STATE OF MINNESOTA
Executive Department

Governor Tim Walz

Emergency Executive Order 20-15

Providing Immediate Relief to Small Businesses During the COVID-19 Peacetime Emergency

I, Tim Walz, Governor of the State of Minnesota, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The COVID-19 pandemic presents an unprecedented challenge to our State. Minnesota has taken proactive steps to ensure that we are ahead of the curve on COVID-19 prevention and response. On March 13, 2020, I issued Executive Order 20-01 and declared a peacetime emergency because this pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat. In Executive Order 20-01, I directed all state agencies to submit proposed orders and rules to protect and preserve public health and safety.

In Minnesota Statutes 2019, section 12.02, the Minnesota Legislature conferred upon the Governor emergency powers "in order to (1) ensure that preparations of this state will be adequate to deal with disasters, (2) generally protect the public peace, health, and safety, and (3) preserve the lives and property of the people of the state." Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 1, the Governor has general authority to control the state's emergency management as well as carry out the provisions of Minnesota's Emergency Management Act. Pursuant to subdivision 3 of that same section, the Governor may "make, amend, and rescind the necessary orders and rules to carry out the provisions" of Minnesota Statutes 2019, Chapter 12. When approved by the Executive Council and filed in the Office of the Secretary of State, such orders and rules have the force and effect of law during the pendency of a peacetime emergency. Any inconsistent rules or ordinances of any agency or political subdivision of the state are suspended during the pendency of the emergency.

Small businesses are vital economic engines in Minnesota. But certain public accommodations, especially small businesses, where Minnesotans congregate pose a threat to the public health by providing environments for the spread of COVID-19. On March 15, 2020, Minnesota detected the first confirmed cases caused by "community spread"—infections not epidemiologically linked to overseas travel. This development required Minnesota to take additional proactive measures. As such, thousands of small businesses were closed directly or indirectly by Executive Orders 20-04 and 20-08, which were issued as proactive measures to slow the spread of the

COVID-19 pandemic. Small businesses rely on their business for personal income. Loans for small businesses, especially during an emergency, provide access to basic necessities, safeguard the health of their owners, their families, and other Minnesotans, and provide vital economic support to help overcome temporary revenue losses. Currently, resources are available for such a program, but law and regulations prevent the Department of Employment and Economic Development ("DEED") from providing immediate relief to small businesses during the COVID-19 pandemic.

For these reasons, I order as follows:

1. Effective immediately, I direct DEED to develop a forgivable loan program to award grants to nonprofit corporations to fund forgivable loans to small businesses (the "Small Business Emergency Loan Program"), regardless of such business's organizational form (*i.e.,* independent contractor, sole proprietorship, limited liability company, etc.).

2. Under the Small Business Emergency Loan Program, nonprofit corporation lenders participating in the loan program under Minnesota Statutes 2019, Chapter 116M will be allowed to make zero percent interest loans during the period of emergency.

3. Any business will be able to receive a loan through the Small Business Emergency Loan Program at the discretion of the DEED Commissioner. The business must demonstrate to the lender that it was directly and adversely affected by the COVID-19 peacetime emergency Executive Orders 20-04 and 20-08. Under the Small Business Emergency Loan Program, small businesses are required to have claimed all applicable private insurance and utilized all other sources of applicable assistance available from other private and public sources.

    a. The minimum loan is $2,500 and the maximum is $35,000.

    b. No matching contribution is required.

    c. A nonprofit corporation that receives funds under the Small Business Emergency Loan Program may not use such funds to provide a loan to a related business.

    d. The loan must not be used to refinance debt that existed at the time of the COVID-19 peacetime emergency declaration.

    e. If additional financing is received from other sources, the Small Business Emergency Loan Program funds will be repaid to DEED in an expeditious manner.

    f. Loan applications received during the COVID-19 peacetime emergency declaration will be eligible to be approved under these conditions.

4. On the placing of a loan under the Small Business Emergency Loan Program, money equal to ten percent of the loan must be paid to the lender for the purpose of financing administrative costs.

5. Up to 50 percent of a loan may be forgiven if the DEED Commissioner approves and the business remains operating in the community at substantially the same levels for two years following loan disbursement.

6. The DEED Commissioner is further authorized to accept applications from additional nonprofit corporation lenders to administer loans in the Small Business Emergency Loan Program.

7. The DEED Commissioner is also authorized to make loans to eligible businesses under the Small Business Emergency Loan Program if demand exceeds capacity of approved lenders.

8. Lenders participating in the Small Business Emergency Loan Program must provide quarterly reports of small business emergency loans to the DEED Commissioner that includes a description of businesses supported by the program, an accounting of the loans made during the quarter, the source and amount of money collected and distributed by the program, the program's assets and liabilities, and an explanation of administrative expenses.

9. Notwithstanding Minnesota Statutes 2019, sections 116J.423 and 116J.8731, to ensure that adequate funds are available to make loans, I direct the DEED Commissioner to transfer up to a total of $30 million from the special accounts of the 21st Century Fund and Minnesota Investment Fund to meet business demand under the Small Business Emergency Loan Program.

10. Effective immediately, in an effort to make more resources available to businesses impacted by the COVID-19 peacetime emergency, any local unit of government or lending partner that has revolving loan funds that were provided by the State Minnesota Investment Fund program appropriations or Minnesota Investment Fund Disaster program appropriations, may over the next 90 days issue loans to retail and service providers.

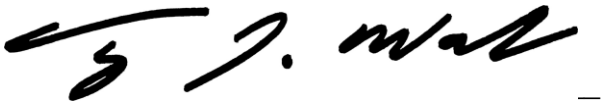
11. Because strict compliance with Minnesota Statutes 2019, Chapters 16A, 16C, and associated rules and policies will limit DEED's ability to move swiftly in deploying resources, DEED is hereby permitted to avoid strict compliance with Minnesota Statutes 2019, Chapters 16A and 16C.

12. Because strict compliance with Minnesota Statutes 2019, sections 116J.423 and 116J.8731, will prevent, hinder, or delay necessary action under this Executive Order, those provisions, and any other provisions in Minnesota Statutes or Rules that are inconsistent with this Executive Order, are waived and suspended during the peacetime emergency declared in Executive Order 20-01.

Pursuant to Minnesota Statutes 2019, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective immediately upon approval by the Executive Council. It remains in effect until the peacetime emergency declared in Executive Order 20-01 is terminated or until it is rescinded by proper authority.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on March 23, 2020.



Tim Walz
Governor

Filed According to Law:

Steve Simon
Secretary of State

Approved by the Executive Council on March 23, 2020:

Alice Roberts-Davis
Secretary, Executive Council

Filed March 23, 2020
Office of the Minnesota
Secretary of State,
Steve Simon