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 2020-23

Twelfth 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 April 3, 2020, the Governor issued Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, 2020-16, 2020-17, 2020-18, 2020-20, and 2020-21 all orders extending the State of Emergency declared in Executive Order 2020-04, by additional 21 day increments; and

WHEREAS, since March 13, 2020, the Governor has issued 73 Emergency Orders to address the numerous, complex issues that have arisen under the State of Emergency.

WHEREAS, since October 30, 2020, and as of November 20, 2020, during the State of Emergency, the Governor issued emergency orders that, among other things, (i) waives the requirement in RSA 198:4-f that the Commissioner of the Department of Education "notify the governing body of the school district, city or public academy that all state aid to education shall be withheld until complete and accurate information is submitted" and allows the Commissioner of Education to disburse state aid payments so long as the Commissioner of Education has duly approved an extension of the reporting deadline; ii) ordered the extension of Emergency Order #52 through the issuance of Emergency Order #72 which additionally augmented travel related provisions of the Universal Guidelines for New Hampshire employers and employees, residents and travelers/visitors through the issuance of Exhibit A to Emergency Order #72; and iii) reactivated the COVID-19 Long Term Care Stabilization program through the issuance of Emergency Order #73; and

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WHEREAS, as of November 18, 2020, the Centers for Disease Control and Prevention (CDC) reports that every U.S. state continues to have reported cases of COVID-19 to the CDC, and that 11,136,253 confirmed cases of COVID-19 have occurred in the United States and territorial partners with 246,232 deaths; and

WHEREAS, as of November 18, 2020, the New Hampshire Department of Health and Human Services, Division of Public Health reports 15,303 cases of COVID-19; 502 deaths; 817 hospitalizations; 2398 new cases from November 11 to November 17; and all 10 counties in the State have been impacted; and

WHEREAS, as of November 18, 2020, New Hampshire continues to have positive cases of COVID-19 each day; and

WHEREAS, as of November 17, 2020, states neighboring New Hampshire have reported significant numbers of COVID-19 cases: Massachusetts has reported 186,774 confirmed positive cases and 10,130 deaths, Rhode Island has reported 44,528 positive cases and 1,278 deaths, and Connecticut has reported 94,986 positive cases and 4,771 deaths; and

WHEREAS, as of November 17, 2020, the New Hampshire counties experiencing the highest number of COVID-19 cases are those that border Massachusetts; and

WHEREAS, in recent weeks, New Hampshire has experienced a significant increase in COVID-19 infections, many caused by community transmission, and a significant increase in individuals hospitalized due to COVID-19; and

WHEREAS, New Hampshire State Epidemiologist Dr. Benjamin Chan has determined that, , 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, Dr. Chan has noted that the PCR test positivity rate in New Hampshire has been increasing; 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

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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, New Hampshire courts have recognized that the outbreak and death toll in New Hampshire would likely be higher without the Governor's initial order declaring a State of Emergency, and that, given the alarming number of cases in neighboring states and the national and international coordination required to sufficiently control the spread of the disease, COVID-19 is a "disaster of major proportions" that lies "beyond local control." *BAMP Track Operations, LLC v. Sununu*, Merrimack Cty. Super. Ct., 214-2020-CV-00046, at 13; 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, 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; and

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WHEREAS, based on the facts and circumstances described herein, and those described in Executive Order 2020-04 and previous extensions of that Order, the Governor has determined that it is necessary to extend the State of Emergency declared in Executive Order 2020-04 for an additional 21 days.

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, 2020-15, 2020-16, 2020-17, 2020-18, 2020-20, and 2020-21 and all Emergency Orders issued pursuant thereto, shall remain in full force and effect through the expiration date of this Executive Order 2020-23.

2. All executive branch actions taken pursuant to Executive Order 2020-04, as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, 2020-16, 2020-17, 2020-18, 2020-20, and 2020-21 and the associated Emergency Orders, shall remain in full force and effect through the expiration date of this Executive Order 2020-23.

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, 2020-16, 2020-17, 2020-18, 2020-20, 2020-21, and 2020-23 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 20th day of November, in the year of Our Lord, two thousand and twenty, and the independence of the United States of America, two hundred and forty-four.

Christopher T. Sununu

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