EXECUTIVE ORDER NO. 173

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("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, 162, and 171, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, and August 1, 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. 140-166, and 168-172 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require

every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19, including to cancel all gatherings in the State; and

WHEREAS, given the previous decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey, the State has taken steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even when the rate of reported new cases of COVID-19 is decreasing, the ongoing risks presented by COVID-19 mean that many protective measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is in the second phase of the reopening process and has relaxed a number of restrictions on activities where appropriately safeguarded; and

WHEREAS, the CDC has issued guidance for mass gatherings or large community events, such as conferences, festivals, parades, concerts, sporting events, and other potentially super-spreading events, recognizing that gatherings can significantly contribute

to the spread of COVID-19 and introduce the virus to new communities through increased transmission to a large number of people in a short period of time, and states throughout the region previously canceled all such events; and

WHEREAS, the CDC recognizes that the stringency of any limit on gatherings should be tailored to the significance of COVID-19 transmission in the State and region, meaning that as the spread of COVID-19 decreases or increases in a State, the State can both reduce and raise again its limits on indoor and outdoor gatherings; and

WHEREAS, the fact that the spread of COVID-19 has been limited by the State's emergency measures does not in any way suggest that restrictions on gatherings can be lifted altogether, because absent social distancing measures, public health experts anticipate that the spread of COVID-19 would again significantly increase, and indeed COVID-19 has been spreading again in other regions of the country that did not adopt similar measures, or that lifted such measures more abruptly; and

WHEREAS, the restrictions on indoor gatherings that remain in place may be more stringent than the restrictions that are in place for indoor retail settings, because in such retail settings individuals neither congregate in large groups nor remain in close proximity for extended periods, which are factors that have been linked to the increased risk of COVID-19 transmission; and

WHEREAS, consistent with the above principles, I signed a series of Executive Orders gradually lifting restrictions on both outdoor and indoor gatherings and allowing a greater number of individuals at outdoor gatherings, given the reduced risk of COVID-19 transmission outdoors; and

WHEREAS, the most recent of these Orders was Executive Order No. 161 (2020), which raised the limit on outdoor gatherings to 500 persons, with exceptions for religious services or political activities, such as protests, while leaving the limit on the number of persons at indoor gatherings at 25% of the capacity of the room in which it takes place, and stating that such limit, regardless of the capacity of the room, shall never allow a gathering to be larger than 100 persons or require the gathering to be smaller than 10 persons; and

WHEREAS, at least one cluster of COVID-19 has been traced back to a house party in Middletown, consistent with the role indoor gatherings have played in leading to further spikes of COVID-19 in other states and countries; and

WHEREAS, public health experts have advised that outdoor environments present reduced risks of transmission as compared to indoor environments; and

WHEREAS, the rate of transmission has increased over the last two weeks, and over the last two weeks, the seven-day rolling average of the number of cases has increased from between 200 and 300 each day to between 400 and 500 each day; and

WHEREAS, the combination of evidence tracing clusters of COVID-19 to indoor gatherings and the overall statewide increase in the rate of transmission means that it is appropriate to reduce the limits on indoor gatherings at the current time, while making no change to the higher limit for outdoor gatherings; and

WHEREAS, as I noted when issuing Executive Order No. 152 (2020), certain gatherings, including religious services and political activity, are particularly important to the functioning of the State and society, and restrictions on these gatherings can

be relaxed to a greater extent than restrictions on other gatherings, as other states have repeatedly recognized; and

WHEREAS, certain events such as wedding ceremonies, funerals, and memorial services, whether religious in nature or not, which typically happen once in a lifetime, provide benefits to the well-being of the participants such that they can be treated differently from casual social gatherings such as house parties and birthday parties, which occur on a more frequent basis and typically do not present the same compelling societal need; and

WHEREAS, a number of other states have treated wedding ceremonies, funerals, and memorial services similarly to religious gatherings, subjecting them to similar capacity limits for the very reasons described above; and

WHEREAS, indoor wedding ceremonies and memorial services may have been planned under the current capacity limits, and often with social distancing protocols set up well in advance, and suddenly changing the applicable limits for these events would be highly disruptive; and

WHEREAS, events such as wedding ceremonies, funerals, and memorial services typically include a defined list of attendees, which makes it easier for contract tracing to occur; and

WHEREAS, the informal nature of house parties also makes it especially hard to engage in contact tracing, as well as to monitor and to enforce the requirements to wear masks and engage in social distancing, which stands in sharp contrast to wedding ceremonies, funerals, and memorial services; and

WHEREAS, reducing the limits on indoor gatherings other than religious services or celebrations, political activities, wedding ceremonies, funerals, and memorial services from a maximum of 100 persons to a maximum of 25 persons will both help reduce the spread

of COVID-19 and reduce the burden on our contact tracing program; and

WHEREAS, all indoor gatherings, whatever their nature, must continue to utilize protective measures, including use of masks and social distancing; 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. Paragraph 1 of Executive Order No. 156 (2020) is hereby rescinded and the number of individuals at indoor gatherings that are not religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services shall be limited to 25% of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 25 persons or smaller than 10 persons. The number of individuals at indoor gatherings that are religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services shall be limited to 25% of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 100 persons or smaller than 10 persons. For purposes of this Paragraph, any private residence or residential unit shall be treated as a single "room".

2. While the numerical limits on indoor gatherings in Paragraph 1(a) of Executive Order No. 152 (2020) are hereby superseded, all other requirements for indoor gatherings contained in Paragraph 1 of Executive Order No. 152 (2020) shall remain in effect.

3. Any requirements in any Executive Order, Administrative Order, or agency directive that incorporated by reference the limits on gatherings in Executive Order Nos. 107, 142, 148, 152, 156, and/or 161 (2020) are hereby amended to reflect the rules on gatherings stated in this Order. Legislative proceedings of state, county, or local government are not subject to the capacity limits on gatherings in this or any other applicable Executive Order.

4. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

5. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with Administrative Orders issued pursuant to this Order.

6. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

7. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

8. This Order shall take effect at 6:00 a.m. on Tuesday, August 4, 2020, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

GIVEN, under my hand and seal this 3rd day of August, 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