STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

At Charleston

EXECUTIVE ORDER NO. 18-20

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 Declaration"), 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, among other things, to 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, to control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area, and the occupancy of premises therein, and to perform and exercise other functions, powers, and duties that are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, it is projected by national and state health officials that the COVID-19 pandemic will continue to worsen throughout the country and throughout the state, with an apex for the number of cases occurring in West Virginia on or about the last week of April 2020; and

WHEREAS, the primary elections in West Virginia are currently scheduled to be held on May 12, 2020, soon after the currently anticipated apex of the pandemic; and

WHEREAS, the constitutional right to cast a ballot in a fair election in this state is sacrosanct and the right to cast a ballot in person, if a person desires to, on the polling day must be preserved to the extent possible, even in this state of emergency; and

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WHEREAS, the congregation of the public at polling places so soon after the projected apex of the COVID-19 pandemic poses a large-scale threat to the public health, safety, and welfare; and

WHEREAS, the state has taken significant steps to date to mitigate the spread of the COVID-19 virus, but the virus remains a serious threat to the health, safety, and welfare of the public, and further efforts and actions are necessary to disrupt the spread of the virus and to mitigate the impact of COVID-19, including the postponement of West Virginia's primary elections currently scheduled for May 12, 2020; and

WHEREAS, it has been advised that postponing the date of the West Virginia primary elections approximately one month, to June 9, 2020, is in the best interest of the public health, safety, and welfare; and

WHEREAS, the postponement of the primary elections in this state will necessitate the postponement of municipal elections in this state for a similar period of time to allow voting resources to be efficiently utilized and to ensure that all elections proceed in the safest manner possible during this state of emergency, and the postponement of the primary elections may likewise make it necessary or advisable for levying bodies to coordinate with the appropriate county commission and board of ballot commissioners, in consultation with the State Auditor, regarding the possibility of placing the question of such levies on the primary elections ballot.

NOW, THEREFORE, I, JIM JUSTICE, pursuant to the authority vested in me pursuant to the provisions of Chapter 15, Article 5, Section 6 and Chapter 15, Article 5, Section 1 of the Code of West Virginia, hereby **DECLARE** and **ORDER**, as follows:

1. The provisions of West Virginia Code § 3-5-1, regulating the particular date on which primary elections are to be held, are suspended for the primary elections currently scheduled to be held on May 12, 2020, to the extent that the date provided for such primary shall be moved forward approximately one month to June 9, 2020.
2. The provisions of all other statutes of the West Virginia Code regulating particular dates by which certain actions relating to elections in this state must be performed,

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in the discretion of the West Virginia Secretary of State, are likewise suspended for the same period of time, to the extent the Secretary of State deems necessary or advisable in order to properly conduct the primary elections on June 9, 2020. The Secretary of State is instructed to update the 2020 Elections Calendar, published by the West Virginia Secretary of State's Office, Elections Division, and the Secretary of State advises that this update will be complete and available by April 6, 2020.

3. The provisions of West Virginia Code § 8-5-5 and other applicable sections of Code regulating the particular date(s) on which municipal elections are to be held are suspended for the elections currently scheduled to be held between June 1, 2020, and June 9, 2020, to the extent that the date(s) provided for such elections shall be moved forward an equal number of days, and all local governing bodies charged with administering or conducting such elections shall take such actions as may be necessary or advisable to effect such postponement, in consultation with the West Virginia Secretary of State.
4. The provisions of West Virginia Code § 8-4-7, § 8-4-8, and other applicable sections of Code regulating the timing requirements for municipalities with election dates or procedures established under a charter to amend their charter to allow for a postponement of any municipal elections currently scheduled to be held between June 1, 2020, and June 9, 2020, are suspended to the extent that the timing requirements for amending such municipality's charter may need to be expedited to allow for a postponement of such elections for the number of days as may be necessary to postpone such municipal elections until a date after June 9, 2020, and all local governing bodies charged with administering or conducting such elections shall take such actions as may be necessary or advisable to effect such postponement, in consultation with the West Virginia Secretary of State. To the extent that any municipal charter or other law allows for emergency meetings or other procedures to otherwise postpone the election dates for such municipalities, such emergency meetings or other procedures may be used.
5. Any and all materials published or provided to the public by a state agency or other public body to date which may cite or reference the May 12, 2020 primary elections date shall be amended to cite or refer to the June 9, 2020 primary elections date

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provided for in this Order, in order to ensure the public is properly and consistently noticed of the postponed date of the primary elections; provided that those ballots and voting machines that have been printed or programed, prior to the effective date of this Order, with the date May 12, 2020 shall be excluded from the requirement of this section to amend materials.

6. Local levying bodies which must present a levy to the voters of their jurisdiction prior to July 1, 2020, are permitted to coordinate with the appropriate county commission and board of ballot commissioners, after consultation with the State Auditor, regarding the possibility of placing the question on the levy on the ballot for the June 9, 2020 primary election provided for under this Order; provided that the appropriate county commission and board of ballot commissioners are not required to add the question of a levy to the ballot for the June 9, 2020 primary election if there are insufficient time and/or resources to add the requisite language to election materials, ballots, voting machines, or other required materials. The local levying body shall follow the procedures set forth in Chapter 11 of the West Virginia Code for public notice and other requirements.

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 First day of April, in the year of our Lord, Two Thousand Twenty in the One Hundred Fifty-seventh year of the State.

GOVERNOR

By the Governor

SECRETARY OF STATE

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