OFFICE OF THE GOVERNOR
STATE OF MONTANA

GREG GIANFORTE
GOVERNOR

KRISTEN JURAS
LT. GOVERNOR

TO: **All residents of Montana, including its State officers and agencies**
FROM: **Governor Greg Gianforte**
DATE: **February 12, 2021**
RE: **Directive Repealing Election-Related August 6, 2020 Directive**

Executive Order 2-2021 declares that a state of emergency exists in Montana due to the global outbreak of COVID-19.

During a state of emergency, the Governor is authorized to suspend regulatory statutes, orders, or state agency rules that "prevent, hinder, or delay necessary action in coping with the emergency …," MCA 10-3-104(2)(a), and to control "the movement of persons within the area …" *Id.* at 10-3-104(2)(c). "[A]ll officers and agencies shall cooperate with and extend their services and facilities to the governor as the governor may request."

On August 6, 2020, a Directive issued by the prior Administration implemented election procedures for the 2020 general election contrary to existing statute and Montana law. This Directive was challenged in federal court and awaits further adjudication in the Ninth Circuit Court of Appeals.

Election procedures are the province of the legislature, which is expressly tasked under the United States and Montana Constitutions with prescribing the time, place, and manner of elections in this State, regardless of circumstance.

Therefore, in accordance with the authority vested in me under the Constitution, Article VI, Sections 4 and 13, and the laws of the State of Montana, Title 10, Chapter 3, MCA, and other applicable provisions of the Constitution and Montana law, I hereby direct the repeal of the August 6, 2020 Directive, effective immediately.

Authorities: Sections 10-3-104, -103, -302, and -305, MCA; Executive Order 2-2021; Montana Constitution, Art. VI, Sections 4 and 13; and all other applicable provisions of state and federal law.

STATE CAPITOL • P.O. BOX 200801 • HELENA, MONTANA 59620-0801
TELEPHONE: 406-444-3111 • FAX: 406-444-5529 • WEBSITE: WWW.MT.GOV

Limitations: If any provision of this Directive or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Directive, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Directive are declared to be severable.

Nothing in this Directive shall be construed to limit, modify, or otherwise affect the authority granted by law to the Governor or any department, agency, political subdivision, officer, agent, or employee of the State of Montana, except as provided in this Directive or other Directives now in effect implementing Executive Order 2-2021.

This Directive is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the State of Montana, its departments, agencies, or entities, its officers, employees, or agents, or any other person.