and advises that any travel internationally or locally increases a person's chances of becoming infected and spreading COVID-19. Therefore, staying home is the best way to protect people from getting sick; and

WHEREAS, the New Hampshire Department of Health and Human Services, Bureau of Infectious Disease Control advises that anybody traveling should continue to avoid large gatherings and public areas, keep a distance of at least 6 feet from others, wear a face covering when in public areas, and frequently sanitize their hands; and

WHEREAS, New Hampshire residents or out-of-state visitors traveling to and from areas outside of New England (Vermont, Maine, Massachusetts, Connecticut, or Rhode Island) are advised to self-quarantine for the first 14 days of any intended stay in New Hampshire after travel, irrespective of the mode of transportation for travel (public or private transportation); and

WHEREAS, guidance from the United States' and New Hampshire's leading public health experts, evidence of New Hampshire's effective mitigation efforts, and known features of the COVID-19 pandemic, such as its significant community transmission rate, require continued mitigation efforts within the State to ensure the safety of New Hampshire's citizens; and

WHEREAS, the COVID-19 pandemic continues to affect New Hampshire residents and to require continued preventative measures, with necessary and appropriate modification as more becomes known about the virus, for the purpose of stopping the spread of COVID-19 and maintaining the progress our State has made in fighting the pandemic; and

WHEREAS, the COVID-19 pandemic has necessitated dramatic and unprecedented preventative measures within state and federal governments in the United States, as well as within communities, homes, offices, and individual lifestyles; and

WHEREAS, on May 29, 2020, the U.S. Supreme Court observed that "[t]he precise question of when restrictions on particular social activities should be lifted during the [COVID-19] pandemic is a dynamic and fact-intensive matter subject to reasonable disagreement," and stated that "[o]ur Constitution principally entrusts the safety and health of the people to the politically accountable officials of the States to guard and protect," *South Bay United Pentecostal Church, et al., Applicants* v. *Gavin Newsom, Governor of California, et al.*, No. 19A1044, 590 U.S. __ (2020), at 3 (Roberts, C.J., concurring); and

WHEREAS, New Hampshire's courts have recognized that the COVID-19 pandemic justifies the Governor's declaration of a State of Emergency and the restrictions placed on New

Hampshire's citizens, businesses, and other organizations through the Emergency Orders. *See Binford, et. al. v. Sununu,* Merrimack Cty. Super. Ct., 217-2020-CV-00152 (March 25, 2020) (Kissinger, J.), at 7-9; *Devine v. Sununu,* Rockingham Cty. Super. Ct., 218-2020-CV-00602 (June 18, 2020) (Schulman, J.); *Cooper v. Sununu,* Hillsborough Cty. Super. Ct., Southern Dist., 2020-CV-00266 (July 13, 2020) (Colburn, J.), at 15; *Athens v. Sununu*, Cheshire Cty. Super. Ct., 213-2020-CV-00104 (July 14, 2020) (Ruoff, J.), at 6–7; and

WHEREAS, the Governor has determined that it is in the interest of the health and safety of Granite Staters to extend the State of Emergency so as to continue to prevent the spread and infection of COVID-19 to New Hampshire's citizens; 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, although there is a continued need to take significant precautions, New Hampshire's actions to date appear to have succeeded in stabilizing the rate of increase in cases of COVID-19; 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, New Hampshire's sacrifices and actions, thus far, have enabled the State to continue to take steps to gradually re-open New Hampshire's economy in multiple phases; 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 continue to respond rapidly to ensure that necessary supplies, economic infrastructure, and other appropriate emergency responses are provided immediately.

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 and New Hampshire RSA 4:45, do hereby renew the Declaration of a State of Emergency due to Novel Coronavirus (COVID-19) and extend the State of Emergency declared in Executive Order 2020-04 for a period of 21 days.

IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

1. All provisions of Executive Order 2020-04, as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, and 2020-15, and all Emergency Orders issued pursuant thereto, shall remain in full force and effect through the expiration date of this Executive Order 2020-16.

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2. All executive branch actions taken pursuant to Executive Orders 2020-04, as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, and 2020-15, and the associated Emergency Orders, shall remain in full force and effect through the expiration date of this Executive Order 2020-16.

3. In the interest of public transparency and recordkeeping, all additional Emergency Orders, temporary orders, directives, rules, and regulations made for the purpose of responding to the State of Emergency hereby extended shall be issued pursuant to Executive Order 2020-04, as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, and 2020-16, and be reflected as such in writing on the Governor's Office website.

Given under my hand and seal at the Executive Chambers in Concord, this 7th day of August, in the year of Our Lord, two thousand and twenty, and the independence of the United States of America, two hundred and forty-four.

Chris Sununu

GOVERNOR OF NEW HAMPSHIRE

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