EXECUTIVE ORDER NO. 116

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, as of April 6, 2020, according to the World Health Organization, there were more than 1,210,000 confirmed cases of COVID-19 worldwide, with over 67,000 of those cases having resulted in death; and

WHEREAS, as of April 6, 2020, according to the Centers for Disease Control, there were more than 330,000 confirmed cases of COVID-19 in the United States, with over 8,900 of those cases having resulted in death; and

WHEREAS, as of April 6, 2020, there were over 41,000 positive cases of COVID-19 in New Jersey, with at least 1,003 of those cases having resulted in death; and

WHEREAS, because allowing certain upcoming elections to proceed during this unprecedented COVID-19 health crisis as they were originally planned would have created hardships and health

risks for voters, poll workers, and candidates alike, 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

WHEREAS, pursuant to N.J.S.A. 19:60-1, annual elections for school boards of education in those Type II school districts that have not moved their elections to November pursuant to N.J.S.A. 19:60-1.1 that were scheduled to be held on April 21, 2020 ("April districts"), were postponed by Executive Order No. 105 (2020); and

WHEREAS, pursuant to N.J.S.A. 18A:22-33, within two days following the certification of school board election results, April districts must certify to the county board of taxation the amount of money that voters approved to raise by taxation for the next school year; and

WHEREAS, pursuant to N.J.S.A. 18A:22-37 and N.J.S.A. 18A:13-19, for April districts where the voters reject a proposed budget, May 19, 2020, is the last date for the governing body of each municipality, after consultation with the school board of education, to determine and certify to the county board of taxation the amount of money necessary for school purposes to be raised by taxation for the ensuing year; and

WHEREAS, pursuant to N.J.S.A. 18A:27-10, by May 15, 2020, nontenured teaching staff members must receive either a written offer of a contract for employment for the next school year or a written notice that such employment will not be offered; and

WHEREAS, pursuant to N.J.S.A. 18A:27-11, April districts that are unable to timely provide such notice to nontenured teaching staff members will be deemed to have offered to that teaching staff member continued employment for the next school year with any required salary increases; and

WHEREAS, pursuant to N.J.S.A. 18A:27-12, any nontenured teaching staff member wishing to accept an offer of employment would have to give written notice to the board of education on or before June 1, 2020; and

WHEREAS, in the event of a rejected budget, the original schedule for the April school board elections gave the school boards of April districts ample time to consult with the governing body of each municipality, to develop and present a new budget to the county board of taxation, and to assess the new budget's impact on the ability to retain non-tenured teachers; and

WHEREAS, the postponement of April school board elections to May 12, 2020, may impair the ability of the governing bodies of municipalities and the school boards of April districts to develop and present budgets to county boards of taxation and to make informed decisions regarding the retention of non-tenured teaching staff members; and

WHEREAS, ensuring that all April districts have ample time to develop and present budgets to the county boards of taxation and notify nontenured teaching staff members of employment decisions is necessary for the proper, effective, and responsible administration of school districts; and

WHEREAS, pursuant to N.J.S.A. 18A:10-3, school boards of April districts must hold an organizational meeting on any day of the first or second week following the election, at which time new members shall take office; and

WHEREAS, pursuant to N.J.S.A. 18A:12-11, school board of education members shall be elected for terms of three years; and

WHEREAS, the terms of school boards of education members who took office at the first organizational meeting following the April election in 2017 are scheduled to expire prior to the May 12, 2020 election; and

WHEREAS, postponing the April 21, 2020 election to May 12, 2020, delays the effective date of the terms of the school board members duly elected until the middle or end of May; and

WHEREAS, without action to lengthen the terms of school board members that are set to expire prior to May 12, 2020, the postponement of the April 21, 2020 election until May 12, 2020 would cause a gap in the effective terms of some school board of education members, creating an adverse disruption to the continuity of the administration of the schools; 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. If a proposed budget is rejected by the voters during the school board elections that will take place on May 12, 2020, as a result of Executive Order No. 105 (2020), the May 19 deadline established by N.J.S.A. 18A:22-37 and N.J.S.A. 18A:13-19 for the governing body of each municipality, after consultation with the school board of education, to present and to certify a tax levy to the county board of taxation shall be extended to June 9, 2020.

2. Notwithstanding N.J.S.A. 18A:27-10 and N.J.S.A. 18A:27-11, the requirement to give notice to nontenured teaching staff members as to whether they will be employed for the next succeeding year shall be satisfied by April districts if such notice is provided by June 5, 2020.

3. Notwithstanding the requirements of N.J.S.A. 18A:27-12, any nontenured teaching staff member that desires to accept such employment offered by the board of education of an April district, shall notify the board of education of such acceptance, in writing, on or before June 22, 2020.

4. The terms of April district school board of education members whose terms are due to expire at the first organizational meeting following the April 21, 2020 election shall be extended to the first organizational meeting following the May 12, 2020 election, at which time the terms of the April district school board of education members elected at the May 12, 2020 election shall begin.

5. The terms of the April district school board of education members elected at the May 12, 2020 election shall run as though they had taken office at the first organizational meeting following the originally scheduled April 21, 2020 election.

6. This Order shall take effect immediately.

GIVEN, under my hand and seal this 7th day of April, 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