EXECUTIVE ORDER NO. 144

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) 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, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, on March 21, 2020, I issued Executive Order No. 107 (2020), superseding Executive Order No. 104 (2020) and requiring New Jersey residents to remain home or at their place of residence subject to limited exceptions, cancelling social gatherings, and limiting all restaurants and other dining establishments to offering only food delivery and/or take-out services; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on May 6, 2020, I issued Executive Order No. 138 (2020), which again declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, as of May 14, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were more than 4,248,000 confirmed cases of COVID-19 worldwide, with over 292,000 of those cases having resulted in death; and

WHEREAS, as of May 14, 2020, there were more than 1,384,000 confirmed cases of COVID-19 in the United States, with over 83,000 of those cases having resulted in death; and

WHEREAS, as of May 14, 2020, there were over 142,000 positive cases of COVID-19 in New Jersey, with at least 9,946 of those cases having resulted in death; and

WHEREAS, on March 19, 2020, I issued Executive Order No. 105 (2020), which declared that certain elections set to take place in March and April were postponed until May 12, 2020 and that all registered voters would receive vote-by-mail ballots because allowing those elections to proceed as they were originally planned during this unprecedented COVID-19 health crisis would have created hardships and health risks for voters, poll workers and candidates alike; 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, 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 the July primary 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 July primary 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, election officials require flexibility and sufficient lead time to adapt the State's voting infrastructure to confront the magnitude of the public health and safety risks of the COVID-19 pandemic; and

WHEREAS, the full participation of voters and candidates is critical to a robust democracy; and

WHEREAS, as of May 1, 2020, there are over 6.1 million registered voters in New Jersey – over 2.4 million are Unaffiliated voters, over 2.3 million are registered Democrats, and over 1.3 million are registered Republicans; and

WHEREAS, failing to take proactive actions to mitigate the adverse impacts of the current health crisis on the upcoming primary carries the risk of disenfranchising countless 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 places to vote in July 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 like 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, voting by mail is already an authorized mode of voting in New Jersey pursuant to Title 19, subtitles 62 and 63; and

WHEREAS, at least 34 states and the District of Columbia already allow voters to cast their ballot via mail and five states run entirely vote-by-mail elections; and

WHEREAS, in-person voting has declined over the years, while the total number of voters who voted by mail has steadily increased; and

WHEREAS, voting-by-mail may have a disproportionate impact on historically disenfranchised voters such as disabled voters, low-income voters, voters with unstable housing, limited-English-speaking voters, and voters of color; and

WHEREAS, election officials can address this potential inequity by providing historically disenfranchised voters with an alternative to voting by mail; and

WHEREAS, pursuant N.J.S.A. 19:63-20(b), an individual who receives a vote-by-mail ballot but has not voted and returned that ballot, may show up to their polling place and vote a provisional ballot; and

WHEREAS, opening a limited number of public polling places that meet public health standards to mitigate the spread of COVID-19 will support historically disenfranchised citizens' ability to vote; and

WHEREAS, New Jersey citizens are presently faced with the choice of exercising their constitutional franchise, or endangering their health and safety; 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. All elections that take place on July 7, 2020, shall be conducted primarily via vote-by-mail ballots, which will automatically be sent to all "Active" registered Democratic and Republican voters without the need for an application to receive a vote-by-mail ballot. The County Clerk shall send vote-by-mail applications to "Active" voters who are registered as "Unaffiliated," and to all "Inactive" registered Democrats, Republicans, and "Unaffiliated" voters.

2. To provide "Unaffiliated" voters, "Inactive" registered Democrats, and "Inactive" registered Republicans every opportunity to return a vote-by-mail application and receive a vote-by-mail ballot for the July 7, 2020 Primary Election, the deadline for returning a vote-by-mail application in person in N.J.S.A. 19:63-3(d) shall be suspended.

3. All vote-by-mail return envelopes and vote-by-mail applications shall have prepaid postage in order to guarantee the proper delivery of all cast vote-by-mail ballots and completed applications.

4. The Secretary of State shall prepare a vote-by-mail application form specific to the July 7, 2020 Primary Election to address issues created by sending applications and vote-by-mail ballots in accordance with this Order.

5. The requirements of N.J.S.A. 19:23-30 that sample ballots be sent shall be suspended. In lieu of sending a sample ballot, the appropriate county official, as identified in N.J.S.A. 19:23-30, shall send notice of the voter's polling place, information on where to obtain a sample ballot prior to the election, a statement indicating that a sample ballot will be available at the polling place on the day of the election, and, if applicable, information on a county website where a sample ballot may be viewed.

6. To the extent possible, each county shall procure at least 5 secure ballot drop boxes and place them in locations that are readily accessible to the registered voters within the county. The security of the ballot drop boxes and schedule of ballot pickup shall conform with standards set forth by the Secretary of State.

7. Each county shall open a minimum of at least 1 polling place in each municipality. Provided that sufficient poll workers are available, each county shall open a minimum of 50 percent of its polling places, and may open more than the minimum number of polling places. To the best of their ability, the County Boards of Elections shall select polling places based on geographic location and population density to best serve the voters of each municipality. County Boards of Elections must ensure that polling places and poll workers implement, at a minimum, the following requirements:

a. Limit occupancy within a polling place to a number that permits voters to maintain a distance of six feet between each other and poll workers at any time;

b. Ensure six feet of distance between voters and ensure six feet of distance between voters and poll workers through the demarcation of six feet of spacing in voter lines and poll worker stations to demonstrate appropriate spacing for social distancing;

c. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

d. Provide poll workers break time for repeated handwashing throughout their shifts;

e. Require frequent sanitization of high-touch areas in polling places consistent with CDC guidelines as of the date of the election;

f. Place conspicuous signage at entrances and throughout the polling place alerting poll workers and voters to the required six feet of physical distance;

g. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to poll workers, voters, and those accompanying voters;

h. Require poll workers to adhere to CDC guidelines as of the date of the election regarding face coverings while in the polling place, except where doing so would inhibit that individual's health, and require poll workers to wear gloves when in contact with voters and those accompanying voters. County boards of elections must provide any required face coverings and gloves for poll workers, without charge to the poll workers. If a

poll worker refuses to wear a required cloth face covering for non-medical reasons, then a county board of elections may decline entry to the individual. Nothing in the stated policy should prevent poll workers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment. Where a poll worker declines to wear a required face covering at a polling place due to a medical condition that inhibits such usage, they shall not be required to produce medical documentation verifying the stated condition; and

i. Strongly encourage voters and those accompanying voters to adhere to any CDC guidelines as of the date of the election regarding face coverings while inside polling places except where doing so would inhibit that individual's health. County boards of elections may provide such face coverings for voters and those accompanying voters, without charge to them. If a voter or person accompanying a voter refuses to comply with the CDC guidelines, a poll worker shall not deny entry to the voter or person. Nothing in the stated policy should prevent voters from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment.

8. In accordance with Executive Order No. 120 (2020), the deadline to certify a list of polling places for the July 7, 2020 Primary Election is June 15, 2020. That certification need only

include those polling places to be used in the July 7, 2020 Primary Election. The deadline for certification of polling places for the remainder of the year, pursuant to N.J.S.A. 19:8-4, is hereby extended to September 15, 2020.

9. The Secretary of State may modify the requirements of N.J.S.A. 19:31-21 concerning the use of poll books and the information contained therein as necessary to address the procedure by which the July 7, 2020 Primary Election will be conducted under this Order, and the needs resulting therefrom.

10. Any voter who appears at a polling place on the day of the July primary shall vote via a provisional ballot, except that a voter with disabilities may vote on an ADA-accessible voting machine.

11. Voted mail-in ballots may not be returned to a polling place established pursuant to paragraph 5 of this Order.

12. The time restrictions of N.J.S.A. 19:63-9 shall be suspended, and vote-by-mail ballots shall be mailed in compliance with a schedule to be prepared by the Secretary of State in a manner to ensure the timely receipt and return of ballots for counting in the July 7, 2020 elections.

13. Vote-by-mail ballots shall be processed and canvassed in accordance with guidelines provided by the Centers for Disease Control and Prevention, the State Department of Health, and the respective county departments of health.

14. To account for the increase in vote-by-mail ballots and to ensure that registered voters' efforts to vote are not impacted by delays in the postal service, the ballot-return deadline in N.J.S.A. 19:63-22 shall be suspended. Every vote-by-mail ballot that is postmarked on or before July 7, 2020, and that is received

by July 14, 2020, at 8:00 p.m. shall be considered valid and shall be canvassed.

15. To account for the increase in vote-by-mail ballots and to provide the county Boards of Elections sufficient time to canvass the returned ballots, N.J.S.A. 19:63-18 is hereby suspended. The county Boards of Elections may continue the counting of ballots beyond the close of polls on July 7, 2020, and adjourn counting to the following day, and any day thereafter, within the limits of this Order, until the counting is completed.

16. To allow for greater flexibility in obtaining poll workers, the county-resident requirement for poll workers set forth in N.J.S.A. 19:6-2 is hereby suspended.

17. Due to the limited number of polling places that will be open for July 7, 2020 Primary Election, the 1,000 foot limitation on the location of polling places set forth in N.J.S.A. 19:8-2 shall be suspended.

18. Due to the suspension of N.J.S.A. 19:63-22 and N.J.S.A. 19:63-18, the deadlines in the following statutes are all hereby extended by five (5) days: the impoundment period for voting machines in N.J.S.A. 19:52-6; the filing of selection of column and designation, pursuant to N.J.S.A. 19:14-9; the certification of the election results in N.J.S.A. 19:23-54; the filing of an election contest petition, pursuant to N.J.S.A. 19:29-3; the certification of results, pursuant to N.J.S.A. 19:23-55; the filing of a recount petition, pursuant to N.J.S.A. 19:28-1; the application for voting machine recheck, pursuant to N.J.S.A. 19:52-6; and the time to prepare reports pursuant to N.J.S.A. 19:53B-21 and 19:53C-21.

19. The Secretary of State shall establish other appropriate standards for ensuring that all eligible voters, including but not limited to those voters with disabilities, are able to exercise their right to vote in the July 7, 2020 elections.

20. The Secretary of State and county election officials, as appropriate, shall coordinate with the United States Postal Service to facilitate proper delivery of ballots by the United States Postal Service.

21. The Secretary of State and county election officials, as appropriate, shall act to facilitate the public's understanding of the rules governing the July 7, 2020 elections.

22. The Secretary of State shall establish a hotline number for reports of violations of the election laws and this Order in connection with the July 7, 2020 elections.

23. Any actions taken by the Secretary of State pursuant to this Order shall not be subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

24. This Order shall take effect immediately.

GIVEN, under my hand and seal this 15th day of May, Two Thousand and Twenty, and of the Independence of the United States, the Two Hundred and Forty-Fourth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor