STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

At Charleston

EXECUTIVE ORDER NO. 83-20

By the Governor

WHEREAS, a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the "State of Emergency"), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

WHEREAS, Chapter 15, Article 5, Section 6 of the Code of West Virginia authorizes the Governor to, among other things, suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders, rules of any state agency, if strict compliance therewith would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, Executive Orders 4-20, 7-20, 10-20, 11-20, 12-20, 17-20, 23-20, 26-20, 31-20, 46-20, 54-20, 57-20, 59-20, 63-20, 66-20, 67-20, 69-20, 72-20, 73-20, and 76-20 suspended certain provisions and sections of statute that strict compliance therewith would prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, there has been an additional statutory regulation identified by the West Virginia Division of Personnel that is preventing the state from best coping with the emergency and assisting the citizens of West Virginia; and

NOW, THEREFORE, I, JIM JUSTICE, pursuant to the authority vested in me pursuant to the provision of Chapter 15, Article 5, Section 6 of the Code of West Virginia, hereby **DECLARE** and **ORDER** that, the following statutory regulation is to be suspended for the duration of the State of Emergency:

1. In the discretion of the West Virginia Division of Personnel which may issue additional guidance from time to time, notwithstanding West Virginia CSR § 143-1-14.3.a, employees of any state agencies of West Virginia who are designated by the applicable secretary, commissioner, or other responsible head of such agency to have been directly involved in the pandemic response and therefore unable to use some portion of such employee's annual leave in calendar year 2020 due to the emergency situation, and are subject to losing said portion of such employee's annual leave, shall have the portion of such employee's unused annual leave attributable to such employee's direct involvement in the pandemic response, as designated by the applicable secretary, commissioner, or other responsible head of such employee's applicable agency, carry forward to and through the calendar year 2025. Said carried-forward leave shall expire at the end of calendar year 2025. If such carried-forward leave remains unused at the time such employee separates or retires from his or her employment for any reason prior to the expiration of such carried-forward leave under the terms of this Order, such carried-forward leave shall not be counted toward any retirement or separation from employment payment or other benefit under any provision of West Virginia law, rule, or regulation, including without limitation under W. Va. Code §§ 5-5-3, 5-5-6(b), 5-16-13, and/or 15-2A-21 or West Virginia CSR § 143-1-14.3.f.
2. Executive Order 67-20, Executive Order 69-20, and 76-20 are superseded by the terms of this Order, and are hereby terminated and without further effect.
3. Section 1 of Executive Order 72-20—relating to carrying over annual leave for certain employees of the Division of Corrections and Rehabilitation, the West Virginia Division of Emergency Management, the West Virginia State Fire Marshal, and the West Virginia State Police, directly involved in the pandemic response and unable to use annual leave in calendar year 2020 due to the emergency situation—is superseded by the terms of this Order, and is hereby terminated and without further effect.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.

DONE at the Capitol in the City of Charleston, State of West Virginia, this Twenty-first day of December, in the year of our Lord, Two Thousand Twenty in the One Hundred Fifty-eighth year of the State.

GOVERNOR

By the Governor

SECRETARY OF STATE