EXECUTIVE ORDER NO. 120

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, as of April 7, 2020, according to the World Health Organization, there were more than 1,279,000 confirmed cases of COVID-19 worldwide, with over 72,000 of those cases having resulted in death; and

WHEREAS, as of April 7, 2020, according to the Centers for Disease Control, there were more than 374,000 confirmed cases of COVID-19 in the United States, with over 12,000 of those cases having resulted in death; and

WHEREAS, as of April 7, 2020, there were over 44,400 positive cases of COVID-19 in New Jersey, with at least 1,232 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, because allowing those elections to proceed as they were originally planned during this unprecedented COVID-19 health crisis would create hardships and health risks for voters, poll workers and candidates alike; and

WHEREAS, pursuant to Executive Order No. 105 (2020), there will be no polling places in the elections now scheduled for May 12, 2020, and all registered voters will instead be receiving vote-by-mail ballots; and

WHEREAS, pursuant to N.J.S.A. 19:2-1 and N.J.S.A. 19:23-40, the primary elections for the November general election are scheduled to be held on June 2, 2020, the Tuesday after the first Monday in June; and

WHEREAS, pursuant to N.J.S.A. 19:2-1, the primary elections for delegates and alternates to the national conventions of political parties are scheduled to be held on June 2, 2020, the Tuesday after the first Monday in June; and

WHEREAS, preparations for the June primary elections begin in earnest in April with, among other steps, the submission of the certified list of suggested polling places pursuant to N.J.S.A. 19:8-2 and the mailing of vote-by-mail ballots for the June primary elections pursuant to N.J.S.A. 19:63-9; and

WHEREAS, public health officials have predicted that the peak of COVID-19 cases in New Jersey will occur in April; and

WHEREAS, preparing for the June primary elections during the potential height of the COVID-19 emergency will negatively impact 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 beyond the estimated peak; and

WHEREAS, the uncertain timeline of the COVID-19 emergency makes it difficult for election officials and voters to properly plan and prepare for and fully participate in the June primary elections; and

WHEREAS, in recognition of the severity of and uncertainty surrounding the COVID-19 emergency, the Democratic National Convention has been postponed from July 13-16, 2020, to August 17-20, 2020 - close in time to the Republican National Convention, which is scheduled for August 24-27, 2020; and

WHEREAS, both national party conventions are now being held in August, which mitigates the need for the presidential primary elections and the primary elections for delegates and alternates to the national conventions to be held in June; and

WHEREAS, the June primary elections for the United States Senate, the United States House of the Representatives, and the 25th Legislative District of the New Jersey Legislature, as well as upcoming county and municipal primary elections and county committee elections, are not tied to national or state party conventions, providing flexibility on when they can occur; and

WHEREAS, the June primary elections do not implicate budget deadlines, employment decisions, or forms of government like certain elections that were changed to exclusively vote-by-mail in Executive Order No. 105 (2020), and therefore can be postponed without impacting federal, state, or local government functions; 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 June primary elections to proceed as they were originally planned 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, 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, the full participation of voters and candidates is critical to a robust democracy; and

WHEREAS, failing to take proactive actions to mitigate the adverse impacts of the current health crisis on the upcoming primary and other scheduled elections carries the risk of disenfranchising countless citizens; and

WHEREAS, expecting voters to report to public polling locations to vote in June 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, postponing the June primary elections will give New Jersey election officials enough time to take the necessary steps to address the negative impacts of the present health crisis on the upcoming primary elections, allowing voters to exercise their constitutional franchise without jeopardizing their health

and safety, and increase the likelihood that the elections will include in-person voting; and

WHEREAS, in lieu of a primary election, Independent candidates must submit petitions for direct nomination for the November general election, N.J.S.A. 19:13-3 through -9; and

WHEREAS, pursuant to N.J.S.A. 19:13-9, petitions for direct nomination for the November general election are due by 4:00 p.m. on the day of the primary election for the general election, which currently is June 2, 2020; and

WHEREAS, to ensure that Independent candidates are not disadvantaged relative to political party candidates, postponing the June primary elections should also result in the postponement of the deadline for petitions for direct nomination for the general election; and

WHEREAS, to limit unnecessary person-to-person contact during the COVID-19 emergency, Executive Order No. 105 (2020) also required the electronic collection and submission of political party candidate and delegate petitions through an online form created by the Secretary of State; and

WHEREAS, allowing Independent candidates to submit their petitions electronically, in addition to hand delivery, will help limit unnecessary person-to-person contact; and

WHEREAS, allowing voters to fill out and submit petitions electronically, so that candidates and campaigns need not physically gather petitions by going to individual voters in person, will help limit unnecessary person-to-person contact; 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. The federal and State primary elections scheduled for June 2, 2020, shall be postponed and rescheduled for Tuesday, July 7, 2020.

2. Any other election scheduled for a date on or between May 13, 2020, and July 7, 2020, shall be postponed and rescheduled for Tuesday, July 7, 2020.

3. With the primary elections being postponed and rescheduled for July 7, 2020, all deadlines for meeting statutory requirements for a primary election shall be calculated using the July 7, 2020 primary election date, except for any deadlines that occur prior to April 11, 2020 when calculated using the June 2, 2020 date, including but not limited to the filing deadline for candidate petitions for the primary election. Notwithstanding the preceding sentence, the party affiliation deadline under N.J.S.A. 19:23-45 shall be calculated based on the July 7, 2020 primary election date.

4. Petitions for direct nomination for the general election filed under N.J.S.A. 19:13-3 through -9 shall be due by 4:00 p.m. on July 7, 2020.

5. The electronic signature and submission requirements that are set forth in Paragraphs 1, 2, 3, 4, and 5 of Executive Order No. 105 (2020) shall be extended to the petitions for direct nomination for the general election filed under N.J.S.A. 19:13-3 through -9 that are due by 4:00 p.m. on July 7, 2020.

6. This Order shall take effect immediately.

GIVEN, under my hand and seal this 8th 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