TOWN *of*
WAKE FOREST

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AMENDMENT #4 TO THE DECLARATION OF A STATE OF EMERGENCY

IN THE TOWN OF WAKE FOREST, NORTH CAROLINA

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death by the SARS-Co-V-2 virus. This is a new strain of coronavirus previously unidentified in humans which can spread from person to person; and

WHEREAS, the World Health Organization ('WHO") declared COVID-19 as a Public Health Pandemic of International Concern on March 11, 2020. The United States Centers for Disease Control ("CDC") has reported the high public health threat posed by COVID-19, both globally and to the United States and has deemed it necessary to prohibit or restrict travel to areas designated by the CDC; and

WHEREAS, The Governor of the State of North Carolina has declared a State of Emergency as defined by N.C. Gen. Stat. 166A-19.3(6) and 166A-19.3(19) for the State of North Carolina based on the public health emergency posed by COVID-19; and

WHEREAS, Wake County Government is responsible for emergency management throughout the County, including coordination of activities of municipalities within the County; and

WHEREAS, on March 13, 2020, the Honorable Gregory D. Ford, Chairman of the Wake County Board of Commissioners did proclaim a State of Emergency for Wake County and on March 22, 2020 proclaimed emergency restrictions with consent of incorporation by the Town of Wake Forest; and

WHEREAS, I, as the Mayor of the Town of Wake Forest declared the existence of a local state of emergency within the Town of Wake Forest (the "Town") on March 17, 2020; and

WHEREAS, I, consented to the inclusion of Wake Forest into the proclamation issued by Wake County on March 22, 2020, March 26, 2020 and April 16; and

NOW THEREFORE, I, Vivian A. Jones in pursuant to the authority vested in me pursuant to Section 166A-19.22(b) of the North Carolina General Statutes, do hereby consent to the extension of the emergency declaration of Wake County to align with the declarations and prohibitions of NC Governor Cooper Executive Orders 117-135 to include the entirety of the Town of Wake Forest and adhering to the prohibitions and restrictions included in the attached Wake County Declaration of Emergency Restrictions executed on April 29, 2020.

This consent shall become effective on the date and time noted on the attached proclamation and shall continue until modified or rescinded as provided by law.

DECLARED this the 29th day of April, 2020.

Vivian A. Jones, Mayor

ATTEST:

Deeda W. Harris, Town Clerk

WAKE COUNTY
NORTH CAROLINA

CONTINUATION OF WAKE COUNTY STATE OF EMERGENCY AND TERMINATION OF COUNTY EMERGENCY RESTRICTIONS IN FAVOR OF STATE RESTRICTIONS

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency in the United States for COVID-19 under Section 319 of the Public Health Service Act; and

WHEREAS, on March 5, 2020, Wake County activated the Wake County Emergency Operations Center in response to Covid-19;

WHEREAS, on March 10, 2020, the Governor of the State of North Carolina declared a State of Emergency as defined by N.C. Gen. Stat. 166A-19.3(6) and 166A-19.3(19) for the State of North Carolina based on the public health emergency posed by COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak as a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories and the District of Columbia pursuant to the Robert T. Stafford Relief and Emergency Assistance Act (Stafford Act); and

WHEREAS, on March 13, 2020, the County of Wake, with consent of incorporation by the City of Raleigh and the Towns of Apex, Cary, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell and Zebulon, declared a State of Emergency (**"March 13, 2020 Proclamation of State of Emergency"**) ; and

WHEREAS, the City of Durham, and Towns of Angier and Clayton have also declared a State of Emergency and have municipal jurisdiction within portions of Wake County; and

WHEREAS, on March 22, 2020, the County of Wake with consent of incorporation by the City of Raleigh and the Towns of Apex, Cary, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell and Zebulon and portions of the Towns of Angier, Clayton and Durham incorporated in the borders of Wake County, enacted a limited Proclamation of Emergency Restrictions that placed restrictions on nursing homes and long term care facilities, the operation of certain businesses (i.e. fitness clubs and salons), prohibited mass gatherings greater than 50 and restricted the use of playgrounds (**"March 22, 2020 Proclamation of Emergency Restrictions"**); and

WHEREAS, on March 25, 2020, the President of the United States, pursuant to the Stafford Act, approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina, and

WHEREAS, on March 26, 2020, the County of Wake with consent of incorporation by the City of Raleigh and the Towns of Apex, Cary, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell and Zebulon and portions of the Towns of Angier, Clayton and Durham incorporated in the borders of Wake County, superseded the March 22, 2020 order by enacting additional restrictions under a Proclamation of Emergency Restrictions which further restricted the movement and travel of all persons in public places, business activity, prohibited gatherings of persons outside the same household and implemented mandatory social distancing practices **("March 26, 2020 Proclamation of Emergency Restrictions");** and

WHEREAS, on March 27, 2020, the Governor of North Carolina issued Executive Order No. 121, implementing a statewide stay at home order ("State Stay at Home Order") which placed similar restrictions on the business activity and gatherings to mitigate the spread of Covid-19, while preserving the authority for local governments to impose more restrictive emergency measures; and

WHEREAS, on April 9, 2020, the Governor of North Carolina issued Executive Order No. 131 which enacted specific social distancing regulations and mandatory sanitation practices for retail establishments (e.g. maximum occupancy requirements) that preempted local government restrictions, to the extent there was a conflict; and

WHEREAS, on April 15, 2020, the County of Wake with consent of incorporation by the City of Raleigh and the Towns of Apex, Cary, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell and Zebulon and portions of the Towns of Angier, Clayton and Durham incorporated in the borders of Wake County, enacted a First Amendment to Proclamation of Emergency Restrictions which clarified and modified retail restrictions, drive-in services for faith organizations and funeral services ("**April 15, 2020 First Amendment to Proclamation of Emergency Restrictions**"); and

WHEREAS, on April 18, 2020, the County of Wake with consent of incorporation by the City of Raleigh and the Towns of Apex, Cary, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell and Zebulon and portions of the Towns of Angier, Clayton and Durham incorporated in the borders of Wake County, enacted a Second Amendment to Proclamation of Emergency Restrictions for the purpose of modifying mandatory health screen requirements for businesses **("April 18, 2020 Second Amendment to Proclamation of Emergency Restrictions ")**; and

WHEREAS, on April 23, 2020, the Governor of North Carolina issued Executive Order 135 extending and modifying various restrictions and exemptions issued in Executive Orders 117-134 and extending the State Stay at Home Order through May 8, 2020; and

WHEREAS, the Wake County Proclamation of Emergency Restrictions, as amended, is set to expire on April 30, 2020; and

WHEREAS, the Chair of the Wake County Board of Commissioners in consultation with health care professionals and based upon guidance from the CDC and NCDHHS has determined that there is a need for the Wake County State of Emergency to remain in place and that the restrictions enacted in the County's Proclamations and the Governor's Executive Orders have demonstrated effectiveness; and

WHEREAS, it has been determined that at this time the restrictions enacted in the Governor's Order adequately protect the health and safety of Wake County residents without a separate Wake County Proclamation of Emergency Restrictions and uniformity of restrictions shall improve public understanding and adherence to restrictions.

NOW, THEREFORE, pursuant to the authority contained in Article 1A of N.C. Gen. Stat. Chapter 166A, Article 36A of N.C. Gen. Stat. Chapter 14, Title VII, Chapter 70 of the Wake County Code of Ordinances, I, Gregory Ford, Chairman of the Wake County Board of Commissioners, do hereby proclaim that for the safety and welfare of residents:

1. This Proclamation shall have no effect on the State of Emergency activated March 13, 2020. The **STATE OF EMERGENCY** shall continue in effect within the County of Wake and by request of the mayors or their appointed representatives, within the corporate limits of the City of Raleigh and the Towns of Angier, Cary, Clayton, Durham, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell and Zebulon, within the corporate limits of those municipalities within Wake County, subject to the following restrictions, prohibitions and proclamations herein until amended or rescinded pursuant to N.C. Gen Stat. 166A-19.22(c).

2. The **March 22, 2020 Proclamation of Emergency Restrictions, March 26, 2020 Proclamation of Emergency Restrictions, April 15, 2020 First Amendment to Proclamation of Emergency Restrictions,** and **April 18, 2020 Second Amendment to Proclamation of Emergency Restrictions** previously enacted by Wake County **shall terminate at 11:59 p.m. on April 30, 2020** within the County of Wake and by request of the mayors or their appointed representatives, within the corporate limits of the City of Raleigh and the Towns of Angier, Cary, Clayton, Durham, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell and Zebulon, within the corporate limits of those municipalities within Wake County,

3. For the purpose of aligning with the Governor's Executive Orders pertaining to COVID-19 (currently Nos. 117- 135) and establishing uniformity and consistency with the State prohibitions and guidelines, I hereby adopt and incorporate all restrictions and prohibitions contained in the Governor's Executive Orders as related to the activity of people and businesses, and mandate they be followed in Wake County for the time period of their effective dates, which shall include any extensions, amendments of, or future Governor's Executive Orders. This Proclamation may be amended if it is determined that the health and safety of Wake County residents are not adequately protected based upon

existing evidence and recommendations by health care professionals, guidance from the CDC, NCDHHS, the Wake County Human Services Director, Wake County Office of Emergency Management and State officials.

4. I hereby order all county employees and all other emergency management personnel subject to my control to cooperate in the enforcement and implementation of the emergency management ordinances set forth in Title VII, Chapter 70 of the Wake County Code of Ordinances until this Amended Proclamation expires or is rescinded. I further proclaim that the Emergency Operations Plan adopted by the County of Wake, and all applicable mutual assistance compacts and agreements are in effect and shall remain in effect until the Wake County State of Emergency is terminated. All emergency management personnel subject to my control are hereby ordered to cooperate in the implementation of the provisions of the County's Emergency Management Plan and all applicable mutual assistance compacts and agreements, and to furnish assistance thereunder.

5. I hereby delegate to the Wake County Manager, and/or his designee, all power and authority granted to me and required of me by Chapter 166A and Article 36A of Chapter 14 of the North Carolina General Statutes, and by Title VII, Chapter 70 of the Wake County Code of Ordinances, for the purpose of implementing the referenced Emergency Operations Plan, and to take such further action as is necessary to promote and secure the safety and protection of those dwelling in the County.

6. I direct that copies of this Proclamation be disseminated to the media for publication and broadcast, and that a copy be posted at the Wake County Courthouse and other public buildings as appropriate.

7. Any person violating any prohibition or restriction imposed by this Proclamation shall be guilty of a Class 2 misdemeanor in accordance with N.C. Gen Stat. §14-288.20A.

8. If any section, subsection, sentence, clause, or phrase of this Proclamation is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the Proclamation.

PROCLAIMED this the 29th day of April 2020.

Gregory D. Ford, Chairman
Wake County Board of Commissioners

State of North Carolina

ROY COOPER

GOVERNOR

March 14, 2020

EXECUTIVE ORDER NO. 117

PROHIBITING MASS GATHERINGS AND DIRECTING THE STATEWIDE CLOSURE OF K-12 PUBLIC SCHOOLS TO LIMIT THE SPREAD OF COVID-19

WHEREAS, the undersigned issued Executive Order No. 116 on March 10, 2020, which declares a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, the undersigned established the Novel Coronavirus Task Force on COVID-19 to work with state, local, and federal partners in responding to challenges posed by COVID-19; and

WHEREAS, the World Health Organization declared COVID-19 a global pandemic on March 11, 2020; and

WHEREAS, on March 11, 2020, the President of the United States took executive action to restrict travel from Europe into the United States of America; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq.* and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared a national emergency that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") confirmed the number of cases of COVID-19 in North Carolina continues to rise; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the Governor to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, NCDHHS has organized a Public Health Incident Management Team to manage the public health impacts of COVID-19 in this state; and

WHEREAS, first responders and health care professionals remain integral to ensuring the state is best situated to respond to and mitigate the threat posed by COVID-19 and such first responders and health care professionals should have the availability of all necessary personal protective equipment and continue to follow all necessary response protocols; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(3), the undersigned, with the concurrence of the Council of State, has the power to regulate and control the congregation of persons in public places or buildings; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a state agency which restricts the immediate relief of human suffering; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5), the undersigned, with the concurrence of the Council of State, may perform and exercise other such functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, further action is necessary to protect the health and safety of the residents of North Carolina, slow the spread of the COVID-19 outbreak, reduce the number of people infected, and avoid strain on our health care system; and

WHEREAS, the undersigned has sought and obtained concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Prohibition of Mass Gatherings

Pursuant to N.C. Gen. Stat. § 166A-19.30(b)(3), which allows for the undersigned to regulate and control the congregation of persons in public places or buildings and with the concurrence of the Council of State, to help protect the health and well-being of North Carolinians, I hereby prohibit mass gatherings in the State of North Carolina.

a. A mass gathering is defined as any event or convening that brings together more than one hundred (100) persons in a single room or single space at the same time, such as an auditorium, stadium, arena, large conference room, meeting hall, theater, or any other confined indoor or outdoor space. This includes parades, fairs and festivals.

b. A mass gathering does not include normal operations at airports, bus and train stations, medical facilities, libraries, shopping malls and centers, or other spaces where more than one hundred (100) persons are gathered. It also does not include office environments, restaurants, factories, grocery stores or other retail establishments.

c. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provision of this section shall be enforced by state and local law enforcement officers.

d. Violations of this section or orders issued pursuant to N.C. Gen. Stat. § 166A-19.30 may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d) and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A.

Section 2. School Closures

a. Pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5) which allows the undersigned to perform and exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population, and with the concurrence of the Council of State, I hereby direct that all public schools close for students effective Monday, March 16, 2020 until March 30, 2020, unless extended beyond that date.

b. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), I hereby direct NCDHHS, the North Carolina Department of Public Instruction, and the North Carolina State Board of Education to immediately work together to implement measures to provide for the health, nutrition, safety, educational needs and well-being of children during the school closure period.

Section 3. Social Distancing

In coordination with the State Health Director and alignment with guidance from the Centers for Disease Control and Prevention, all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible and to continue to wash hands, utilize hand sanitizer and practice proper respiratory etiquette (including coughing into elbow).

Section 4. Distribution

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 5. Effective Date

With the exception of section 2, this Executive Order is effective immediately and shall remain in effect for thirty (30) days or until rescinded or superseded by another applicable Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 14th day of March in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

ROY COOPER

GOVERNOR

MARCH 17, 2020

EXECUTIVE ORDER NO. 118

LIMITING OPERATIONS OF RESTAURANTS AND BARS AND BROADENING UNEMPLOYMENT INSURANCE BENEFITS IN RESPONSE TO COVID-19

WHEREAS, the undersigned issued Executive Order No. 116 on March 10, 2020 which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, the World Health Organization declared COVID-19 a global pandemic on March 11, 2020; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq*. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 outbreak in the United States constitutes a national emergency, retroactive to March 1, 2020; and

WHEREAS, on March 14, 2020, the undersigned issued Executive Order No. 117 which prohibited mass gatherings of more than one hundred (100) people in the State of North Carolina and closed K-12 public schools to limit the spread of COVID-19; and

WHEREAS, on March 15, 2020, the Centers for Disease Control ("CDC") updated their guidance for large events and mass gatherings, and recommended that for the next eight (8) weeks, organizers (whether groups or individuals) cancel or postpone in-person events that consist of fifty (50) people or more throughout the United States; and

WHEREAS, on March 16, 2020, the White House issued new guidelines called The President's Coronavirus Guidelines for America -- 15 Days to Slow the Spread of Coronavirus (COVID-19), calling on people to "avoid social gatherings in groups of more than ten (10) people"; and

WHEREAS, the undersigned, pursuant to Section 401 of the Stafford Act is requesting a major disaster declaration from the United States Federal Government; and

WHEREAS, the North Carolina Department of Health and Human Services("NCDHHS") confirmed that the number of cases of COVID-19 in North Carolina continues to rise; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the Governor to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, the Governor has established the Novel Coronavirus Task Force on COVID-19 to work with state, local, and federal partners in responding to challenges posed by COVID-19; and

WHEREAS, NCDHHS has organized a Public Health Incident Management Team to manage the public health impacts of COVID-19 in this state; and

WHEREAS, COVID-19 has caused and will continue to cause substantial economic disruption in North Carolina, including disruptions to employees and employers; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available State resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, the Governor, Secretary of Public Safety, and Director of Emergency Management have the authority to act under N.C. Gen. Stat. §§ 166A-19.10, 166A-19.12, and 166A-19.30(a)-(b); and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(4) gives the Governor the authority to "cooperate and coordinate" with the President of the United States; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.12(3)(e), the Division of Emergency Management must coordinate with the State Health Director to revise the North Carolina Emergency Operations Plan as conditions change, including making revisions to set "the appropriate conditions for quarantine and isolation in order to prevent the further transmission of disease; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), during a Gubernatorially declared State of Emergency, the Governor has the power to "give such direction to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this article; and

WHEREAS, pursuant to N.C. Gen. Stat. § 130A-145(a), the State Health Director has the power to exercise quarantine and isolation authority when the public health is endangered; and

WHEREAS, quarantine authority is defined by N.C. Gen. Stat. § 130A-2(7a) to mean the authority to issue an order to limit the freedom of movement or action of persons or animals which been exposed to or are reasonably suspected of having been exposed to a communicable disease or communicable condition for a period of time as may be necessary to prevent the spread of that disease; and

WHEREAS, under N.C. Gen. Stat. § 130A-2(3), an "imminent hazard" is defined as a situation that is likely to cause an immediate threat to human life, an immediate threat of serious physical injury, an immediate threat of serious adverse health effects, or a serious risk of irreparable damage to the environment if no immediate action is taken; and

WHEREAS, under N.C. Gen. Stat. § 130A-20(a), if the Secretary of Health and Human Service determines that an imminent hazard exists, the Secretary may order the owner, lessee, operator, or other person in control of the property to abate the imminent hazard; and

WHEREAS, quarantine authority is defined by N.C. Gen. Stat. § 130A-2(7a) to also mean the authority to issue an order to limit access by any person or animal to an area of facility that may be contaminated with an infection agent; and

WHEREAS, further action is necessary to protect the health and safety of the residents of North Carolina, slow the spread of the COVID-19 outbreak, protect our most vulnerable citizens, and avoid strain on our health care system; and

WHEREAS, the undersigned has sought and obtained the necessary concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30(b) for Sections 2 and 3 of this Order, and reserves the right to act under N.C. Stat. §§ 166A-19.10 and 166A-19.30(a).

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Limiting the Sale of Food and Beverages, to Carry-Out, Drive-Through, and Delivery Only.

(a) Pursuant to the following authorities, the Governor, in consultation and at the recommendation of the state Secretary of Health and Human Services, the State Emergency Management Director, and the State Health Director, orders the following limitations on the sale of food and beverages to carry-out, drive-through, and delivery only:

(i) Per N.C. Gen. Stat. §§ 166A-19.30(c),-19.31(b)(2), the Governor has authority to restrict or prohibit the operation of business establishments and other place to or from which people may travel or at which they may congregate;

(ii) Per N.C. Gen. Stat. § 166A-19.10(b)(4), giving the Governor authority to "cooperate and coordinate" with the President of the United States, who issued guidelines directing the reduction of the congregating of persons to no more than ten (10) people the President's Coronavirus Guidelines for America, March 16, 2020, and this Order is cooperating therewith;

(iii) Per N.C. Gen. Stat. § 166A-19.12(3)(e), the Division of Emergency Management must coordinate with the State Health Director to revise the North Carolina Emergency Operations Plan as conditions change, including making revisions to set "the appropriate conditions for quarantine and isolation in order to prevent the further transmission of disease," and the Emergency Management Director and State Health Director having done so, have recommended the Governor order the actions identified in this Section;

(iv) Per N.C. Gen. Stat. § 130A-20(a), the Secretary has determined an imminent hazard exists and that entities subject to this Section must limit the sale of food and beverages to carry-out, drive-through, and delivery only in order to abate the hazard, and has issued an order of abatement dated March 17, 2020;

(v) Per N.C. Gen. Stat. § 130A-145(a), the State Health Director is exercising quarantine and isolation authority to limit access to facilities that sell food and beverage to carry-out, drive-through and delivery services only.

(vi) Per N.C. Gen. Stat. § 166A-19.30(a)(2), during a Gubernatorially declared State of Emergency, the Governor has the power to "give such direction to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this article that restaurants are restricted to carry-out, drive-through, delivery, and onsite consumption in outdoor seating areas, subject to mass gathering restrictions to create an environment where staff and patrons maintain social distancing (at least 6 feet from other people) whenever possible. Bars are directed to close. These restrictions are effective as of 5:00pm, Tuesday, March 17, 2020 until March 31, 2020, or until this Order is rescinded or replaced.

(b) For the purposes of this Order, restaurants are defined as permitted food establishments, under N.C. Gen. Stat. § 130A-248, and other establishments that both prepare and serve food, including but not limited to, restaurants, cafeterias, food halls, dining halls, food kiosks at airports and shopping centers, or educational institutions, ("food courts"), as well as private or members-only clubs where food and beverages are permitted to be consumed on premises.

(c) For purposes of this Order, bars are defined as establishments that are not restaurants and that have a permit to sell alcoholic beverages for onsite consumption, under N.C. Gen. Stat. § 18B-1001.

(d) This Order does not direct the closure of retail beverage venues that currently provide for the sale of beer, wine, and liquor for off-site consumption only. It also does not require the closure of production operations at breweries, wineries, or distilleries.

(e) This Order does not affect grocery stores, pharmacies, convenience stores, gas stations and charitable food distribution sites to the extent they sell or distribute prepared food. However, sit-down food or beverage service within these facilities is prohibited.

(f) If the Alcoholic Beverage Control Commission "ABC Commission" identifies other state laws, regulations, and policies that may affect bars, restaurants, and other dining establishments identified in this Section, it is directed to inform the Office of the Governor in writing. Upon written authorization from the Office of the Governor, the ABC Commission may interpret flexibly, modify, or waive those state laws, regulations and policies, as appropriate, and to the maximum extent permitted under applicable state and federal law, to effectuate the purposes of this Order.

(g) In light of this Executive Order, Executive Order No. 117 Section 1(b) (March 14, 2020) is revised as follows:

"A mass gathering does not include normal operations at airports, bus and train stations, medical facilities, libraries, shopping malls and centers. It also does not include office environments, factories, grocery stores, and child care centers."

These locations or facilities, however, are subject to the dine-in food and beverage restrictions listed in this Order.

Section 2. Unemployment Insurance Policy Related to COVID-19

The undersigned has sought and obtained the necessary concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30 (b), and reserves the right to act under N.C. Stat. §§ 166A-19.10 and 166A-19.30(a).

The Department of Commerce, through the Secretary of Commerce and Assistant Secretary of the Division of Employment Security, is directed to ensure that individuals who, as a result of COVID-19, are separated from employment, have had their hours of employment reduced, or are prevented from working due to a medical condition caused by COVID-19 or due to communicable disease control measures, shall be eligible for unemployment benefits to the maximum extent permitted by federal law. For purposes of this Executive Order, communicable disease control measures shall include quarantine or isolation directives or orders related to COVID-19 issued by the State of North Carolina, the federal government, a local governmental entity, or a medical or public health professional.

Section 3. Unemployment Insurance Changes

(a) To provide the necessary unemployment benefits to those affected by COVID-19, the Department of Commerce is authorized, to the maximum extent permitted under federal law, and for so long as the Declaration of a State of Emergency regarding COVID-19, dated March 10, 2020, remains in place, to interpret flexibly or waive, as appropriate, the following:

i. the one-week waiting period for benefits (N.C. Gen. Stat. § 96-14.1(b));

ii. the able to work and available to work requirements (N.C. Gen. Stat. § 96-14.9(b));

iii. the work search requirements (N.C. Gen. Stat. § 96-14.9(b));

iv. the actively seeking work requirements (N.C. Gen. Stat. § 96-14.9(e)); and

v. the "lack of work" requirement of the unemployed provisions of N.C. Gen. Stat. § 96-15.01(b)(2)(a).

(b) The Department of Commerce is further directed not to allocate charges to employers' accounts for individuals who are paid benefits for reasons related to COVID-19 (N.C. Gen. Stat. § 96-11.2 and 96-11.3(b)). The Department of Commerce shall separately account for these expenditures so that the State of North Carolina can seek reimbursement from the federal government.

(c) If the Department of Commerce identifies other state laws, regulations, and policies that may inhibit the fair and timely distribution of unemployment benefits to those affected by COVID-19, it is directed to inform the Office of the Governor in writing. Upon written authorization from the Office of the Governor, the Department of Commerce may interpret flexibly, modify, or waive those state laws, regulations, and policies, as appropriate, to the maximum extent permitted under applicable federal law to effectuate the purposes of this Order.

(d) The Department of Commerce is ordered to postpone all mandatory in-person contact with individuals seeking unemployment benefits, including but not limited to the Employability Assessment Interview, as long as the State of Emergency for COVID-19 remains in effect. The Department of Commerce is further ordered to provide reasonable means for the filing of initial claims and weekly certifications, including both telephone and internet access.

Section 4. Enforcement

(a) Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provisions of this Order shall be enforced by state and local law enforcement officers.

(b) Violations of this Order may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d) and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A.

Section 5. Effective Date

Section 1 of this Executive Order is effective as of 5:00 pm, Tuesday, March 17, 2020 through March 31, 2020. The remainder of this Executive Order is effective immediately and shall remain in effect until rescinded or superseded by another applicable Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 17th day of March in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Rodney S. Maddox
Chief Deputy Secretary of State

State of North Carolina

ROY COOPER

GOVERNOR

March 20, 2020

EXECUTIVE ORDER NO. 119

FACILITATING CRITICAL MOTOR VEHICLE OPERATIONS AND DELEGATING AUTHORITY TO THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO WAIVE REGULATIONS IN ORDER TO EXPAND ACCESS TO CHILD CARE AND SUPPORT LOCAL HEALTH DEPARTMENTS

WHEREAS, the undersigned issued Executive Order No. 116 on March 10, 2020 which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, the World Health Organization declared COVID-19 a global pandemic on March 11, 2020; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq*. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency beginning March 1, 2020; and

WHEREAS, on March 14, 2020, the undersigned issued Executive Order No. 117 which prohibited mass gatherings to no more than one hundred (100) people in the State of North Carolina and closed K-12 public schools to limit the spread of COVID-19; and

WHEREAS, on March 17, 2020, the undersigned issued Executive Order No. 118 which limited operations of restaurants and bars and broadened unemployment insurance benefits in response to COVID-19; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") confirmed the number of cases of COVID-19 in North Carolina continues to rise and has lab documentation of community spread; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the Governor to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, as a result of Executive Order No. 117 providers of health care, emergency medical services, law enforcement, and many other services may be in need of child care for their school-aged children due to the closure of schools; and

WHEREAS, as a result of the COVID-19 pandemic, providers of health care, emergency medical services, law enforcement, and other services may be in need of child care for children ages 0-5 in the event their child care providers cease service; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(3) the undersigned, is authorized and empowered to delegate any authority vested in the Governor under this Article and to provide for the subdelegation of any such authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a state agency which restricts the immediate relief of human suffering; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5) the undersigned, with the concurrence of the Council of State, may perform and exercise other such functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, to expand capacity for child care services, it will be necessary to suspend certain State child care regulations; and

WHEREAS, to support local health departments on the front lines of responding to the COVID-19 pandemic, it will be necessary to waive certain local health department regulations; and

WHEREAS, it is necessary to protect the public health, welfare and safety to waive and suspend the effects of certain regulations regarding child care and local health departments; and

WHEREAS, the Division of Motor Vehicles operates 115 offices across the state with the primary purpose of examining applicants and issuing driver licenses to the general public and that these "Driver License Offices" serve thousands of residents on a daily basis; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available State resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, further action is necessary to protect the health and safety of the residents of North Carolina, slow the spread of the COVID-19 pandemic, treat those affected by COVID-19 and avoid strain on our health care system; and

WHEREAS, the undersigned has sought and obtained concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**

Section 1. Delegation of Authority

With the concurrence of the Council of State, N.C. Gen. Stat. § 166A-19.30(b)(4) provides authority for the undersigned to waive a provision of any regulation or ordinance of a state agency which restricts the immediate relief of human suffering.

Pursuant to N.C. Gen. Stat. § 166A-19.10(b)(3), which allows the undersigned to delegate any authority vested in the Governor under this Article and to provide for the subdelegation of any such authority, I hereby delegate my authority to waive a provision of any regulation or ordinance of a state agency which restricts the immediate relief of human suffering pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4) as follows:

1. The Secretary of NCDHHS may, upon finding that the waiver will provide necessary relief to child care facilities and families responding to the COVID-19 pandemic and will not endanger the public health, welfare, or safety, waive the effect and enforcement of any or all of the provisions within the following regulations:

    i. Chapter 09 of Title 10A of the North Carolina Administration Code – Child Care Rules.
    ii. Chapter 10 of Title 10A of the North Carolina Administrative Code – Subsidized Child Care.

2. The Secretary of NCDHHS may, upon finding that the waiver will provide necessary relief to local health departments responding to the COVID-19 pandemic and will not endanger public health, waive local health department mandated services requirements under 10A NCAC 46 Section .0200 and extend the time period for public health nurses to complete training sponsored by NCDHHS under 10A NCAC 46 .0301(2)(b).

3. Upon subdelegation of authority from the Secretary of NCDHHS, the Local Health Department Accreditation Board may, upon finding that the waiver will provide necessary relief to local health departments responding to the COVID-19 pandemic and will not endanger public health, waive the accreditation scheduling requirements of 10A NCAC 48A .0205 and grant an extension of accreditation of no more than twelve (12) months.

While this Executive Order is in effect, upon a finding by the Secretary or Local Health Department Accreditation Board that such requirement is necessary, the Secretary or Local Health Department Accreditation Board may exercise this delegated or subdelegated authority as appropriate. Actions taken consistent with the delegation or subdelegation of the authority granted in this Section shall be reported to the Office of the Governor.

Section 2. Access to Child Care for Essential Personnel

North Carolina has a critical need to support first responders, hospital staff, front-line healthcare providers, nursing and adult group home staff, child care program staff, food service staff, emergency management workers, public safety officers and others working to keep communities safe and healthy during the COVID-19 pandemic, as well as care for their children and those children who are homeless or in unstable or unsafe living arrangements. Recognizing that childcare is an essential service for these priority groups during this time, I hereby encourage communities across the State in counties, cities and municipalities to support the continued operation of child care facilities for children of all ages.

Section 3. Motor Vehicles

Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), I hereby order the Commissioner of the Division of Motor Vehicles ("DMV") take the following actions to protect the general public and limit the spread of COVID-19:

a. Limit services at all Driver License Offices to appointment only.

b. Encourage all customers to limit appointments to those services unavailable online.

c. Close to the public all Driver License Offices that are of insufficient size to maintain social distancing, that are insufficiently staffed to operate on an appointment-only basis, or that are otherwise unable to maintain normal operations due to the COVID-19 pandemic.

d. To the extent practicable, expand service hours at those Driver License Offices that remain in operation during this State of Emergency.

e. Discontinue mobile services through the duration of the State of Emergency.

f. Postpone all DMV-related hearings not required by statute to be held within a set number of days for a period of sixty days.

g. Suspend all road tests for applicants seeking learner's permits, provisional driver licenses, or unrestricted Class C licenses until such a time as it is determined that such tests can be conducted with minimal risk of transmission of COVID-19. DMV, to the extent practicable, shall continue to conduct road tests for Class A and Class B licenses and for those applicants who must complete a road test due to a medical restriction.

Section 4. Waiver of Certain Registration Requirements

In addition to the previous relief provided in Executive Order No. 116 to vehicles throughout the Emergency Area involved in transporting medical supplies and other equipment in support of the Plan or other efforts to the public health threat posed by COVID-19, and pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4) with the concurrence of the Council of State, I hereby waive the enforcement of the registration requirements of N.C. Gen. Stat. § 20-86.1 and any related regulations in Chapter 3 of Title 19A of the North Carolina Administrative Code, including but not limited to 19A NCAC 03E .0400 to the extent it requires vehicles' immediate compliance with the International Registration Plan for the duration of the State of Emergency declared in Executive Order No. 116.

Section 5. Waiver of Certain CDL Renewal Requirements for School Bus Operators

To ensure the continued operation of school and activity buses and the transport of medical supplies, essentials in commerce, transporting essential fuels, food, water, and other supplies and equipment in support of the Plan and other efforts to address the public health threat posed by COVID-19, the Division of Motor Vehicles and the Department of Public Safety ("DPS"), to the maximum extent permitted under state and federal law, to interpret flexibly, or waive enforcement of N.C. Gen. Stat. § 20-7(f) as it pertains to the renewal of commercial driver's licenses for school bus drivers and activity bus drivers who hold a commercial driver license with both "S" (school bus) and "P" (passenger) endorsements and who are assisting or seeking to assist with emergency-related activities.

Section 6. Amending Sections 5 and 6 of Executive Order No. 116

Executive Order No. 116 Sections 5 and 6, are amended as follows:

Section 5. Maximum Hours of Service

In order to ensure adequacy and location of supplies and resources to respond to COVID-19, DPS, in conjunction with the North Carolina Department of Transportation (""DOT"), shall waive the maximum hours of service for drivers prescribed by DPS pursuant to N.C. Gen. Stat. § 20-381, if the driver is transporting medical supplies, essential fuels, food, water, and other supplies and equipment in support of the Plan or other efforts to address the public health threat posed by COVID-19, through the duration of the State of Emergency or until further notice.

Section 6. Height and Weight Restrictions

DPS, in conjunction with DOT, shall waive certain size and weight restrictions and penalties arising under N.C. Gen. Stat. §§ 20-116, 20-118, and 20-119, certain registration requirements and penalties arising under N.C. Gen. Stat. §§ 105-449.45, 105-449.47, and 105-449.49 for vehicles throughout the Emergency Area involved in transporting medical supplies, transporting essential fuels, food, water, supplies and other equipment in support of the Plan or other efforts to address the public health threat posed by COVID-19. Furthermore, pursuant to N.C. Gen. Stat.§ 20-118.1, DPS shall temporarily suspend weighing vehicles throughout the Emergency Area used to transport medical supplies, essential fuels, food, water, supplies and other equipment in support of the Plan or other efforts to address the public health threat posed by COVID-19. Furthermore, pursuant to N.C. Gen. Stat. § 20-118.1, DPS shall temporarily suspend weighing vehicles used to transport livestock, poultry, or crops to include timber ready to

be harvested and feed to livestock and poultry in the Emergency Area.

Section 7. Distribution

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the state of emergency would prevent or impede this; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 8. Effective Date

This Executive Order is effective immediately and shall remain in effect for a period of thirty (30) days or until rescinded or superseded by another applicable Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order. Any orders issued by the Secretary of Health and Human Services and the Local Health Department Accreditation Board consistent with the authority delegated or subdelegated in this Executive Order shall remain in effect until the date such waiver ends, unless the authority is explicitly rescinded or superseded by another applicable Executive Order, regardless of whether this Order remains in effect or State of Emergency is lifted.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 20th day of March in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

ROY COOPER

GOVERNOR

March 23, 2020

EXECUTIVE ORDER NO. 120

ADDITIONAL LIMITATIONS ON MASS GATHERINGS, RESTRICTIONS ON VENUES AND LONG TERM CARE FACILITIES, AND EXTENSION OF SCHOOL CLOSURE DATE

WHEREAS, the undersigned issued Executive Order No. 116 on March 10, 2020, which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, the World Health Organization declared COVID-19 a global pandemic on March 11, 2020; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq*. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency beginning March 1, 2020; and

WHEREAS, on March 14, 2020, the undersigned issued Executive Order No. 117, which prohibited mass gatherings to no more than one hundred (100) people in the State of North Carolina and closed K-12 public schools to limit the spread of COVID-19; and

WHEREAS, on March 17, 2020, the undersigned issued Executive Order No. 118, which limited operations of restaurants and bars and broadened unemployment insurance benefits in response to COVID-19; and

WHEREAS, on March 20, 2020, the undersigned issued Executive Order No. 119, which provides provisions to improve access to childcare and helps facilitate critical motor vehicle operations; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") confirmed the number of cases of COVID-19 in North Carolina continues to rise and has lab documentation of community spread; and

WHEREAS, on March 13, 2020, NCDHHS issued a document entitled "Recommendations on Visitation in Long Term Care Facilities to Reduce Risk of Transmission of COVID-19" urging limitations on visitors at long term care facilities in the state to help limit the spread of COVID-19 among at-risk populations; and

WHEREAS, NCDHHS has now recommended that increased measures are required to control the spread of COVID-19 in long term care settings; and

WHEREAS, needed control cannot be imposed locally because local authorities in some jurisdictions have not enacted appropriate ordinances or issued appropriate declarations as authorized by N.C. Gen. Stat. § 166A-19.31; and

WHEREAS, the area in which the emergency exists has spread across local jurisdictional boundaries, and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; and

WHEREAS, the area subject to the COVID-19 emergency is statewide, covering the jurisdictions of multiple city, county and tribal governments, thus making legal control measures difficult to coordinate and severely hampering efforts to protect life and property; and

WHEREAS, the undersigned has determined that local control measures for the emergency, taken alone, are insufficient to assure adequate protection for lives and property because the scale of the COVID-19 emergency is so great that it exceeds the capability of local government officials to cope with it; and

WHEREAS, the undersigned has determined that the measures identified below are necessary for the purpose of taking care that North Carolinians health, safety, and welfare are protected in accordance with the laws of the state; and

WHEREAS, further action is necessary to protect the health and safety of the residents of North Carolina, slow the spread of the COVID-19 pandemic, reduce the number of people infected, avoid strain on our healthcare system, and to address adverse economic impacts that will lead to additional human suffering upon individuals adversely impacted by the COVID-19 pandemic; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the Governor to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c) during a gubernatorially declared state of emergency, the undersigned determined that local control of the emergency is insufficient to assure adequate protection for lives and property because the area in which the emergency exists has spread across local jurisdictional boundaries; and the legal control measures are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; and

WHEREAS, based upon the findings above, N.C. Gen. Stat. §§ 166A-19.31(b)(1), (b)(2), and (b)(5) authorizes the Governor to prohibit or restrict the operation of business establishments, the congregation of people as well as the movement of people in public places and take other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Mass Gathering

For the reasons and pursuant to the authority set forth above:

a. Executive Order No. 117 § 1 is amended as follows:

1. A mass gathering is defined as any event or convening that brings together more than fifty (50) persons in a single room or single space at the same time, such as an auditorium, stadium, arena, large conference room, meeting hall, or any other confined indoor or outdoor space. This includes parades, fairs and festivals.

2. A mass gathering does not include normal operations at airports, bus and train stations, medical facilities, shopping malls and centers. It also does not include office environments, factories, grocery stores, and child care facilities.

3. Pursuant to N.C. Gen. Stat. §§ 166A-19.30(a)(2) and 19.30(c), the provision of this section shall be enforced by state and local law enforcement officers.

b. In addition to the restrictions on mass gatherings identified in Executive Order No. 117 § 1, entertainment facilities without a retail or dining component are ordered to close at 5:00 pm on Wednesday, March 25, 2020, though any retail or dining component may operate within that establishment solely for that purpose. Any dining facilities may operate only within the restrictions for restaurants as set out in Executive Order No. 118. These facilities include, but are not limited to, the following types of business:

- Bingo Parlors, including Bingo sites operated by charitable organizations
- Bowling Alleys
- Indoor Exercise Facilities (e.g. gyms, yoga studios, martial arts facilities, indoor trampoline and rock climbing facilities)
- Health Clubs
- Indoor/ Outdoor Pools
- Live Performance Venues
- Movie Theaters
- Skating Rinks
- Spas
- Gaming and business establishments which allow gaming activities (e.g. video poker, gaming, sweepstakes, video games, arcade games, pinball machines or other computer, electronic or mechanical devices played for amusement)

c. In addition, because the ability to practice the social distancing necessary to reasonably protect against COVID-19 is significantly reduced in certain establishments where individuals are in close proximity for extended periods of time, or service personnel are in direct contact with clients, personal care and grooming businesses, including but not limited to the following, are also ordered to close:

- Barber Shops
- Beauty Salons (including waxing and hair removal centers)
- Hair Salons
- Nail Salons/Manicure/Pedicure Providers
- Massage Parlors
- Tattoo Parlors

d. Violations of this section or orders issued pursuant to N.C. Gen. Stat. § 166A-19.30 may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d) and are punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A.

Section 2. Mandatory Local Government Operations

a. Consistent with my authority under N.C. Gen. Stat. §§ 166A-19.30(c)(1) and (c)(2), and to the extent that local government functions are required under state and federal law, I hereby direct the appropriate local government agencies and officials to continue to exercise their responsibilities, including but not limited to local county Department of Social Services

of Social Services ("DSS") offices, Health Departments, Registers of Deeds, and other local government functions that are required to protect lives and property.

b. Notwithstanding Section (a) of this Section, local government must take appropriate precautions to maintain the health of the general public and their employees who are required to perform their official duties in a manner that brings them in contact with the general public by putting in place appropriate public health measures, such as social distancing, use of reasonable personal protective equipment, and offering reasonable accommodations to employees who provide services to the public with consideration for their health.

Section 3. Long Term Care Visitation Limitations

a. Long term care facilities shall restrict visitation of all visitors and non-essential health care personnel, except for certain compassionate care situations, for example, an end-of-life situation.

b. This restriction does not include essential health care personnel.

c. For purposes of this Executive Order only, long term care facilities include all of the following:

i. Skilled nursing facilities;
ii. Adult care homes;
iii. Family care homes;
iv. Mental health group homes; and
v. Intermediate care facilities for individuals with intellectual disabilities.

Section 4. Continued School Closure

For the reasons and pursuant to the authority set forth above:

Executive Order No. 117 § 2 is amended as follows:

I hereby direct that all public schools close for students effective Monday, March 16, 2020, as set forth in Executive Order No. 117, through Friday, May 15, 2020, unless extended beyond that date.

Section 5. Effective Date

This Executive Order is effective at 5:00 pm Wednesday, March 25, 2020, and shall remain in effect for thirty (30) days unless rescinded or superseded by another applicable Executive Order. Section 4 of this Executive Order is effective Monday, March 16, 2020, as set forth in Executive Order No. 117, through Friday, May 15, 2020. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 23rd day of March in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

ROY COOPER

GOVERNOR

MARCH 27, 2020

EXECUTIVE ORDER NO. 121

STAY AT HOME ORDER AND STRATEGIC DIRECTIONS FOR NORTH CAROLINA IN RESPONSE TO INCREASING COVID-19 CASES

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116 which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq*. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency, retroactive to March 1, 2020; and

WHEREAS, the undersigned has issued Executive Order Nos. 117 – 120 for the purposes of protecting the health, safety and welfare of the people of North Carolina; and

WHEREAS, on March 25, 2020, the President of the United States, pursuant to Section 401 of the Stafford Act, approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, on March 27, 2020, the North Carolina Department of Health and Human Services ("NCDHHS") has documented 763 cases of COVID-19 across 60 counties, and has identified the occurrence of widespread community transmission of the virus; and

WHEREAS, hospital administrators and health care providers have expressed concerns that unless the spread of COVID-19 is limited, existing health care facilities may be insufficient to care for those who become sick; and

WHEREAS, to mitigate community spread of COVID-19 and to reduce the burden on the state's health care providers and facilities, it is necessary to limit unnecessary person-to-person contact in workplaces and communities; and

WHEREAS, such limitations on person-to-person contact are reasonably necessary to address the public health risk posed by COVID-19; and

WHEREAS, some areas of the state have seen more rapid and significant spread of COVID-19 than others, and some but not all local authorities have taken steps to address community spread of the illness in their communities; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(i), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because needed control cannot be imposed locally because not all local authorities have enacted such appropriate ordinances or issued such appropriate declarations restricting the operation of businesses and limiting person-to-person contact in workplaces and communities; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(ii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because some but not all local authorities have taken implementing steps under such ordinances or declarations, if issued, in order to effectuate control over the emergency that has arisen; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because the area in which the emergency exists spreads across local jurisdictional boundaries and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iv), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection of lives and property of North Carolinians because the scale of the emergency is so great that it exceeds the capability of local authorities to cope with it; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(1) authorizes the undersigned to prohibit and restrict the movement of people in public places, including by: (a) imposing a curfew; (b) directing and compelling the voluntary or mandatory evacuation of people from an area; (c) prescribing routes, modes of transportation and destinations in connection with evacuation; (d) controlling the movement of persons within an emergency area; and (e) closing streets, roads, highways, and other areas ordinarily used for vehicular travel, except to the movement of persons necessary for recovery from the emergency; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(2) authorizes the undersigned to prohibit and restrict the operation of offices, business establishments and other places to and from which people may travel or at which they may congregate; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(5) authorizes the undersigned to prohibit and restrict activities which may be reasonably necessary to maintain order and protect lives and property during a state of emergency; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), during a Gubernatorially declared State of Emergency, the undersigned has the power to "give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article".

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Stay at Home

1. **Stay at home or place of residence**. All individuals currently in the State of North Carolina are ordered to stay at home, their place of residence, or current place of abode, (hereinafter "residence") except as allowed in this Executive Order. To the extent individuals are using shared or outdoor spaces when outside their residence, they must at all times and as much as reasonably possible, maintain social distancing of at least six (6) feet from any other person, with the exception of family or household members, consistent with the Social Distancing Requirements set forth in this Executive Order. All persons may leave their homes or place of residence only for Essential Activities, Essential Governmental Operations, or to participate in or access COVID-19 Essential Businesses and Operations, all as defined below.

   Individuals experiencing homelessness are exempt from this Executive Order, but are strongly urged to obtain shelter that meets Social Distancing Requirements. Individuals whose residences are unsafe or become unsafe, such as victims of domestic violence, are permitted and urged to leave their home and stay at a safe alternative location.

2. **Prohibited and permitted travel**. Only travel for Essential Activities as defined herein is permitted. People riding on public transit must comply with Social Distancing Requirements to the greatest extent feasible. This Executive Order allows travel into, within, or out of the State to maintain COVID-19 Essential Businesses and Operations and Minimum Basic Operations.

3. **Leaving the home and travel for Essential Activities is permitted**. For purposes of this Executive Order, individuals may leave their residence only to perform any of the following Essential Activities:

   i. **For health and safety**. To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members or persons who are unable to or should not leave their home (including, but not limited to, pets), such as, by way of example only and without limitation, seeking emergency services, obtaining medical supplies or medication, or visiting a health care professional or veterinarian.

   ii. **For necessary supplies and services**. To obtain necessary services or supplies for themselves and their family or household members or persons who are unable or should not leave their home, or to deliver those services or supplies to others, such as, by way of example only and without limitation, groceries and food, household consumer products, supplies they need to work from home, automobile supplies (including sales, parts, supplies, repair and maintenance), and products necessary to maintain the safety, sanitation, and essential operation of residences or places of employment.

   iii. **For outdoor activity**. To engage in outdoor activity, provided individuals comply with Social Distancing Requirements and Mass Gatherings, as defined below, such as, by way of example and without limitation, walking, hiking, running, golfing, or biking. Individuals may go to public parks and open outdoor recreation areas. However, public playground equipment may increase spread of COVID-19, and therefore shall be closed. These activities are subject to the limitations on events or convenings in Section 3 of this Executive Order.

iv. **For certain types of work**. To perform work at businesses authorized to remain open under Section 2 of this Executive Order (which, as defined below, includes Healthcare and Public Health Operations, Human Services Operations, Essential Governmental Operations, and Essential Infrastructure Operations) or to otherwise carry out activities specifically permitted in this Executive Order, including Minimum Basic Operations.

v. **To take care of others**. To care for or assist a family member, friend, or pet in another household, and to transport family members, friends, or pets as allowed by this Executive Order. This includes attending weddings and funerals provided individuals comply with Social Distancing Requirements and Mass Gatherings as set forth below.

vi. **Place of worship**. Travel to and from a place of worship.

vii. **To receive goods and services**. To receive goods and services provided by a COVID-19 Essential Business or Operation.

viii. **Place of residence**. To return to or travel between one's place or places of residence for purposes including, but not limited to, child custody or visitation arrangements.

ix. **Volunteering**. To volunteer with organizations that provide charitable and social services.

Section 2. COVID-19 Essential Businesses and Operations

In order to slow the spread of COVID-19, it is necessary to reduce the instances where individuals interact with one another in a manner inconsistent with the Social Distancing Requirements set forth below. Many of those interactions occur at work. At the same time, it is necessary that certain businesses, essential to the response to COVID-19, to the infrastructure of the State and nation, and to the day-to-day life of North Carolinians, remain open.

A. In light of the above considerations, non-essential business and operations must cease. All businesses and operations in the State, except COVID-19 Essential Businesses and Operations as defined below, are required to cease all activities within the State except Minimum Basic Operations, as defined below. For clarity, businesses, including home-based businesses, may also continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home).

B. All COVID-19 Essential Businesses and Operations are directed, to the maximum extent possible, to direct employees to work from home or telework.

C. For purposes of this Executive Order, a COVID-19 Essential Business and Operation includes the following businesses, not-for-profit organizations and educational institutions.

1. **Businesses that meet Social Distancing Requirements.** Businesses, not-for-profit organizations or educational institutions that conduct operations while maintaining Social Distancing Requirements:

   a. Between and among its employees; and

   b. Between and among employees and customers except at the point of sale or purchase.

2. **Businesses operating in CISA identified sectors.** Businesses, not-for-profit organizations or educational institutions operating in the federal critical infrastructure sectors as outlined at https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19 or any subsequent guidance issued by the U.S. Department of Homeland Security that amends or replaces said guidance.

3. **Healthcare and Public Health Operations.** Healthcare and Public Health Operations includes, but is not limited to: hospitals; clinics; dental offices; pharmacies; laboratories and laboratory service providers; public health entities, including those that compile, model, analyze and communicate public health information; pharmaceutical, pharmacy, medical device and equipment, and biotechnology and agricultural biotechnology companies (including operations, research and development, manufacture, and supply chain); organizations collecting blood, platelets, plasma, and other necessary materials; obstetricians and gynecologists; eye care centers, including those that sell glasses and contact lenses; dietary supplement retailers; naturopathic healthcare providers; home healthcare services providers; local management entities/managed care organizations (LME/MCO); mental health and substance use providers; other healthcare facilities and suppliers and providers of any related and/or ancillary healthcare services; and entities that transport and dispose of medical materials and remains.

   Specifically included in Healthcare and Public Health Operations are manufacturers, technicians, logistics, and warehouse operators and distributors of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, and tissue and paper towel products.

   Healthcare and Public Health Operations also includes veterinary care and all healthcare services provided to animals.

   Healthcare and Public Health Operations shall be construed broadly to avoid any impacts to the delivery of healthcare, or public health operations broadly defined. Healthcare and Public Health Operations does not include those businesses ordered to close by Executive Order No. 120.

4. **Human Services Operations.** Human Services Operations includes, but is not limited to: long-term care facilities; child care centers, family child care homes; residential settings and shelters for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness; transitional facilities; home-based settings to provide services to individuals with physical, intellectual, and/or developmental disabilities, seniors, adults, and children; field offices that provide and help to determine eligibility for basic needs, including food, cash assistance, medical coverage, child care, child support services, vocational services, rehabilitation services; developmental centers; adoption agencies; businesses that provide food, shelter, social services, transportation and other necessities of life for economically disadvantaged individuals, individuals with physical, intellectual, and/or developmental disabilities, or otherwise needy individuals.

   Human Services Operations shall be construed broadly to avoid any impacts to the delivery of human services, broadly defined.

5. **Essential Infrastructure Operations.** Essential Infrastructure Operations includes, but is not limited to: food and beverage production, distribution, fulfillment centers, storage facilities; construction (including, but not limited to, construction required in response to this public health emergency, hospital construction, construction of long term care facilities, public works construction, school construction, and essential commercial and housing construction); building and grounds management and maintenance including landscaping; airport operations; operation and maintenance of utilities, including water, sewer, and gas; electrical (including power generation, distribution, and production of raw materials); distribution centers; oil and biofuel refining; roads, highways, railroads, and public transportation; ports; cybersecurity operations; flood control; solid waste and recycling collection and removal; and internet, video and telecommunications systems (including the provision of essential global, national and local infrastructure for computing services, business infrastructure, communications, and web-based services).

(including the provision of essential global, national and local infrastructure for computing services, business infrastructure, communications, and web-based services).

Essential Infrastructure Operations shall be construed broadly to avoid any impacts to essential infrastructure, broadly defined.

6. **Essential Governmental Operations.** Essential Governmental Operations means all services provided by the State or any municipality, township, county, political subdivision, board, commission or agency of government and needed to ensure the continuing operation of the government agencies or to provide for or support the health, safety and welfare of the public, and including contractors performing Essential Governmental Operations. Each government body shall determine its Essential Governmental Operations and identify employees and/or contractors necessary to the performance of those functions.

   For purposes of this Executive Order, all first responders, emergency management personnel, emergency dispatchers, legislators, judges, court personnel, jurors and grand jurors, law enforcement and corrections personnel, hazardous materials responders, child protection and child welfare personnel, housing and shelter personnel, military, and other governmental employees working for or to support COVID-19 Essential Businesses and Operations are categorically exempt from this Executive Order.

   This Executive Order does not apply to the United States government. Nothing in this Executive Order shall prohibit any individual from performing or accessing Essential Governmental Operations. Nothing in this Executive Order rescinds, amends, or otherwise modifies Section 2 of Executive Order No. 120.

7. **Stores that sell groceries and medicine.** Grocery stores, pharmacies, certified farmers' markets, farm and produce stands, supermarkets, convenience stores, and other establishments engaged in the retail sale of groceries, canned food, dry goods, frozen foods, fresh fruits and vegetables, pet supplies, fresh meats, fish, and poultry, prepared food, alcoholic and nonalcoholic beverages, any other household consumer products (such as cleaning and personal care products), and specifically includes their supply chain and administrative support operations. This includes stores that sell groceries, medicine, including medication not requiring a medical prescription, and also that sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences and COVID-19 Essential Businesses and Operations.

8. **Food, beverage production and agriculture.** Food and beverage manufacturing, production, processing, and cultivation, including farming, livestock, fishing, forestry, baking, and other production agriculture, including cultivation, marketing, production, and distribution of animals and goods for consumption; and businesses that provide food, shelter, services and other necessities of life for animals, including animal shelters, rescues, shelters, kennels, and adoption facilities.

9. **Organizations that provide charitable and social services.** Businesses as well as religious and secular not-for-profit organizations, including food banks, when providing food, shelter, social services, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.

10. **Religious entities.** Religious facilities, entities, groups, gatherings, including funerals. Also, services, counseling, pastoral care, and other activities provided by religious organizations to the members of their faith community. All of these functions are subject to the limitations on events or convenings in Section 3 of this Executive Order.

11. **Media.** Newspapers, television, radio, film, and other media services.

12. **Gas stations and businesses needed for transportation.** Gas stations and auto supply, sales, tire, auto-repair, roadside assistance and towing services, farm equipment, construction equipment, boat repair, and related facilities and bicycle shops and related facilities.

13. **Financial and insurance institutions.** Bank, currency exchanges, consumer lenders, including but not limited to, pawnbrokers, consumer installment lenders and sales finance lenders, credit unions, appraisers, title companies, financial markets, trading and futures exchanges, affiliates of financial institutions, entities that issue bonds, related financial institutions, and institutions selling financial products. Also insurance companies, underwriters, agents, brokers, and related insurance claims and agency services.

14. **Home improvement, hardware and supply stores.** Home improvement, building supply, hardware stores, and businesses that sell building materials and supplies, electrical, plumbing, and heating materials.

15. **Critical trades.** Building and construction tradesmen and tradeswomen, and other trades, including but not limited to, plumbers, electricians, exterminators, cleaning and janitorial staff for commercial and governmental properties, security staff, operating engineers, HVAC, painting, cleaning services, moving and relocation services, landscaping and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences and COVID-19 Essential Businesses and Operations. This includes organizations that represent employees.

16. **Mail, post, shipping, logistics, delivery, and pick-up services.** Post offices and other businesses that provide shipping and delivery services, and businesses that ship or deliver groceries, food, alcoholic and non-alcoholic beverages, goods, vehicles or services to end users or through commercial channels.

17. **Educational institutions.** Educational institutions including public and private pre-K-12 schools, colleges, and universities for purposes of facilitating remote learning, performing critical research, or performing essential functions, provided that the Social Distancing Requirements set forth below of this Executive Order are maintained to the greatest extent possible. This Executive Order is consistent with and does not amend or supersede prior Executive Orders regarding the closure of public schools.

18. **Laundry services.** Laundromats, dry cleaners, industrial laundry services, and laundry service providers.

19. **Restaurants for consumption off-premises.** Restaurants and other facilities that prepare and serve food, but only for consumption off-premises, through such means as in-house delivery, third-party delivery, drive-through, curbside pick-up, and carry-out. Schools and other entities that provide free food services to students or members of the public may continue to do so under this Executive Order when the food is provided for carry-out, drive-through or delivery. This Executive Order is consistent with and does not amend or supersede prior COVID-19 related Executive Orders restricting the operations of restaurants and temporarily closing bars.

20. **Supplies to work from home.** Businesses that sell, manufacture, or supply office supply products or other products needed for people to work from home.

21. **Supplies for COVID-19 Essential Businesses and Operations.** Businesses that sell, manufacture, support, or supply other COVID-19 Essential Businesses and Operations with the service or materials necessary to operate, including computers, audio and video electronics, household appliances; payroll processing and related services; IT and telecommunication equipment; elections personnel and election-related equipment supplies; hardware, paint, flat glass, electrical, plumbing and heating material; sanitary equipment; personal hygiene products; food, food additives, ingredients and components; medical and orthopedic equipment; optics and photography equipment; and diagnostics, food and beverages, chemicals, soaps and detergent.

22. **Transportation.** Airlines, taxis, automobile dealers, transportation network providers (such as Uber and Lyft), vehicle rental services, paratransit, trains, marinas, docks, boat storage, and other private, public, and commercial transportation and logistics providers, and public transportation necessary to access COVID-19 Essential Businesses and Operations.

23. **Home-based care and services.** Home-based care for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness, including caregivers such as nannies who may travel to the child's home to provide care, and other in-home services including meal delivery.

24. **Residential facilities and shelters.** Residential facilities and shelters for adults, seniors, children, pets, and/or people with developmental disabilities, intellectual disabilities, victims of domestic violence, people experiencing homelessness, substance use disorders, and/or mental illness.

25. **Professional services.** Professional services, such as legal services, accounting services, insurance services, professional engineering and architectural services, land surveying services, real estate services (including brokerage, appraisal and title services) and tax preparation services.

26. **Manufacture, distribution, and supply chain for critical products and industries.** Manufacturing companies, distributors, and supply chain companies producing and supplying essential products and services in and for industries such as pharmaceutical, technology, biotechnology, healthcare, chemicals and sanitization, waste pickup and disposal, agriculture, food and beverage, transportation, energy, steel and steel products, petroleum and fuel, mining, construction, communications, as well as products used or commonly sold by other COVID-19 Essential Businesses and Operations.

27. **Defense and military contractors.** Defense and military contractors that develop products, processes, equipment, technology, and related services that serve the United States military, national defense, and national security interests.

28. **Hotels and motels.** Hotels and motels, to the extent used for lodging and delivery or carry-out food services.

29. **Funeral Services.** Funeral, mortuary, cremation, burial, cemetery, and related services. These services are subject to the limitations on events or convenings in Section 3 of this Executive Order.

30. **Additional COVID-19 Essential Retail Businesses.** Additional COVID-19 Essential Retail Businesses are:

    - Electronic retailers that sell or service cell phones, computers, tablets, and other communications technology;
    - Lawn and garden equipment retailers;
    - Book stores that sell educational material;
    - Beer, wine, and liquor stores;
    - Retail functions of gas stations and convenience stores;
    - Retail located within healthcare facilities;
    - Pet and feed stores.

D. All COVID-19 Essential Businesses and Operations shall, to the extent practicable, maintain the Social Distancing Requirements set forth in this Executive Order.

E. "Social Distancing Requirements" as used in this Executive Order means:

    a. maintaining at least six (6) feet distancing from other individuals;

    b. washing hands using soap and water for at least twenty (20) seconds as frequently as possible or the use of hand sanitizer;

    c. regularly cleaning high-touch surfaces;

    d. facilitating online or remote access by customers if possible.

F. Businesses excluded from the list of COVID-19 Essential Businesses and Operations set forth in this Executive Order who believe that they may be essential may direct requests to be included to the North Carolina Department of Revenue (the "Department"). The Department may grant such request if it determines that it is in the best interest of the State to have the business continue operations in order to properly respond to this COVID-19 pandemic. The Department shall post on its website a point of contact and procedure for businesses seeking to be designated as essential. A business that has made a request to the Department to be included as a COVID-19 Essential Business or Operation may continue to operate until that request is acted upon.

G. Businesses that are not COVID-19 Essential Businesses and Operations are required to cease all activities within the State except Minimum Basic Operations, as defined below. Businesses that are not COVID-19 Essential Businesses and Operations should comply with Social Distancing Requirements, to the maximum extent possible, when carrying out their Minimum Basic Operations.

As used in this Executive Order, "Minimum Basic Operations" include the following:

i) The minimum necessary activities to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or related functions.

ii) The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.

H. Notwithstanding any other provision of this Executive Order, the businesses, not-for-profit organizations and educational institutions that were ordered closed by Executive Order Nos. 118 and 120 shall remain closed.

Section 3. Mass Gatherings

For the reasons and pursuant to the authority set forth above:

A. Section 1(a) of Executive Order Nos. 117 and 120 is rescinded and replaced as follows:

1. A mass gathering is defined as any event or convening that brings together more than ten (10) persons in a single room or single space at the same time, such as an auditorium, stadium, arena, large conference room, meeting hall, or any other confined indoor or outdoor space. This includes parades, fairs and festivals.

2. A mass gathering does not include normal operations at airports, bus and train stations, medical facilities, libraries, shopping malls and centers. It also does not include any COVID-19 Essential Business or Operation as defined in this Executive Order.

3. Notwithstanding the above, and in an effort to promote human dignity and limit suffering, funerals are permitted to include no more than fifty (50) persons, while observing Social Distancing Requirements to the extent practicable.

4. Pursuant to N.C. Gen. Stat. §§ 166A-19.30(a)(2), -19.30(c) the provisions of this section shall be enforced by state and local law enforcement officers.

The remainder of Executive Order Nos. 117 and 120 continue to be in effect.

Section 4. Local Orders

A. The undersigned recognizes that the impact of COVID-19 has been and will likely continue to be different in different parts of North Carolina. Urban areas have seen more rapid and significant spread than most rural areas of the state. As such, the undersigned acknowledges that counties and cities may deem it necessary to adopt ordinances and issue state of emergency declarations which impose restrictions or prohibitions to the extent authorized under North Carolina law, such as on the activity of people and businesses, to a greater degree than in this

Executive Order. To that end, nothing herein is intended to limit or prohibit counties and cities in North Carolina from enacting ordinances and issuing state of emergency declarations which impose greater restrictions or prohibitions to the extent authorized under North Carolina law.

B. Notwithstanding the language in paragraph (A) of this Section, no county or city ordinance or declaration shall have the effect of restricting or prohibiting COVID-19 Essential Governmental Operations of the State as determined by the State.

C. Nothing in this Executive Order rescinds, amends, or otherwise modifies Section 2 of Executive Order No. 120.

Section 5. Savings Clause

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

Section 6. Enforcement

A. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provisions of this Executive Order shall be enforced by state and local law enforcement officers.

B. A violation of this Executive Order may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d), and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A.

C. Nothing in this Executive Order shall be construed to preempt or overrule a court order regarding an individual's conduct (e.g., a Domestic Violence Protection Order or similar orders limiting an individual's access to a particular place).

Section 7. Effective Date

This Executive Order is effective Monday, March 30, 2020, at 5:00pm, and shall remain in effect for thirty (30) days from that date or unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 27th day of March in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Rodney S. Maddox
Chief Deputy Secretary of State

State of North Carolina

ROY COOPER

GOVERNOR

March 30, 2020

EXECUTIVE ORDER NO. 122

DONATION OR TRANSFER OF STATE SURPLUS PROPERTY TO ASSIST STATE AGENCIES, LOCAL GOVERNMENTS, AND SCHOOLS IN RESPONSE TO PUBLIC HEALTH EMERGENCY

WHEREAS, the undersigned issued Executive Order No. 116 on March 10, 2020, which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq*. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency beginning March 1, 2020; and

WHEREAS, the undersigned has issued Executive Order Nos. 117 – 121 for the purposes of protecting the health, safety and welfare of the people of North Carolina; and

WHEREAS, on March 25, 2020, the President of the United States, pursuant to Section 401 of the Stafford Act, approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, further action is necessary to protect the health and safety of the residents of North Carolina, slow the spread of the COVID-19 pandemic, reduce the number of people infected, avoid strain on our healthcare system, and to address adverse economic impacts that would lead to additional human suffering upon individuals adversely impacted by the COVID-19 pandemic; and

WHEREAS, the State currently has surplus property that may be beneficial to State agencies, political subdivisions of the State, or to public schools in the State, including but not limited to personal protective equipment for health care and other first responders, along with

computers and other items that may be useful in facilitating the ability to participate in distance education opportunities;

WHEREAS, pursuant to N.C. Gen. Stat. § 143-64.01, the Secretary of the North Carolina Department of Administration ("the Secretary") is charged with overseeing and managing the State Surplus Property Office; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the Governor to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(7) authorizes the undersigned to utilize the services, equipment, supplies, and facilities of existing departments, office, and agencies of the State in response to such emergency; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Transfers of Surplus State Property

I hereby authorize the disposal of surplus State property by donation or transfer to any state agency, political subdivision of the State, or public school system in the State.

Section 2. Donations of Personal Protective Equipment and other Healthcare Supplies

I hereby authorize the Secretary, or the Secretary's designee, to approve donations or transfers of personal protective equipment and other health care supplies through the State's Health Care Coalitions or as directed by North Carolina Department of Health and Human Services.

Section 3. Implementation of this Order

I hereby authorize the Secretary, or the Secretary's designee, to carry out this Executive Order. Any North Carolina state agency, political subdivision, or public school system may contact the North Carolina State Surplus Property Office to identify what inventory is available for donation or transfer.

Section 4. Effective Date

This Executive Order is effective immediately and shall remain in effect unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 30th day of March in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Rodney S. Maddox
Chief Deputy Secretary of State

State of North Carolina

ROY COOPER

GOVERNOR

March 30, 2020

EXECUTIVE ORDER NO. 123

AMENDING EXECUTIVE ORDER NO. 40 BY EXTENDING THE NORTH CAROLINA EARLY CHILDHOOD ADVISORY COUNCIL

WHEREAS, pursuant to 42 U.S.C. § 9837b(b)(1)(A), Exec. Order No. 40, 32 N.C. Reg. 1737-1739 (March 15, 2018), which was issued on February 16, 2018, reestablished the North Carolina Early Childhood Advisory Council ("NCECAC"), initially created on March 15, 2011, to advise the undersigned on early childhood education; and

WHEREAS, the NCECAC is currently fulfilling its duty under 42 U.S.C. § 9837b(b)(1)(A) to ensure the state invests in a high quality early learning and development system for North Carolina's young children; and

WHEREAS, Executive Order No. 40 terminates on March 31, 2020; and

WHEREAS, the NCECAC was charged in Exec. Order No. 49, 33 N.C. Reg. 630-631 (October 1, 2018), which was issued on August 28, 2018, to collaborate with the North Carolina Department of Health and Human Services in developing the North Carolina Early Childhood Action Plan and continues to fulfill an important advisory role in supporting the implementation of the plan.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1.

Executive Order No. 40 will remain in effect until 11:59 p.m. on December 31, 2020. Section 8 of Executive Order No. 40 is rewritten to read as follows:

> This Executive Order is effective immediately and shall remain in effect until 11:59 p.m. on December 31, 2020, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded, whichever comes first. The duration of the NCECAC may be extended by future executive order(s).

Section 2.

Executive Order No. 40, Section 3 is rewritten to read as follows:

> Current NCECAC members shall have their terms extended until 11:59 p.m. on December 31, 2020. If the Council is extended by future executive order(s), members shall serve two (2) year terms. Members may be re-appointed for an additional two-year term(s). Vacancies shall be filled by the Governor for the remainder of the unexpired term(s). Members appointed to fill unexpired terms shall serve for the remainder of their terms.

Section 3.

Executive Order No. 40, Section 4 is rewritten to read as follows:

The NCECAC will conduct business as needed and upon the call of the Governor. The Governor or the Governor's designee shall set the NCECAC's meeting agenda. A simple majority of the NCECAC's membership shall constitute a quorum for the purpose of transacting business.

The NCECAC shall provide an opportunity for public comment regarding its activities.

Section 4.

The remaining provisions in Executive Order No. 40 shall remain in effect until the order terminates at 11:59 p.m. on December 31, 2020. Upon the chair's recommendation, the Governor reserves the right to extend the Council's termination to a future date.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this the 30th day of March, in the year of our Lord two thousand twenty.

Roy Cooper
Governor

ATTEST:

Rodney S. Maddox
Chief Deputy Secretary of State

State of North Carolina

ROY COOPER
GOVERNOR

March 31, 2020

EXECUTIVE ORDER NO. 124

ASSISTING NORTH CAROLINIANS BY PROHIBITING UTILITY SHUT-OFFS, LATE FEES, AND RECONNECTION FEES; PROVIDING GUIDANCE ABOUT RESTRICTIONS ON EVICTIONS; AND ENCOURAGING TELECOMMUNICATIONS PROVIDERS, BANKS, AND MORTGAGE SERVICERS TO PROVIDE ASSISTANCE AND FLEXIBILITY TO THEIR CUSTOMERS

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116 which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq*. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency, retroactive to March 1, 2020; and

WHEREAS, the undersigned has issued Executive Order Nos. 117 – 122 for the purposes of protecting the health, safety and welfare of the people of North Carolina; and

WHEREAS, on March 25, 2020, the President of the United States, pursuant to Section 401 of the Stafford Act, approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") has confirmed the number of cases of COVID-19 in North Carolina continues to rise and has lab documentation that community spread has occurred; and

WHEREAS, hospital administrators and health care providers have expressed concerns that unless the spread of COVID-19 is limited, existing health care facilities may be insufficient to care for those who become sick; and

WHEREAS, to mitigate further community spread of COVID-19 and to reduce the burden on the state's health care providers and facilities, it is necessary to limit person-to-person contact in workplaces and communities; and

WHEREAS, such limitations on person-to-person contact are reasonably necessary to address the public health risk posed by COVID-19; and

WHEREAS, due to the State of Emergency, many North Carolinians must stay home, many must also work from home, and many businesses have been ordered closed, to slow the spread of COVID-19, and any dislocations that require people to leave their homes increase the risk of spread; and

WHEREAS, any disruptions or dislocations that would require people to leave their homes increase the risk of spread of COVID-19; and

WHEREAS, the economic effects of the pandemic have broadly affected utility customers across the state; and

WHEREAS, utility services are essential to the continued health and safety of residential utility customers, to the ability of workers and employers to engage in teleworking, and to the continued economic viability of business utility customers, even as the economic effects of the pandemic threaten customers' ability to pay for those utility services; and

WHEREAS, on March 19, 2020, the North Carolina Utilities Commission ("Utilities Commission" or "Commission") issued an Order Suspending Utility Disconnections for Non-Payment, Allowing Reconnection, and Waiving Certain Fees; and

WHEREAS, the Utilities Commission's March 19, 2020 order applied to only some of the utilities that are necessary for the continued well-being of North Carolina residents and the continued viability of North Carolina businesses; and

WHEREAS, the undersigned has determined that it is in the best interest of the people of North Carolina to enact, for all utilities, prohibitions and restrictions similar to and consistent with the Utilities Commission's March 19, 2020 order; and

WHEREAS, during this emergency, North Carolinians rely heavily on mass media and telecommunications systems as part of multiple critical activities, including (1) the public dissemination of critical information regarding governmental orders and advisories in response to COVID-19, including stay at home orders, shifts in the public school calendar, and announcements regarding the availability of resources; (2) educational activities, as students and educators have been required to stay at home but are continuing to participate in educational and instructional activities, many of which require the use of online resources and means of communication; (3) the provision of remote tele-medicine services, as urged by NCDHHS, to preserve healthcare system capacity to address the COVID-19 pandemic; and (4) teleworking that allows many businesses, non-profits, governmental agencies, and other organizations to continue to carry out their essential functions; and

WHEREAS, to minimize the possibility of mandatory measures that may need to be taken in the future, the undersigned urges all telecommunications companies serving North Carolina customers to voluntarily provide flexibility to their customers, including through the measures set forth below; and

WHEREAS, the economic effects of the COVID-19 pandemic have led to loss of income for many in North Carolina, making it difficult for many to make timely rental housing payments, creating a risk of eviction; and

WHEREAS, evictions and disconnections of utility services would exacerbate public health and safety risks because of dislocated customers; and

WHEREAS, in orders issued on March 13 and March 19, 2020, the Chief Justice of the Supreme Court of North Carolina exercised her authority under N.C. Gen. Stat. § 7A-39(b)(2) to order most district court and superior court proceedings to be scheduled or rescheduled no sooner than April 17, 2020; and to order that pleadings, motions, notices, and other documents and papers that were or are due to be filed in any county of this state on or after March 16, 2020 and before the close of business on April 17, 2020 in civil actions, criminal actions, estates, and special proceedings shall be deemed to be timely filed if they are filed before the close of business on April 17, 2020; and to order that all other acts that were or are due to be done in any county of this state on or after March 16, 2020 and before the close of business on 17 April 2020 in civil actions, criminal actions, estates, and special proceedings shall be deemed to be timely done if they are done before the close of business on April 17, 2020; and

WHEREAS, the U.S. Department of Housing and Urban Development issued an order dated March 18, 2020, imposing a sixty (60) day moratorium on evictions and foreclosures for single family homeowners with FHA-insured mortgages; and

WHEREAS, the undersigned and the Attorney General wish to provide clear guidance to the public about the effect of the Chief Justice's order on evictions; and

WHEREAS, because of the economic effects of the COVID-19 pandemic, many North Carolinians are enduring financial hardship and financial insecurity; and

WHEREAS, the undersigned encourages North Carolina-licensed or North Carolina-regulated financial institutions, including but not limited to banks and mortgage servicers, to provide assistance and flexibility to their customers; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(7), the undersigned is authorized and empowered to utilize the services, equipment, supplies, and facilities of political subdivisions, and their officers and personnel are required to cooperate with and extend such services and facilities to the undersigned upon request; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. §§ 75-14, 75-15, 114-2(2), and 114-2(8), the Attorney General has the authority to bring civil actions to enforce compliance with the State's Unfair or Deceptive Trade Practices Act, to represent State agencies in litigation, and to institute or intervene in proceedings before any courts and regulatory bodies on behalf of the State and the using and consuming public; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), during a Gubernatorially declared State of Emergency, the undersigned has the power to "give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article"; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(3), the undersigned may take steps to assure that measures, including the installation of public utilities, are taken when necessary to qualify for temporary housing assistance from the federal government when that assistance is required to protect the public health, welfare, and safety; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(3), the undersigned, with the concurrence of the Council of State, may regulate and control the maintenance, extension, and operation of public utility services and facilities; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a State agency or political subdivision which restricts the immediate relief of human suffering; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5), the undersigned, with the concurrence of the Council of State, may perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, the undersigned has sought and obtained concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30; and

WHEREAS, under the terms of N.C. Gen. Stat. § 166A-19.70(a), utilities are considered critical infrastructure for the State of North Carolina.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Assistance for North Carolina Utility Customers

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

A. Definitions

1. In this Section of this Executive Order, "Utility Service Providers" means all political subdivisions, organizations, quasi-governmental entities, and businesses that provide directly to end-user residential customers electric, natural gas, water, or wastewater services, as well as all providers of a combination of these services.

2. This Section applies to all Utility Service Providers, regardless whether they are investor-owned public utilities, are private companies, are member-owned cooperatives, or are owned or operated by a political subdivision of the State or a quasi-governmental agency. This Section applies whether services are pre-paid or post-paid.

3. The restrictions placed on Utility Service Providers by this Section should, in cases of any ambiguity, be interpreted to be consistent with the restrictions imposed upon certain Utility Service Providers by the North Carolina Utilities Commission in its March 19, 2020 Order Suspending Utility Disconnections for Non-Payment, Allowing Reconnection, and Waiving Certain Fees, Docket M-2, Sub 158.

B. **Prohibiting utilities from terminating service.** No Utility Service Provider shall terminate the service of a residential customer for nonpayment. Utility Service Providers may terminate service of a customer when necessary as a matter of safety or when requested by the customer.

C. **Late fees and payment arrangements.** A Utility Service Provider shall not bill or collect any fee, charge, penalty, or interest for a late or otherwise untimely payment that becomes due from the date of this Executive Order. Customers shall be provided the opportunity to make reasonable payment arrangements to pay off over at least a six (6) month period any arrearages accumulated during the effective period of this Executive Order and any order extending this Executive Order and 180 days thereafter. The six (6) month payoff period shall be calculated from the date of termination of this Section of this Executive Order or, if other applicable Executive Orders extend the protections of this Section, from the date of termination of the last Order that extends such protections; provided, however, that Utility Service Providers subject to the Utilities Commission's March 19, 2020 Order shall remain subject to the terms of that order after this Executive Order expires. No interest or late fee shall be charged on arrearages. No provision in this Executive Order shall be construed as relieving a customer of their obligation to pay bills for receipt of any service covered by this Executive Order.

D. **Reconnection of service.** A Utility Service Provider is encouraged to reconnect previously disconnected service to the extent practicable and waive any penalties or reconnection fees, and any policies or ordinances that prevent re-connection of disconnected customers are suspended.

E. **Payment assistance.** NCDHHS and the North Carolina Department of Environmental Quality shall work with Utility Service Providers to publicize payment assistance programs to aid customers, particularly customers qualified for the Low Income Energy Assistance Program, in the payment of their utility bills.

F. **Notification.** Utility Service Providers shall reasonably inform their customers of the applicable provisions contained in this Executive Order through the means those providers most typically use to communicate urgent messages to customers, such as print, email, SMS text message, Internet, and phone calls. Utility Service Providers shall maintain reasonable records that show the notifications provided under this Section of this Executive Order and to whom those notifications were delivered.

G. **Duration.** This Section shall remain in effect for sixty (60) days, unless rescinded or superseded by another applicable Executive Order; provided, however, that after that date, the provisions of this Section shall continue to apply to arrearages that accumulated while this Executive Order was in effect.

H. **Limitations on this Section**

1. This Section applies to all ordinary monthly (or other periodically-issued) charges for service to residential customer locations in North Carolina by all Utility Service Providers, whether for their customers' business or personal use.

2. This Section does not apply to additional optional services ordered by customers above their usual periodic charges, including, by means of example, options or services that the customer added on or after the date of this Executive Order in addition to their normal services.

3. This Section does not apply to issuance or collection of special fees or penalties issued to customers for unusual use, such as fines or penalties for improper disposal or charges for extraordinary discharges of wastewater.

I. **Effect on regulations and ordinances.** The effect of any regulation, policy, or ordinance of a political subdivision or agency of the state inconsistent with this Section is hereby suspended.

J. **Implementation and enforcement.** The undersigned directs that the North Carolina Utilities Commission monitor responses and provide assistance and guidance to Utility Service Providers, including to the extent possible Utility Service Providers not under the Commission's regulatory jurisdiction, in implementing the provisions of this Section of this Executive Order. Utility Service Providers shall report implementation information weekly to the North Carolina Utilities Commission, including the following: (1) number of accounts by type (e.g., residential or business account) for which service termination was forborne, (2) number of reconnections by type of account, (3) amount of late fees and other penalties not collected, (4) number of accounts on an extended repayment plan, (5) customer notification information, and any other information determined by the Utilities Commission. The Utilities Commission and the Attorney General shall have the authority to enforce the provisions of this Executive Order through any methods provided by current law. The Utilities Commission, and to the extent necessary for any Utility Service Providers not within the Utilities Commission's jurisdiction, the Attorney General may waive provisions in their discretion and order an effective alternative. The Commission shall provide a weekly report to the Governor's Office on implementation of this Executive Order.

Section 2. Guidance on Cable, Telecommunications, and Related Services

A. Telecommunications, mobile telecommunications, cable, Internet, and wi-fi or wireless Internet service providers are urged to follow the guidelines outlined in Section 1 of this Executive Order, including the following measures:

1. Ceasing, for the duration of this State of Emergency, termination of customers' service for nonpayment; and

2. Waiving any fee, charge, penalty, or interest for a late or otherwise untimely payment that has come due or becomes due during the State of Emergency; and

3. Allowing customers to make reasonable payment arrangements to pay off, over at least a six (6) month period, any arrearages that accumulate during the effective period of this Executive Order, starting after the end of this State of Emergency; and

4. Reconnect, to the extent feasible, practicable and appropriate, any customers who wish to be re-connected during the duration of this State of Emergency, with penalties and reconnection fees waived.

B. In addition to the provisions included in this Section, all telecommunications service providers are urged to lift or greatly expand data caps where they have not done so already.

C. The undersigned requests that the Attorney General convene cable, telecommunications, and related service providers in the state to identify specific and effective measures they can take individually and collectively to ensure that necessary services continue to be provided to people in the State of North Carolina to the maximum extent practicable.

Section 3. Guidance Concerning Eviction Proceedings

As guidance to North Carolinians, the undersigned highlights and explains the effect on evictions of the March 13, 2020 and March 19, 2020 orders by the Chief Justice of the North Carolina Supreme Court. The Attorney General has consulted with the undersigned on this Section of this Executive Order and joins in this guidance.

Pursuant to the Chief Justice's orders referenced above, there should be no new eviction proceedings until the orders expire. The current expiration date is April 17, 2020, unless extended by further order of the Chief Justice.

During this time period, there should also be no new rental bonds due.

The Clerks of Superior Court may, in their discretion, delay, until regular court operations resume, issuing Writs of Possession for Real Property, which are the legal documents under which sheriffs perform evictions. The undersigned and the Attorney General strongly encourage all Clerks of Superior Court to follow the spirit of the Chief Justice's order and to hold the issuance of all Writs of Possession of Real Property until April 17 or any later date subsequently ordered.

Further, the undersigned and the Attorney General strongly encourage sheriffs to delay, until regular court operations resume, the execution of any Writs of Possession for Real Property that have already been issued, consistent with the spirit of the order and in support of public health and public safety.

Finally, the undersigned and the Attorney General strongly encourage all property owners to work with tenants to the best of their abilities to implement payment plans and avoid evictions, in light of the State of Emergency in North Carolina, including cancelling pending evictions by notifying the relevant Sheriff's Office. Similarly, the undersigned and the Attorney General strongly encourage all lenders to work with property owners to the best of their abilities to provide loan payment flexibility that enables property owners to avoid evictions of tenants, in light of the State of Emergency in North Carolina.

Section 4. Assistance for Bank and Mortgage Companies' Customers

For the reasons and pursuant to the authority set forth above:

A. The undersigned urges that all North Carolina-licensed or -regulated (i) banks, (ii) savings banks, (iii) savings and loan associations, (iv) trust companies, (v) mortgage-lenders, (vi) servicers, (vii) brokers and mortgage loan originators, (viii) consumer finance companies, (ix) check cashers, (x) money transmitters or prepaid card providers, (xi) tax refund anticipation loan facilitators, and (xii) credit unions operating in the State of North Carolina should immediately implement the following reasonable and prudent measures for individual and business customers who are North Carolina residents and can demonstrate financial hardship caused by COVID-19.

1. Waive overdraft fees.

2. Extend new credit to creditworthy borrowers on lenient terms, subject to safety and soundness considerations.

3. Waive late fees for credit card and other loan balances.

4. Waive automated teller machine (ATM) fees.

5. Increase daily ATM daily cash withdrawal limits.

6. Increase credit card limits for creditworthy customers.

7. Lower or waive fees on prepaid credit or debit cards.

8. Waive early withdrawal penalties on time deposits.

9. Offer payment accommodations, such as allowing loan customers to defer payments at no cost, extending the payment due dates or otherwise adjusting or altering terms of existing loans, which would avoid delinquencies, trigger events of default or similar adverse consequences.

10. Cease reporting derogatory information (e.g., late payments, but not including forbearances) to credit reporting agencies for a period of ninety (90) days.

11. Ensure that customers do not experience a disruption of service if financial institutions close their physical offices. This may include shifting call centers to teleworking, making services available through Internet chat, or other electronic avenues for customers to continue to manage their accounts and to make inquiries.

12. Alert customers to the heightened risk of scams and price gouging during the COVID-19 pandemic.

13. Notify customers by various means, including but not limited to the entity's website, apps, and (if authorized by the customer) texts or emails, to explain the above-listed assistance being offered to customers.

B. The undersigned urges that all entities covered by Subsection A of this Section that service mortgages ("mortgage servicing entities") shall voluntarily, but immediately take actions to alleviate the adverse impact caused by COVID-19 on those North Carolina resident mortgage borrowers ("mortgagors") who attest that they are not able to make timely payments. Mortgage servicing entities are urged to take the following reasonable and prudent actions to support those adversely impacted mortgagors:

1. Forbear mortgage payments for at least 180 days from their due dates and give mortgagors the option to extend loan terms by that number of days without a lump sum payment due at the end of the forbearance period.

2. Refrain from reporting late payments to credit reporting agencies for at least 180 days.

3. To the extent possible under existing law, offer mortgagors an additional ninety (90) day grace period to complete trial loan modifications, and ensure that late payments during the COVID-19 pandemic do not affect their ability to obtain permanent loan modifications.

4. Waive late payment fees and any online or telephonic payment fees for a period of ninety (90) days.

5. Postpone foreclosures and evictions for at least ninety (90) days.

6. Notify customers by various means, including but not limited to the entity's website, apps, and (if authorized by the customer) texts or emails, to explain the above-listed assistance being offered to customers.

Section 5. Savings Clause

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

Section 6. Distribution

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 7. Effective Date

This Executive Order is effective immediately. This Executive Order shall remain in effect for sixty (60) days unless rescinded or replaced with a superseding Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 31st day of March in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Rodney S. Maddox
Chief Deputy Secretary of State

State of North Carolina

ROY COOPER

GOVERNOR

April 1, 2020

EXECUTIVE ORDER NO. 125

AUTHORIZING AND ENCOURAGING REMOTE SHAREHOLDER MEETINGS DURING THE COVID-19 STATE OF EMERGENCY

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116 which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq.* and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency, retroactive to March 1, 2020; and

WHEREAS, the undersigned has issued Executive Order Nos. 117 – 122 and 124 for the purposes of protecting the health, safety and welfare of the people of North Carolina; and

WHEREAS, on March 25, 2020, the President of the United States, pursuant to Section 401 of the Stafford Act, approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") has confirmed the number of cases of COVID-19 in North Carolina continues to rise and has lab documentation that community spread has occurred; and

WHEREAS, hospital administrators and health care providers have expressed concerns that unless the spread of COVID-19 is limited, existing health care facilities may be insufficient to care for those who become sick; and

WHEREAS, to mitigate further community spread of COVID-19 and to reduce the burden on the state's health care providers and facilities, it is necessary to limit person-to-person contact in workplaces and communities; and

WHEREAS, such limitations on person-to-person contact are reasonably necessary to address the public health risk posed by COVID-19; and

WHEREAS, the North Carolina Business Corporation Act provides that annual and special meetings of a corporation's shareholders be held at a "place" stated in or fixed in accordance with a corporation's bylaws, N.C. Gen. Stat. § 55-7-01, and "shareholders of any class or series" may, upon the board of directors' authorization, "participate in any meeting of shareholders by means of remote communication" so long as the corporation has implemented certain "reasonable measures," N.C. Gen. Stat. § 55-7-09(b); and

WHEREAS, electronic devices or processes exist that allow shareholders to be in the same place that a separately located meeting is being conducted and to participate in the separately located meeting by sight and sound; and

WHEREAS, the undersigned has previously limited Mass Gatherings to ten or fewer people in certain circumstances in Executive Order 121 on March 27, 2020; and

WHEREAS, corporations may have shareholder meetings where ten or more shareholders seek to participate; and

WHEREAS, many other states, including the State of Delaware, permit annual shareholders' meetings to be held by remote participation; and

WHEREAS, corporations have sought guidance as to interactions between the Mass Gathering restrictions and the North Carolina Business Corporation Act; and

WHEREAS, for the protection of the public health, the undersigned encourages North Carolina corporations to hold shareholders' meetings by remote participation, to the maximum extent practicable, to prevent shareholders from having to gather in a place, and thereby to promote social distancing and the mitigation of the spread of COVID-19; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available State resources as reasonably necessary to cope with an emergency, including the direction of functions of State agencies for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the undersigned may take such action and give such directions to State and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of the Emergency Management Act and with the orders, rules, and regulations made thereunder; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(2), the undersigned may give to all participating State officers such directions as may be necessary to assure coordination among them; and

WHEREAS, pursuant to N.C. Gen. Stat. §§ 166A-19.30(c)(2) and 166A-19.31(b)(2), the undersigned may enact prohibitions and restrictions on the operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Encouraging and Authorizing Shareholders' Meetings To Be Conducted by Means of Remote Communication

For the reasons and pursuant to the authority set forth above, the Governor states the following:

Corporations incorporated under the laws of the State of North Carolina that hold, commence or send formal notice to its shareholders of any meeting(s) of its shareholders pursuant to Section 55-7-01 et seq. of the North Carolina Business Corporation Act during the State of Emergency are permitted to conduct such meeting in accordance with the following conditions.

A. During the pendency of this State of Emergency, the board of directors of the corporation may, in its sole discretion, determine that all or any part of the shareholders' meeting may be held solely by means of remote communication, provided that the following conditions are met.

   1. Shareholders shall be given the opportunity to participate in, and vote at, such shareholders' meeting in accordance with the provisions of Section 55-7-09 of the North Carolina Business Corporation Act.

   2. The corporation's shareholders shall have the right to participate in such shareholders' meeting by means of remote communication, including with respect to the conduct of the business of such shareholders' meeting.

B. Further, for a meeting carried out pursuant to of this Executive Order:

   1. Any party authorized by the corporation's board of directors to preside at or otherwise carry out any responsibility at such shareholders' meeting shall be permitted to preside at or otherwise carry out such responsibility by means of remote communication.

   2. For purposes of Section 55-7-05 of the North Carolina Business Corporation Act, the place of the meeting of shareholders shall be deemed to include the method of remote communication through which shareholders may participate in a meeting held solely by means of remote communication.

   3. To the extent that any such shareholders' meeting, or any part thereof, is held at a physical location, the corporation's board of directors may limit the number of in-person attendees at any such shareholders' meeting in accordance with the restrictions on mass gatherings enacted by the undersigned during this State of Emergency.

C. The Secretary of State is directed that shareholder meetings held by remote communication in accordance with this Executive Order do not, for the reason that they were held by remote communication, fail to meet the requirements of the North Carolina Business Corporation Act.

D. This Executive Order shall not be construed or interpreted to mean that shareholder meetings held by remote communication would have failed to meet the requirements of the North Carolina Business Corporation Act in the absence of this Executive Order.

Section 2. Savings Clause

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

Section 3. Effective Date

This Executive Order is effective immediately. This Executive Order shall remain in effect for sixty (60) days unless rescinded or replaced with a superseding Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 1st day of April in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

ROY COOPER

GOVERNOR

April 7, 2020

EXECUTIVE ORDER NO. 129

FLEXIBILITY REGARDING CERTAIN LAW ENFORCEMENT TRAINING COURSES

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116 which declared a State of Emergency to coordinate the state's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq.* and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency, retroactive to March 1, 2020; and

WHEREAS, the undersigned has issued Executive Order Nos. 117–122 and 124–125 for the purposes of protecting the health, safety and welfare of the people of North Carolina; and

WHEREAS, on March 25, 2020, the President of the United States, pursuant to Section 401 of the Stafford Act, approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") has confirmed the number of cases of COVID-19 in North Carolina continues to rise and has lab documentation that community spread has occurred; and

WHEREAS, to mitigate further community spread of COVID-19 and to reduce the burden on the state's health care providers and facilities, it is necessary to limit person-to-person contact in workplaces and communities; and

WHEREAS, in this State of Emergency, it is critical that law enforcement officers be able to protect the public, perform or facilitate emergency services, and fulfill emergency directives from the government; and

WHEREAS, many law enforcement training courses have had to be suspended or postponed because of the restrictions on mass gatherings to slow the spread of COVID-19; and current administrative rules would cause progress to be lost in these courses; and

WHEREAS, this loss of progress could jeopardize law enforcement officers' certification and reduce the number of law enforcement officers available at a time of great need; and

WHEREAS, the undersigned has determined that the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission should have the flexibility to waive or modify the requirements that would cause progress to be lost; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(7), the officers and personnel of the departments, offices, and agencies of the state and its political subdivisions are required to cooperate with the undersigned and extend their services to the undersigned so that they can be utilized upon request; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a state agency which restricts the immediate relief of human suffering; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5), the undersigned, with the concurrence of the Council of State, may perform and exercise other such functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, the undersigned has sought and obtained concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Extending Time to Complete Criminal Justice Training Courses

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

A. **Basic Law Enforcement Training courses.** The North Carolina Criminal Justice Education and Training Standards Commission may, in its discretion, waive or modify the requirement under 12 N.C. Admin. Code 09B .0202(b)(2) that the Basic Law Enforcement Training (BLET) course be delivered "during consecutive calendar weeks, except that there may be as

many as three (3) one-week breaks until course requirements are completed." This authorization applies to any BLET course that was in progress or commenced during this State of Emergency.

B. **Instructor Training courses**. The North Carolina Criminal Justice Education and Training Standards Commission may, in its discretion, waive or modify the requirement under 12 N.C. Admin. Code 09B .0202(c)(1) that the Criminal Justice Instructor Training course be delivered "during consecutive calendar weeks until course requirements are completed." This authorization applies to any course that was in progress or commenced during this State of Emergency.

C. **Detention Officer Certification courses**. The North Carolina Sheriffs' Education and Training Standards Commission may, in its discretion, waive or modify the requirement under 12 N.C. Admin. Code 10B .0704(a)(1)(A) that the Detention Officer Certification course be delivered "during consecutive calendar weeks." This authorization applies to any course that was in progress or commenced during this State of Emergency.

Section 2. Savings Clause

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

Section 3. Distribution

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 4. Effective Date

This Executive Order is effective immediately. This Executive Order shall remain in effect for thirty (30) days from today's date or unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 7th day of April in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Rodney S. Maddox
Chief Deputy Secretary of State

State of North Carolina

ROY COOPER

GOVERNOR

April 08, 2020

EXECUTIVE ORDER NO. 130

MEETING NORTH CAROLINA'S HEALTH AND HUMAN SERVICES NEEDS

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116 which declared a State of Emergency to coordinate the state's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq*. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency, retroactive to March 1, 2020; and

WHEREAS, the undersigned has issued Executive Order Nos. 117-122, 124-25, and 129 for the purposes of protecting the health, safety and welfare of the people of North Carolina; and

WHEREAS, on March 25, 2020, the President of the United States, pursuant to Section 401 of the Stafford Act, approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") has confirmed the number of cases of COVID-19 in North Carolina continues to rise and has identified widespread community transmission of the virus; and

WHEREAS, hospital administrators and health care providers have expressed concerns that unless the spread of COVID-19 is limited, existing health care facilities and health care staff may be insufficient to care for those who become sick; and

WHEREAS, COVID-19 cases requiring inpatient hospitalization are expected to surge in the coming days; and

WHEREAS, a composite modeling forecast, constructed by experts from North Carolina universities and research organizations, estimates that by the end of May 2020, approximately 250,000 North Carolinians will be infected with the novel coronavirus, even if social distancing measures continue through that date; and

WHEREAS, statistical modeling by experts within and outside North Carolina predicts a significant risk that North Carolina will not have a sufficient number of hospital beds and medical equipment to meet the crisis; and

WHEREAS, North Carolina should take all reasonable actions to expand the capacity of its health care system, thereby lowering the chance that North Carolina will run out of capacity; and

WHEREAS, these efforts to expand capacity should include adding health care providers, putting to use equipment and other resources that otherwise would lie dormant, and transferring resources where they can be most effective and save the most lives; and

WHEREAS, in some cases, expanding health care capacity will require temporarily waiving or suspending legal and regulatory constraints; and

WHEREAS, in the coming days and weeks, decisions about adding and transferring resources will require real-time decision-making; and

WHEREAS, in the coming days and weeks, decisions about adding and transferring health care resources will need to be made in a time frame that cannot accommodate even emergency rulemaking; and

WHEREAS, to enable rapid decision-making, the undersigned has determined that it is in the best interest of the people of North Carolina to provide the Secretary of Health & Human Services with authority to waive the enforcement of certain legal and regulatory constraints in order to expand capacity and save lives; and

WHEREAS, to add health care providers to meet the coming surge in COVID-19 cases, the undersigned has determined that it is in the best interest of the people of North Carolina to provide the state's health care occupational licensing boards with authority to develop and implement tailored plans to add providers in each of their subject areas; and

WHEREAS, to expand capacity for COVID-19 treatment and handle the forecasted surge in cases, the undersigned has determined that the Secretary of Health and Human Services requires authority to waive the enforcement of legal and regulatory constraints limiting licensed bed capacity; and

WHEREAS, to expand capacity for COVID-19 treatment and handle the forecasted surge in cases, the undersigned has determined that the Secretary of Health and Human Services requires authority to waive the enforcement of any legal or regulatory constraints that would prevent or impair (a) temporarily increasing health care facilities' licensed bed capacity, (b) temporarily relocating beds to other facilities, (c) temporarily adding dialysis stations, (d) temporarily relocating dialysis stations, (e) temporarily acquiring medical imaging equipment, and (f) allowing an ambulatory surgical facility to operate as a temporary hospital; and

WHEREAS, the undersigned has considered, in light of the urgent needs for medical treatment during the COVID-19 pandemic, the criteria established in N.C. Gen. Stat. § 131E-183(a), including but not limited to the populations to be served by the proposed projects; the needs that those populations have for the services proposed; the extent to which all residents, and in particular, low-income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed; whether the proposed actions will result in unnecessary duplication of existing or approved health service capabilities or facilities; the availability of resources for the provision of the services proposed to be provided; the expected effects of the proposed services on competition in the proposed service area; and whether quality care has been provided in the past; and

WHEREAS, the undersigned has determined that for the actions contemplated in Section 1 of this Executive Order, the requirement to obtain a Certificate of Need should be interpreted in the circumstances of this State of Emergency and the urgent needs of North Carolinians for health care during the pandemic; and

WHEREAS, the undersigned has determined that the Division of Health Service Regulation may allow these relocations or increases in health care resources under certain conditions, stated herein; and

WHEREAS, child care is an essential service for those members of our work force who remain on the job during this State of Emergency; and

WHEREAS, to ensure that health care workers and other people performing essential jobs can continue to work, child care facilities must be available; and

WHEREAS, many child care facilities have closed, and it is difficult or impossible for any child care facility to remain open without changes in regulatory requirements to adapt to the circumstances of the COVID-19 pandemic; and

WHEREAS, the undersigned has determined that child care facilities must be available to the essential workers of the state, and enforcement of regulatory requirements should be modified or waived as necessary to allow these facilities to open or remain open; and

WHEREAS, to meet these critical needs, the undersigned has determined that the Secretary of Health and Human Services requires authority to issue emergency facility guidelines adapted to the circumstances of the COVID-19 pandemic; and

WHEREAS, to meet these critical needs, the undersigned has determined that the Secretary of Health and Human Services requires authority to modify or waive enforcement of regulatory requirements as necessary; and

WHEREAS, today, many persons with health care training wish to serve North Carolina in this crisis, but are barred from providing health care by licensing requirements; and

WHEREAS, the lives of North Carolinians will be saved if these trained persons provide care; and

WHEREAS, the circumstances of each profession are different, and the ability of trained persons to provide care during the COVID-19 pandemic may be different in each health care field; and

WHEREAS, for these reasons, the undersigned has determined that the occupational licensing boards established by the General Assembly should be empowered in their discretion to waive or modify enforcement of legal or regulatory constraints that would prevent or impair North Carolina from putting to work (i) health care professionals who are licensed in other states, but not licensed here, (ii) retired or inactive health care professionals, (iii) skilled, but unlicensed volunteers, and (iv) students in their professional fields; and

WHEREAS, the undersigned has determined that the occupational licensing boards should be empowered to impose conditions on any persons who are not yet licensed in North Carolina, but who will be authorized to provide care by the licensing boards as a result of this Executive Order; and

WHEREAS, all fifty states, the District of Columbia, U.S. Virgin Islands, Puerto Rico, Guam and Northern Mariana Islands are members of the Emergency Management Assistance Compact ("EMAC"), which requires North Carolina to provide assistance to any other EMAC member who has declared an emergency or disaster and requests such aid; and

WHEREAS, all EMAC member states have declared that emergencies exist as a result of the pandemic event and may under the provisions of EMAC request telehealth/telemedicine aid

from all fifty states, the District of Columbia, U.S. Virgin Islands, Puerto Rico, Guam and Northern Mariana Islands; and

WHEREAS, in order to respond to such telehealth/telemedicine requests it may be necessary to employ the resources of state, county and local government and the private sector; and

WHEREAS, the provisions of this Executive Order will help to ensure the coordinated delivery of telehealth/telemedicine assistance that will help to supplement the health, safety and resources of the residents of the state, while preserving the supply of essential materials and services; and

WHEREAS, many potential health care workers have raised concerns about a lack of malpractice insurance or potential liability if they were to serve North Carolinians during this pandemic; and

WHEREAS, N.C. Gen. Stat. § 166A-19.60 provides immunity from liability for emergency management workers, as defined in and provided in that statute, except in cases of willful misconduct, gross negligence, or bad faith; and

WHEREAS, the partial immunity provided by N.C. Gen. Stat. § 166A-19.60 applies to persons complying with any Executive Order promulgated under the Emergency Management Act; and

WHEREAS, the undersigned has determined to remove any doubt that persons providing health care services to treat COVID-19 are complying with this Executive Order; and

WHEREAS, emergency management workers, under N.C. Gen. Stat. § 166A-19.60(e), include persons performing emergency services pursuant to a request of the state government; and

WHEREAS, the undersigned intends to remove any doubt that persons providing health care services to treat COVID-19 are acting at the request of the state government; and

WHEREAS, the undersigned intends to provide insulation from liability to the maximum extent authorized by N.C. Gen. Stat. § 166A-19.60, except in cases of willful misconduct, gross negligence, or bad faith; and

WHEREAS, expiration dates of certain permits may need to be extended in order to allow certain restaurants to continue providing carry-out, delivery, and drive-through services; and

WHEREAS, expiration dates of certain permits may need to be extended in order to ensure that there are enough analysts to perform breath alcohol tests; and

WHEREAS, therefore, the undersigned has determined that the Secretary of Health and Human Services requires authority to extend these expiration dates by modifying or waiving regulatory requirements as necessary; and

WHEREAS, there continues to be a pressing need for mental health and substance use disorder treatment services and support services for individuals with intellectual and/or developmental disabilities ("MH/DD/SAS" services); and

WHEREAS, in the circumstances of the COVID-19 pandemic, many regulatory requirements for MH/DD/SAS programs cannot be met, and many MH/DD/SAS services may need to be provided in the form of telehealth; and

WHEREAS, the undersigned has determined that the Secretary of Health and Human Services requires authority to modify or waive enforcement of regulatory requirements so that providers can continue to perform MH/DD/SAS services; and

WHEREAS, the undersigned has determined that the Secretary of Health and Human Services requires authority to modify or waive enforcement of regulatory requirements to provide MH/DD/SAS services via telehealth; and

WHEREAS, during this State of Emergency, many participants in the Medicaid Programs of All-Inclusive Care for the Elderly ("PACE") are unable to congregate in PACE centers; and

WHEREAS, PACE participants are elderly and at high risk for severe illness or death from COVID-19; and

WHEREAS, the services provided by the PACE program to its participants remain necessary for life and health, so those services must be provided to participants at their homes; and

WHEREAS, because of the critical need for PACE participants to safely receive care, the undersigned has determined that the Secretary of Health and Human Services requires authority to modify or waive enforcement of any legal constraints or regulations that impair providing PACE services at participants' homes; and

WHEREAS, ordinarily, pursuant to N.C. Gen. Stat. § 131E-138(a), no person or governmental unit may operate a home care agency without a license obtained from NCDHHS; and

WHEREAS, because of the critical need for PACE participants to safely receive care, the undersigned has determined that this license requirement should be interpreted in the circumstances of this State of Emergency and the urgent needs of North Carolinians for health care during the pandemic; and

WHEREAS, the undersigned has determined that the Division of Health Service Regulation may allow PACE programs to provide care in homes under certain conditions, stated herein; and

WHEREAS, employees at adult care homes must have criminal history records checks and controlled-substances screens; and

WHEREAS, in the circumstances of the COVID-19 pandemic, there are substantial delays in obtaining these checks and screens; and

WHEREAS, adult care homes need to continue to be able to hire new health care workers; and

WHEREAS, because of the critical need for health care providers to continue to hire new workers, the undersigned has determined that the Secretary of Health and Human Services requires authority to treat record-check and screening requirements as satisfied if those checks were performed by the employee's current employer or a previous employer where the employee had been working within the last thirty (30) days; and

WHEREAS, during the COVID-19 pandemic, the work of in-home aides must continue; and

WHEREAS, certain regulations regarding in-home aides' initial assessments and supervisory visits would, in these circumstances, put assessors, supervisors, aides, and patients at risk of COVID-19 infection; and

WHEREAS, the regulations for many DHHS programs currently require in-person applications or in-person assessments; and

WHEREAS, these regulations would, in these circumstances, create risk of COVID-19 spread; and

WHEREAS, the undersigned has determined that the Secretary of Health and Human Services requires authority to modify or waive enforcement of these regulatory requirements in order to allow remote assessments; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(7), the undersigned is authorized and empowered to utilize the services, equipment, supplies, and facilities of departments, offices, and agencies of the state in response to the emergency; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), during a Gubernatorially declared State of Emergency, the undersigned has the power to "give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article"; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a state agency or political subdivision which restricts the immediate relief of human suffering; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5), the undersigned, with the concurrence of the Council of State, may perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, the undersigned has sought and obtained concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30; and

WHEREAS, all the authority granted by this Executive Order is intended to be temporary, and the waivers and modifications of enforcement set out in this Executive Order are intended to extend only through the period where they are needed to address the COVID-19 pandemic.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Allowing Increases in Health Care Resources

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

A. **Authority to meet extraordinary health care needs**.

1. To meet the goal of providing health care and saving lives in response to the potential wave of illness brought on by the COVID-19 pandemic, and to meet the need for additional health care facility beds and technology to treat patients, the undersigned delegates to the Secretary of Health and Human Services authority to waive or modify

enforcement of any legal or regulatory constraints that would prevent or impair any of the following:

a. Increasing health care facilities' licensed bed capacity.

b. Relocating beds from a currently operating hospital, nursing home facility, or adult care home to another hospital, nursing home facility, adult care home, or other physical space.

c. Adding dialysis stations to an existing or approved kidney disease treatment center or hospital.

d. Relocating dialysis stations from a currently operating kidney disease treatment center to another physical space.

e. Acquisition by or on behalf of a hospital of Medical Imaging Equipment (as defined below).

f. Allowing an ambulatory surgical facility to operate as a temporary hospital.

2. Without limiting the foregoing, the undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of any of the following:

a. Any regulations on licensed bed capacity of adult care homes, including but not limited to 10A N.C. Admin. Code 13F .0206 and 13G .0206.

b. Any regulations on licensed bed capacity of mental health, developmental disabilities and substance abuse facilities, including but not limited to 10A N.C. Admin. Code 27G .0404(e).

c. Any regulations that are related to the provisions listed above.

3. These waivers or modifications must be consistent with the conditions established below. Facilities may increase, relocate, add, or acquire health care resources under this Section only after submitting a request to the Division of Health Service Regulation ("DHSR"), and receiving approval from DHSR under the process described below.

B. **Temporary nature of this Section**.

1. This Section allows only temporary increases, relocations, additions, acquisitions, or changes in status of health care resources. All increases, relocations, additions, or changes in status made under this Section's authority shall be allowed only through the duration of the State of Emergency, with an additional 30-day grace period following the State of Emergency. Any equipment acquired under this Section's authority must be returned no later than thirty (30) days following the end of the State of Emergency.

2. The undersigned delegates to the Secretary of Health and Human Services authority to reimpose, during the duration of this Executive Order, any legal or regulatory constraint for which the Secretary has waived or modified enforcement under this Section.

C. **Affirming temporary waiver of hospital and nursing home facility licensed bed capacity**. The undersigned hereby affirms the temporary waiver of limitations on hospital and nursing home facility licensed bed capacity granted by DHSR in its March 12, 2020 Memorandum and April 3, 2020 Memorandum. These memoranda allow hospitals and nursing home facilities to request a temporary increase in licensed bed capacity.

D. **Process for requests to temporarily increase bed capacity or relocate beds**. Before any increase in licensed bed capacity or relocation of beds under this Section, a request must have been submitted to, and approved by, DHSR. The request shall meet at least the following requirements.

1. The request must be submitted to DHSR in writing (including without limitation e-mail).

2. A request for a temporary increase in licensed bed capacity must specify the number of additional beds requested.

3. A request for a relocation of beds must specify (i) the facility from which the beds will be moved and (ii) the facility to which the beds will be relocated.

4. All requests must include a description of the space that will be utilized, how it will be utilized, and the anticipated duration.

5. All requests must include a certification by an authorized individual that:

    a. The request is necessary for the public health and safety in the geographic area served;

    b. The physical facilities to be used are adequate to safeguard the health and safety of the patients/residents; and

    c. The patients/residents will receive appropriate care and their health and safety will be safeguarded.

E. **Process for requests to add or relocate dialysis stations**. Before any increase in dialysis station capacity or relocation of dialysis stations under this Section, a request must have been submitted to, and approved by, DHSR. The request shall meet at least the following requirements.

1. The request must be submitted to DHSR in writing (including without limitation e-mail) by submitting a CMS Form 3427.

2. A request for a temporary increase in dialysis station capacity must specify the number of additional stations requested.

3. A request to temporarily relocate dialysis stations must specify (i) the facility from which the stations will be moved and (ii) the facility to which the stations will be relocated.

4. All requests must include a description of the space that will be utilized and the anticipated duration.

5. All requests must include a certification by an authorized individual that:

    a. The request is necessary for the public health and safety in the geographic area served;

    b. The physical facilities to be used are adequate to safeguard the health and safety of the clients; and

    c. The clients will receive appropriate care and their health and safety will be safeguarded.

F. **Process for requests to acquire Medical Imaging Equipment**. Before acquisition of any Medical Imaging Equipment under this Section, a request must have been submitted to, and approved by, DHSR. The request shall meet at least the following requirements.

1. The request must be submitted to DHSR in writing (including without limitation e-mail).

2. The request to temporarily acquire Medical Imaging Equipment must include information documenting the preparations made for the mobile site location.

3. The request must include a description of the space that will be utilized and the anticipated duration.

4. The request must include a certification by an authorized individual that:

    a. The request is necessary for the public health and safety in the geographic area served;

    b. The physical facilities to be used are adequate to safeguard the health and safety of the clients; and

    c. The clients will receive appropriate care and their health and safety will be safeguarded.

G. **Process for requests for an ambulatory surgical facility to operate as a temporary hospital**. Before an ambulatory surgical facility may operate as a temporary hospital, a request must have been submitted to, and approved by, DHSR. Upon approval, DHSR must issue a temporary hospital license and the ambulatory surgical facility operating as a hospital must follow the applicable hospital laws and rules as determined by DHSR. The request shall meet at least the following requirements.

1. The request must be submitted to DHSR in writing (including without limitation e-mail).

2. The request must include a description of the space that will be utilized and the anticipated duration.

3. The request must include an explanation that certifies that:

    a. The request is necessary for the public health and safety in the geographic area served;

    b. The physical facilities to be used are adequate to safeguard the health and safety of the clients; and

    c. The clients will receive appropriate care and their health and safety will be safeguarded.

H. **Relationship to Certificate of Need requirements**.

1. Relocating beds without an immediate Certificate of Need. The undersigned directs DHSR that it may allow a relocation of beds, consistent with the requirements set forth above and without the requirement to first obtain a Certificate of Need, and the undersigned temporarily waives enforcement and sanctions related to that Certificate of Need requirement, under the conditions stated in this Section.

2. Adding or relocating dialysis stations without an immediate Certificate of Need. The undersigned directs DHSR that it may allow the addition or relocation of dialysis stations, consistent with the requirements set forth above and without the requirement to first obtain a Certificate of Need, and the undersigned temporarily waives enforcement and sanctions related to that Certificate of Need requirement, under the conditions stated in this Section.

3. Temporary acquisition of medical imaging equipment without an immediate Certificate of Need. The undersigned directs DHSR that it may allow temporary acquisition by or on behalf of a hospital of Medical Imaging Equipment, consistent with the requirements set forth above and without the requirement to first obtain a Certificate of Need, and the undersigned temporarily waives enforcement and sanctions related to that Certificate of Need requirement, under the conditions stated in this Section.

4. Operation of an ambulatory surgical facility as a temporary hospital without an immediate Certificate of Need. The undersigned directs DHSR that it may allow operation of an ambulatory surgical facility as a temporary hospital, consistent with the requirements set forth above and without the requirement to first obtain a Certificate of Need, and the undersigned temporarily waives enforcement and sanctions related to that Certificate of Need requirement, under the conditions stated in this Section.

I. **Definition**. In this Section, "Medical Imaging Equipment" means a mobile Magnetic Resonance Imaging (MRI) Scanner or a mobile Computed Tomography (CT) Scanner.

Section 2. Child Care Facilities for Covered Children

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

A. **Waiver of enforcement of regulations**. To meet the goal of providing health care and protecting the public in response to the COVID-19 pandemic, the undersigned delegates to the Secretary of Health and Human Services authority:

1. To waive or modify enforcement of any regulations on child care facility requirements, activities, records, orientation, continuing education, food, and attendance, including without limitation 10A N.C. Admin. Code 09 .0201, .0508, .0510, .0703(c) and (d), .0901, .1101(a), .1401(a) and (f), .1402(b), .1709, .1718, .1721(a)(1) and (a)(2), .2318(6), .2504, .2508, .2830, .3003, and .3005.

2. To waive or modify, by adding additional required health or emergency elements, enforcement of any regulations on child care facility staff qualifications, health and safety training, and sanitation requirements, including without limitation 10A N.C. Admin. Code 09 .0701(a), .0703(c) and (d), .1102, .1720, .1725, and .2401 to .2411, and 15A N.C. Admin. Code 18A .2803, .2827, and .2836.

3. To waive or modify enforcement of any regulations that are related to the provisions listed above.

B. **Guidelines for child care facility operation during pandemic**. NCDHHS shall establish certain emergency health, safety and operational guidelines (the "Emergency Facility Guidelines") for child care facilities that wish to open or remain open. When establishing these guidelines, the Secretary of the Department of Health and Human Services may exercise the authority delegated to her in Executive Order No. 119, Section 1, related to child care regulations. NCDHHS shall issue an Emergency Child Care Provider Application that may be signed by child care facilities attesting to their adherence with the Emergency Facility Guidelines.

C. **Children that may be served**. Child Care Facilities approved by NCDHHS to operate under the Emergency Facility Guidelines shall provide child care only to:

1. Children of employees of COVID-19 Essential Businesses and Operations, as defined in Executive Order No. 121; or

2. Children who are receiving child welfare services; or

3. Children who are homeless or who are living in unstable or unsafe living arrangements.

Collectively, these children are referred to as "covered children" in this Section.

D. **Opening or reopening**. Child care facilities which have signed the Emergency Child Care Provider Application and which have been approved by DHHS may remain open to serve covered children. Child Care Facilities which are currently closed and wish to reopen to serve covered children shall submit the Emergency Child Care Provider Application prior to reopening.

E. **Requirement to operate only under this Section**. Child care facilities shall not remain open except as authorized by this Section.

F. **Implementation**. NCDHHS shall develop a detailed process to implement this Section and shall maintain a registry of available child care for covered children.

G. **Temporary nature of this Section.**

1. Waivers and modifications under authority of this Section are temporary and shall be effective only for the duration of this Executive Order.

2. The undersigned delegates to the Secretary of Health and Human Services authority to reimpose any regulations, policies, or guidance for which the Secretary has waived or modified enforcement under this Section.

H. **Relationship to Executive Order No. 119.** The provisions of this Section supplement, rather than restrict, the emergency authority provided in Section I of Executive Order No. 119.

Section 3. Increasing the Pool of Professional Health Care Workers

A. **Regulatory flexibility to expand the health care workforce.**

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

1. Authority to meet extraordinary health care needs.

   a. To meet the goal of providing health care and saving lives in response to the wave of illness brought on by the COVID-19 pandemic, and to meet the need for additional health care workers to treat patients, the undersigned delegates to each professional health care licensure board the authority to waive or modify enforcement of any legal or regulatory constraints that would prevent or impair the following:

      i. Allowing persons to provide care if they are licensed in other states, territories, or the District of Columbia, but not licensed in North Carolina.

      ii. Allowing persons to provide care if they are retired or if their licenses are inactive.

      iii. Allowing skilled, but unlicensed volunteers to provide care.

      iv. Allowing students at an appropriately advanced stage of professional study to provide care.

   b. Without limiting the foregoing, the undersigned delegates to each professional health care licensure board the authority to accomplish the goals listed in Subdivision (a)(i)-(iv) above by waiving or modifying any of the following regulations:

      i. The regulations on admission and licensure for the practice of medicine, at 21 N.C. Admin. Code Chapter 32.

      ii. The regulations on admission and licensure for the practice of nursing, at 21 N.C. Admin. Code Chapter 36.

      iii. The regulations on admission and licensure for the practice of midwifery, at 21 N.C. Admin. Code Chapter 33.

      iv. The admission and licensure regulations for the social worker profession, at 21 N.C. Admin. Code Chapter 63.

      v. The regulations on admission and licensure for the practice of respiratory care, at 21 N.C. Admin. Code Chapter 61.

      vi. The admission and licensure regulations for the pharmacy profession, at 21 N.C. Admin. Code Chapter 46.

vii. The regulations on admission and licensure for the practice of speech language pathology/therapy, at 21 N.C. Admin. Code Chapter 64.

viii. The regulations on admission and licensure for the practice of psychology, at 21 N.C. Admin. Code Chapter 54.

ix. The regulations on admission and licensure for the practice of clinical mental health counseling, at 21 N.C. Admin. Code Chapter 53.

x. The admission and licensure regulations for substance use disorder professionals, at 21 N.C. Admin. Code Chapter 68.

xi. The regulations on admission and licensure for the practice of occupational therapy, at 21 N.C. Admin. Code Chapter 38.

xii. The regulations on admission and licensure for the practice of physical therapy, at 21 N.C. Admin. Code Chapter 48.

xiii. The regulations on admission and licensure for the practice of recreational therapy, at 21 N.C. Admin. Code Chapter 65.

xiv. The admission and licensure regulations for the profession of interpreters and transliterators, at 21 N.C. Admin. Code Chapter 25.

xv. The admission and licensure regulations for the profession of nursing home administrators, at 21 N.C. Admin. Code Chapter 37.

xvi. The admission and licensure regulations for the profession of assisted living administrators, at 10A N.C. Admin Code 13F .1701.

xvii. The admission and licensure regulations for the perfusionist profession, at 21 N.C. Admin. Code Subchapter 32V.

xviii. Any regulations that are related to the provisions listed above.

c. In each case, the professional health care licensure board shall have the authority to allow or not allow, in its discretion, these waivers or modifications, and the board shall have the authority to impose conditions on any persons authorized to provide care under this Subsection.

2. Posting waivers and modifications. Each professional health care licensure board shall document such waivers and modifications in writing and post them on their respective websites.

3. Guidance on training and qualifications. The professional health care licensure boards shall provide guidance on the training and qualifications necessary for their licensees to be ready to address workforce shortages in essential health care services needed to properly manage this State of Emergency.

4. No reduction in existing waiver authority. Nothing in this Subsection shall limit the existing statutory waiver authority of any board.

5. Temporary nature of this Subsection.

   a. Waivers and modifications under authority of this Subsection are temporary and shall be effective only for the duration of this Executive Order.

   b. The undersigned delegates to each professional health care licensure board the authority to reimpose, during the duration of this Executive Order, any legal or regulatory constraint for which the board has waived or modified enforcement under this Subsection.

6. This Subsection supersedes the first paragraph of Section 16 of Executive Order No. 116. Any persons licensed in other states, territories, or the District of Columbia who are providing health care services under the authority of the first paragraph of Section 16 of Executive Order No. 116 may continue to provide those services through April 15, 2020, unless otherwise authorized by a professional health care licensure board under the authority delegated in this Subsection.

B. **Utilizing the Emergency Management Assistance Compact ("EMAC").**

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

1. EMAC requests. The State Director of Emergency Management shall identify resources that are available for response to Emergency Management Assistance Compact ("EMAC") requests. EMAC requests shall be coordinated through the State Director of Emergency Management and shall be fulfilled once authorized by the State Director of Emergency Management.

2. Out-of-state licensees; telehealth. For the pendency of the State of Emergency: (i) a health provider licensed, registered, or certified in good standing in another United States jurisdiction (or reinstated pursuant to emergency action) may apply for an emergency license with the appropriate North Carolina licensing board and, if deemed eligible and licensed, may deliver services in North Carolina, including through any remote telecommunications technologies (telehealth), provided those services are within the provider's authorized scope of practice in such other jurisdiction; and (ii) any restrictions under North Carolina state law restricting the use of telecommunications technologies (telehealth) by a health provider licensed in North Carolina, whether through a standard license or emergency license, have their enforcement waived.

3. Deemed licensed. Pursuant to N.C. Gen. Stat. § 166A-45, when assistance is requested by North Carolina, any person who holds a license, certificate, or other permit issued by another United States jurisdiction evidencing the meeting of qualifications for professional, mechanical, or other skills shall be deemed licensed, certified, or permitted by this state to render aid involving skill to meet the declared State of Emergency, subject to any limitations and conditions the undersigned may prescribe by executive order or otherwise.

   Furthermore, any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any emergency management workers as defined in N. C. Gen. Stat. § 166A-19.60(e) who shall, in the course of performing the workers' duties as such, practice such professional, mechanical, or other skill during a state of emergency.

4. The provisions of this Subsection 3(B) supplement, rather than restrict, the persons and types of health care practice that are authorized under Subsection 3(A) above.

5. Limitation of liability.

   a. Pursuant to N.C. Gen. Stat. § 166A-46, officers and employees and emergency management workers as defined in N.C. Gen. Stat. § 166A-19.60(e) are considered agents of the State of North Carolina for tort liability and immunity purposes; and no officers, employees or emergency management workers rendering aid in North Carolina pursuant to the Compact shall be liable for any act or omission occurring as a result of a good faith attempt to render aid or as a result of the use of any equipment or supplies used in connection with an attempt to render aid. For the purposes of this Executive Order, "good faith" does not include willful misconduct, gross negligence, or recklessness.

   b. All persons participating in a response authorized by the State Director of Emergency Management to an EMAC request shall be considered state emergency management workers as defined in N.C. Gen. Stat. § 166A-19.60(e) for the purposes of EMAC.

6. Temporary nature of this Subsection.

   a. Actions under authority of this Subsection are temporary and shall be effective only for the duration of this Executive Order.

   b. The undersigned delegates to the State Director of Emergency Management the authority to reimpose, during the duration of this Executive Order, any legal or regulatory constraint for which the Director has waived or modified enforcement under this Subsection.

C. **Limitation of liability under N.C. Gen. Stat. § 166A-19.60.**

N.C. Gen. Stat. 166A-19.60(e) defines "emergency management workers" as follows:

> As used in this section, the term "emergency management worker" shall include any full or part-time paid, volunteer, or auxiliary employee of this State or other states, territories, possessions, or the District of Columbia, of the federal government or any neighboring country or of any political subdivision thereof, or of any agency or organization performing emergency management services at any place in this State, subject to the order or control of or pursuant to a request of the State government or any political subdivision thereof. The term "emergency management worker" under this section shall also include any health care worker performing health care services as a member of a hospital-based or county-based State Medical Assistance Team designated by the North Carolina Office of Emergency Medical Services and any person performing emergency health care services under G.S. 90-12.2 [recodified as G.S. 90-12.5].

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

1. All persons who are licensed or otherwise authorized under this Executive Order to perform professional skills in the field of health care are hereby requested to provide emergency services to respond to the COVID-19 pandemic and, to the extent they are providing emergency services, therefore constitute "emergency management workers" to the extent allowed under N.C. Gen. Stat. § 166A-19.60(e).

2. Therefore, the undersigned intends that all such emergency management workers should be insulated from civil liability to the maximum extent authorized by N.C. Gen. Stat. § 166A-19.60, except in cases of willful misconduct, gross negligence, or bad faith.

Section 4. Public Health

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

A. **Waiver or modification of enforcement of regulations.** To meet the goal of providing human services during the COVID-19 pandemic, the undersigned delegates to the Secretary of Health and Human Services authority:

   1. To waive or modify, in order to provide necessary relief to restaurants continuing to provide carry-out, delivery, and drive-through services, the expiration date of transitional food establishment permits under 15A N.C. Admin. Code 18A.2659(b) issued from January 1, 2020 to June 30, 2020 for 180 days.

   2. To waive or modify, in order to ensure there are sufficient analysts permitted to conduct breath alcohol tests, the expiration date of analyst permits under 10A N.C. Admin. Code 41B .0302(a) otherwise set to expire from March 10, 2020 to June 30, 2020 for twelve (12) months.

   3. To waive or modify enforcement of any regulations that are related to the provisions listed above.

B. **Temporary nature of this Section.**

1. Waivers and modifications under authority of this Section are temporary and shall be effective only for the periods listed above.

2. The undersigned delegates to the Secretary of Health and Human Services authority to reimpose any regulations, policies, or guidance for which the Secretary has waived or modified enforcement under this Section.

Section 5. Mental Health, Developmental Disabilities and Substance Abuse Services

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

A. **Waiver or modification of enforcement of regulations.** Health care remains an essential service during this State of Emergency, including mental health and substance use disorder treatment services and support services for individuals with intellectual and/or developmental disabilities ("MH/DD/SAS" services). In order to help protect the health and well-being of North Carolinians by allowing access to MH/DD/SAS services and MH/DD/SAS facilities during this State of Emergency:

1. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of any MH/DD/SAS regulatory constraints that would prevent or impair any of the following:

   a. Continued provision of MH/DD/SAS Services.

   b. Providing MH/DD/SAS Services via real-time, two-way audio and/or video teleconferencing ("Telehealth").

2. Without limiting the foregoing, the undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of any of the following:

   a. Regulations on minimum periodic retraining and demonstration of competence requirements for non-restrictive and restrictive interventions, including without limitation 10A N.C. Admin. Code 27E .0107, 27E .0108, 28D .0209, and 28D .0210.

   b. Regulations on minimum program teaching requirements for non-restrictive and restrictive interventions trainers, including but not limited to 10A N.C. Admin. Code 27E .0107(i)(7) and .0108(i)(10).

   c. Regulations on requiring that Associate Professionals must have individualized supervision plans upon hiring, including but not limited to 10A NCAC 27G .0203(f) and 10A NCAC 27G .0204(f).

   d. Regulations setting minimum hours per week for licensed professionals at Residential Treatment Staff Secure Facilities, including but not limited to 10A N.C. Admin. Code 27G .1705(a).

   e. Regulations setting requirements for the direct service ratio at Adult Developmental and Vocational Programs (ADVP) for Individuals with Developmental Disabilities, including but not limited to 10A N.C. Admin. Code 27G .2303(d).

   f. Regulations, including but not limited to N.C. Admin. Code 10A NCAC 28D .0102(c), setting requirements for annual exams to the extent that they require delivery of non-essential medical services.

   g. Regulations setting requirements for multiple staff members to be in the presence of the client at all times, including but not limited to 10A N.C. Admin. Code 27G .1402(b).

h. Regulations setting a maximum date after which an adolescent may not remain in a day treatment facility for children and adolescents with behavioral or emotional disturbances, including but not limited to 10A N.C. Admin. Code 27G .1403.

i. Regulations regarding factors for determining program compliance for purposes of take-home eligibility, including but not limited to 10A N.C. Admin. Code 27G .3602(6).

j. Regulations setting the ratio of certified drug abuse or substance abuse counselors to clients, including but not limited to 10A N.C. Admin. Code 27G .3603(a).

k. Regulations regarding conditions for determining levels of take-home eligibility, including but not limited to 10A N.C. Admin. Code 27G .3604(f)(1).

l. Regulations regarding the minimum frequency for the conduct, and program staff observation of, random testing for alcohol and other drugs on each active opioid treatment client, including but not limited to requirements set forth in 10A N.C. Admin. Code 27G .3604(h).

m. Regulations setting limitations on the class session schedule at drug education schools, including but not limited to 10A N.C. Admin. Code 27G .3903(e)(5).

n. Regulations on routine drug screens, staffing, minimum operational hours and days per week, and minimum service hours per week at Substance Abuse Intensive Outpatient Programs, including but not limited to 10A N.C. Admin. Code Subchapter 27G, Section 4400.

o. Regulations on routine drug screens, staffing, minimum operational hours and days per week, and minimum service hours per week at Substance Abuse Comprehensive Outpatient Programs, including but not limited to 10A N.C. Admin. Code Subchapter 27G, Section 4500.

p. Regulations limiting cumulative provision of private home respite services, including but not limited to 10A N.C. Admin. Code 27G .5101(b).

q. The requirement set forth in 10A N.C. Admin. Code 27G .5601(g) defining "F" designation facility as a facility in a private residence which serves no more than three adult clients whose primary diagnosis is mental illness, to the limited extent necessary to also allow for service of minor clients whose primary diagnosis is mental illness in this setting.

r. Regulations establishing specific time frame requirements for the steps of the non-Medicaid appeals process, including but not limited to 10A N.C. Admin. Code Subchapter 27I.

s. State MH/DD/SAS administrative rule provisions requiring that services, assessments, interviews, consultations, counseling, crisis or emergency responses, or other client contacts be provided in-person or face-to-face in connection with delivery of MH/DD/SAS Services, including but not limited to 10A N.C. Admin. Code 27G .1705(a), .3602(8), .3805(3), .3807(b), .4003(c)(2), .4403(a), .4503(f), .5703(c), and .6102(b).

t. State MH/DD/SAS administrative rule provisions requiring MH/DD/SAS Services to be furnished in a group setting, including but not limited to 10A N.C. Admin. Code 27B .0401(a), .3401, .3602(8), .3603, .3701(a), .4101, .4501, and .5401(a).

u. State MH/DD/SAS administrative rule provisions requiring day/night treatment facilities for substance use disorders to provide services at the facility or program site setting, including but not limited to 10A N.C. Admin. Code 27G .2301(d).

v. State MH/DD/SAS administrative rule provisions requiring substance abuse treatment programs to operate in a setting separate from the client's residence, including but not limited to 10A N.C. Admin. Code 27G .4403(a) and .4503(a).

w. State MH/DD/SAS administrative rule provisions that require adult developmental and vocational programs for individuals with developmental disabilities to provide a majority of services and activities on the program site premises, including but not limited to 10A N.C. Admin. Code 27G .2301(d).

x. Any regulations that are related to the provisions listed above.

3. These waivers or modifications must be to the extent clinically appropriate and in accordance with appropriate mitigation measures in effect during the COVID-19 pandemic.

B. **Temporary nature of this Section.**

1. Waivers and modifications under authority of this Section are temporary and shall be effective only for the duration of this Executive Order.

2. The undersigned delegates to the Secretary of Health and Human Services authority to reimpose any regulations, policies, or guidance for which the Secretary has waived or modified enforcement under this Section.

Section 6. Health Services Licensure

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

A. **Program of All-Inclusive Care for the Elderly ("PACE") entities to provide in-home care.**

1. Allowing in-home care.

a. To meet the goals of providing all-inclusive care, preventing the spread of COVID-19 within a highly vulnerable population, and saving lives during the COVID-19 pandemic, the undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of any legal or regulatory constraints that would prevent or impair any of the following:

i. Providing in an in-home setting the services of the Program of All-Inclusive Care for the Elderly ("PACE").

b. Without limiting the foregoing, the undersigned delegates to the Secretary of Health and Human Services authority to accomplish the goal listed in Subdivision (a)(i) above by waiving or modifying any of the following regulations:

i. Any regulations on licensure of home care agencies, including but not limited to 10A N.C. Admin. Code Subchapter 13J.

ii. Any regulations that are related to the provisions listed above.

c. These waivers or modifications must be consistent with the conditions established below.

2. Duration of in-home PACE care. Any in-home PACE care authorized under this Subsection shall be allowed only for the period of March 25, 2020 through the expiration of this Executive Order.

B. **Waivers or modifications of enforcement of in-home aide rules.**

1. To meet the goal of providing health care and protecting the public in response to the COVID-19 pandemic, the undersigned delegates to the Secretary of Health and Human Services authority:

    a. To waive or modify enforcement of any regulations on initial assessment for agencies providing in-home aide services, including but not limited to 10A N.C. Admin. Code 13J .1107.

    b. To waive or modify enforcement of any regulations on supervisory visits for in-home caregivers, including but not limited to 10A N.C. Admin. Code 13J .1110.

    c. To waive or modify enforcement of any regulations that are related to the provisions listed above.

2. These waivers or modifications must be consistent with the conditions established below.

3. During the State of Emergency, initial assessments must be conducted, but may be conducted utilizing eligible technologies that allow the health care practitioner to remotely communicate and evaluate the client's functional status in the area of social, mental, physical health, environmental, economic, activities of daily living, and instrumental activities of daily living. Initial assessments can be delivered via any HIPAA-compliant, secure technology with audio and video capabilities including (but not limited to) smart phones, tablets and computers.

4. During the State of Emergency, supervisory visits must be conducted, but may be conducted utilizing eligible technologies that allow the supervising Registered Nurse to remotely communicate and evaluate services rendered. Supervisory visits can be delivered via any HIPAA-compliant, secure technology with audio and video capabilities including (but not limited to) smart phones, tablets and computers. If the provider is unable to conduct supervisory visits via the above method, the provider must develop and implement a procedure that details the method in which the Registered Nurse will monitor the client's care with review of the client's general condition, progress, and response to the services provided by the in-home caregiver.

C. **Additional time to screen new hires because of disruptions to fingerprinting.**

1. NCDHHS has informed the undersigned that because of the COVID-19 crisis, certain private health care facilities, including those facilities that serve the elderly and at-risk population, are facing extreme difficulty in maintaining their workforce.

2. In particular, the failure of some counties to offer fingerprinting has delayed completion of nationwide background checks, which require fingerprints. Therefore, national background checks cannot be performed, although state background checks can still be performed. National background checks are required for certain new hires. State background checks can and should continue.

3. Therefore, the Secretary of Health and Human Services may authorize health care facilities (other than child care providers) to accept a written verification from a potential new hire's current employer (or most recent employer within 30 days) as a temporary measure in lieu of the national portion of the Criminal History Records Check, so long as the following conditions are also satisfied:

    a. The state background check portions of the Criminal History Records Check must be completed as required by statute.

    b. This authorization is only provided in areas of North Carolina where fingerprinting is not available.

c. The national background check portions of the Criminal History Records Check must be completed for the new hire as soon as possible once fingerprinting becomes available. Moreover, under no circumstances may the national background check be completed later than within thirty (30) days following the end of the State of Emergency.

d. The current or previous employer's written verification must be in a form that meets guidelines to be established by DHSR. To be acceptable, the verification must show that the potential new hire passed both the national background check and state background check portions of a Criminal History Records Check while at the employer providing the verification.

4. Without limiting the foregoing, the undersigned delegates to the Secretary of Health and Human Services authority to accomplish the goal listed in Subdivision (1) above by modifying any of the following regulations:

   a. 10A N.C. Admin. Code 13F .0407(a)(7), on background checks for staff of an adult care home.

   b. 10A N.C. Admin. Code 13G .0406(a)(7), on background checks for staff of a family care home.

   c. Any regulations that are related to the provisions listed above.

   These waivers or modifications must be consistent with the conditions established above.

5. Nothing herein shall relieve any pre-existing obligation for any health care facility to run a criminal records check based on a job applicant's name prior to the date the applicant begins work.

D. **Temporary nature of this Section.**

1. Waivers and modifications under authority of this Section are temporary and shall be effective only for the duration of this Executive Order.

2. The undersigned delegates to the Secretary of Health and Human Services authority to reimpose any regulations, policies, or guidance for which the Secretary has waived or modified enforcement under this Section.

Section 7. Social Services Programs and Licensure

For the reasons and pursuant to the authority set forth above, and to meet the goal of providing human services during the COVID-19 pandemic, the undersigned orders as follows:

A. **Waiver or modification of enforcement of regulations.**

1. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of the requirement of 10A N.C. Admin. Code 71P .0601(6) that an applicant or his designated representative apply in person for the State/County Special Assistance Program at a county department of social services. Upon receipt of an application by mail or via electronic submission, the county department of social services shall make alternative arrangements with the applicant.

2. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of the requirement of 10A N.C. Admin. Code 71P .0701 that certain State/County Special Assistance Program eligibility factors be reviewed at least once every 12 months. Review of the required eligibility factors shall occur within ninety (90) days of the date this Executive Order terminates, or the Special Assistance payment for the first month following the month in which the ninety (90) days end shall not be issued.

3. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of the requirement of 10A N.C. Admin. Code 71P .0903(c)(1) that causes a loss of benefits upon leaving a Special Assistance-Adult Care Home facility for greater than thirty (30) calendar days. This authority shall apply only if benefit recipients leave the facility for their health and safety.

4. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of the in-person requirement for any visit or supervisory visit established in Subchapters 06A and 06X of Title 10A of the North Carolina Administrative Code. Visits and/or supervisory visits shall still occur in frequency and in scope as set forth in the agency's rules and policies. Visits or supervisory visits may be conducted by making other HIPAA-compliant arrangements including audio or visual means such as a telephone call or video meeting.

5. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of the in-person requirement for any assessment, reassessment, or quarterly visit in Subchapter 06D of Title 10A of the North Carolina Administrative Code. Assessments, reassessments or quarterly visits shall still occur in frequency and in scope as set forth in the agency's rules and policies. Assessments, reassessments or quarterly visits may be conducted by making other HIPAA-compliant arrangements including audio or visual means such as a telephone call or video meeting.

6. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of the in-person requirement for any visit or interview in Subchapters 70I and 70K of Title 10A of the North Carolina Administrative Code. Other requirements for that visit or interview are maintained.

7. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of the direct care service personnel standards for licensure of residential child-care facilities in 10A N.C. Admin. Code 70I .0405(f)(2)(B) and (C).

8. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of the requirements of 10A N.C. Admin. Code 70E .0704 and 10A N.C. Admin. Code 70E .1108 requiring a fire and building safety inspection prior to relicensure, so long as the foster home has had a satisfactory fire and building inspection completed within the previous 30 months and can attest to the standards set forth in 10A N.C. Admin. Code 70E .1108(b). Any foster home relicensed pursuant to this waiver shall obtain such required inspections within sixty (60) days of the date this Executive Order terminates, or such license shall immediately expire.

9. The undersigned delegates to the Secretary of Health and Human Services authority to waive or modify enforcement of any regulations that are related to the provisions listed above.

B. **Temporary nature of this Section.**

1. Waivers and modifications under authority of this Section are temporary and shall be effective only for the duration of this Executive Order.

2. The undersigned delegates to the Secretary of Health and Human Services authority to reimpose any regulations, policies, or guidance for which the Secretary has waived or modified enforcement under this Section.

Section 8. No Private Right of Action

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

Section 9. Savings Clause

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

Section 10. Distribution

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 11. Effective Date

Except where otherwise stated above, this Executive Order is effective immediately. This Executive Order shall remain in effect for sixty (60) days unless rescinded or replaced with a superseding Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

Unless otherwise expressly stated in another Executive Order, Section 1(B)(1) of this Executive Order shall remain in effect for thirty (30) days following the termination of the remainder of this Executive Order, and the relief from permit expiration dates provided in Section 4(A) of this Executive Order shall remain in effect following the termination of the remainder of this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 8th day of April in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

ROY COOPER

GOVERNOR

April 9, 2020

EXECUTIVE ORDER NO. 131

ESTABLISHING ADDITIONAL POLICIES FOR RETAIL ESTABLISHMENTS, FURTHER RISK MITIGATION MEASURES AT LONG TERM CARE FACILITIES, AND NEW PROCESSES TO EXPEDITE PAYMENT OF UNEMPLOYMENT INSURANCE CLAIMS

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116 which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq*. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency, retroactive to March 1, 2020; and

WHEREAS, the undersigned has issued Executive Order Nos. 117-122, 124-125, and 129-130 for the purposes of protecting the health, safety and welfare of the people of North Carolina; and

WHEREAS, on March 25, 2020, the President of the United States, pursuant to Section 401 of the Stafford Act, approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, on March 27, 2020, the undersigned issued Executive Order No. 121, a Stay at Home Order covering the entire State of North Carolina; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") has confirmed the number of cases of COVID-19 in North Carolina continues to rise and has lab documentation that community spread has occurred; and

WHEREAS, hospital administrators and health care providers have expressed concerns that unless the spread of COVID-19 is limited, existing health care facilities may be insufficient to care for those who become sick; and

WHEREAS, additional steps will reduce the spread of COVID-19 at places where people congregate, such as retail establishments; and

WHEREAS, such additional steps are reasonably necessary to address the public health risk posed by COVID-19; and

WHEREAS, some areas of the state have seen more rapid and significant spread of COVID-19 than others, and some but not all local authorities have taken steps to address community spread of the illness in their communities; and

WHEREAS, Executive Order No. 121 identified certain types of businesses as COVID-19 Essential Businesses and Operations, including certain retail businesses; and

WHEREAS, Executive Order No. 121 directed that social distancing should be practiced to the maximum extent practicable in all COVID-19 Essential Businesses and Operations, including retail businesses, and provided that certain businesses had to cease operations unless they could maintain specified Social Distancing Requirements; and

WHEREAS, recent evidence indicates that additional measures are required to ensure social distancing and prevent the spread of COVID-19 in retail businesses; and

WHEREAS, the undersigned has determined that, to prevent the spread of COVID-19, retail establishments must restrict their maximum occupancy during this emergency, must clearly mark spacing for social distancing, and must perform frequent and routine environmental cleaning and disinfection of high-touch areas; and

WHEREAS, in Executive Order No. 120, the undersigned placed additional restrictions on long term care facilities; and

WHEREAS, NCDHHS has now recommended that increased measures are required to control the spread of COVID-19 in long term care settings; and

WHEREAS, the undersigned has determined that additional mitigation measures, recommended by NCDHHS, should be required at all skilled nursing facilities; and

WHEREAS, due to the State of Emergency, many North Carolinians must stay home and many businesses have been ordered closed, to slow the spread of COVID-19; and

WHEREAS, COVID-19 has caused and will continue to cause substantial economic disruption in North Carolina, including disruption to employees and employers; and

WHEREAS, on March 17, 2020, with the concurrence of the Council of State, the undersigned issued Executive Order No. 118, which broadened unemployment insurance benefits availability in response to COVID-19; and

WHEREAS, since that date, the Division of Employment Security has received approximately five hundred thousand (500,000) claims; and

WHEREAS, to timely process this unprecedented volume of claims, the undersigned has determined that the Division of Employment Security must explore all measures available to expedite the claims process and get relief to North Carolinians; and

WHEREAS, the Division of Employment Security has hired new staff and engaged additional resources to address the increased number of unemployment benefits claims; and

WHEREAS, N.C. Gen. Stat. § 96-15(a1) provides a mechanism, in the case of partial unemployment, for employers to submit claims on behalf of their employees through the use of an automated process; and

WHEREAS, the automated process established under N.C. Gen. Stat. § 96-15(a1), known as the "attached claim" process, is ordinarily available only for six (6) weeks of benefits; and

WHEREAS, this attached claim process is ordinarily available for use with respect to an employee only once during a benefit year; and

WHEREAS, this attached claim process is ordinarily available only for an employer which has a positive credit balance in its account and immediately pays the Division of Employment Security an amount equal to the full cost of unemployment benefits payable to the employee at the time the claim is filed; and

WHEREAS, expanding availability of the attached claim process would allow more employers to submit claims for their employees, leading to faster automated processing and unemployment insurance checks arriving sooner in the hands of North Carolinians in need; and

WHEREAS, therefore, the undersigned has determined that the Division of Employment Security should expand availability of the attached claim process so that employers may submit claims through the use of automation independent of whether the employer has a positive credit balance in its account; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(i), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because needed control cannot be imposed locally because not all local authorities have enacted such appropriate ordinances or issued such appropriate declarations restricting the operation of businesses, and limiting person-to-person contact; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(ii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because some but not all local authorities have taken implementing steps under such ordinances or declarations, if issued, in order to effectuate control over the emergency that has arisen; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because the area in which the emergency exists spreads across local jurisdictional boundaries and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iv), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection of lives and property of North Carolinians because the scale of the emergency is so great that it exceeds the capability of local authorities to cope with it; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

WHEREAS, the President of the United States signed the Families First Coronavirus Response Act (Public Law 116-127) on March 18, 2020, which included the Emergency Unemployment Insurance Stabilization and Access Act of 2020 in Division D of the Act; and

WHEREAS, the Emergency Unemployment Insurance Stabilization and Access Act of 2020 includes emergency flexibility for states to temporarily modify certain aspects of their unemployment compensation laws, a short-term waiver of interest on state trust fund advances, and full federal funding during extended benefit periods through December 31, 2020; and

WHEREAS, the U.S. Department of Labor issued an Unemployment Insurance Program Letter No. 13-20, Families First Coronavirus Response Act, Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020, on March 22, 2020, which provides direction for emergency flexibility to states administering unemployment insurance programs; and

WHEREAS, the President of the United States signed the CARES Act of 2020 (Public Law 116-36) on March 27, 2020, which provided increased unemployment insurance benefits under Title II, Subtitle A of the Act; and

WHEREAS, the U.S. Department of Labor issued Unemployment Insurance Program Letter No. 14-20, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 Summary of Key Unemployment Insurance (UI) Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility, on April 2, 2020, which provides additional guidance for states in administering emergency state unemployment programs; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(4) gives the undersigned the authority to "cooperate and coordinate" with the President of the United States; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the undersigned may take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of the Emergency Management Act and with the orders, rules, and regulations made thereunder; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(1) authorizes the undersigned to prohibit and restrict the movement of people in public places, including by: (a) imposing a curfew; (b) directing and compelling the voluntary or mandatory evacuation of people from an area; (c) prescribing routes, modes of transportation and destinations in connection with evacuation; (d) controlling the movement of persons within an emergency area; and (e) closing streets, roads, highways, and other areas ordinarily used for vehicular travel, except to the movement of persons necessary for recovery from the emergency; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(2) authorizes the undersigned to prohibit and restrict the operation of offices, business establishments, and other places to and from which people may travel or at which they may congregate; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(5) authorizes the undersigned to prohibit and restrict activities which may be reasonably necessary to maintain order and protect lives and property during a state of emergency; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(1), when the undersigned imposes any of the types of prohibitions and restrictions enumerated in N.C. Gen. Stat. § 166A-19.31(b), the undersigned may amend or rescind any prohibitions and restrictions imposed by local authorities; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), during a Gubernatorially declared State of Emergency, the undersigned has the power to "give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article."

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Required Policies for Retail Establishments

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

All retail establishments that are permitted to operate under Executive Order No. 121 or under any Order issued by a political subdivision of the State are required to take additional steps specified in this Section (the "Additional Social Distancing Requirements") to limit the risk of community transmission of COVID-19, and to ensure that employees and customers are able to maintain appropriate social distancing.

For purposes of this Executive Order, "retail establishments" include any business in which customers enter to purchase goods or services, including but not limited to grocery stores, convenience stores, large-format retail stores, pharmacies, banks, ABC stores, hardware stores, and vehicle dealerships. "Retail establishments" also includes retail establishments operated by the State, its political subdivisions, or agencies thereof.

A. **Emergency Maximum Occupancy**.

1. The occupancy of all operating retail establishments shall be limited to be no more than:

   - Twenty percent (20%) of the stated fire capacity; or

   - Five (5) customers for every one thousand (1000) square feet of the retail location's total square footage, including non-customer-facing portions.

   This limit is the "Emergency Maximum Occupancy" for that establishment.

2. If the retail establishment has reached Emergency Maximum Occupancy or expects to reach Emergency Maximum Occupancy, it must post sufficient staff at store entrances and exits to enforce the Emergency Maximum Occupancy limit.

3. The Emergency Maximum Occupancy shall be posted in a conspicuous place.

B. **Social Distance Markings**.

1. To encourage the minimum Social Distancing recommended by the Centers for Disease Control and Prevention ("CDC"), all operating retail establishments must clearly mark six (6) feet of spacing:

   a. In lines at cash registers; and
   b. In other high-traffic areas for customers, such as at deli counters and near high-volume products, inside the retail establishment.

   All operating retail establishments must enforce these limitations.

2. In addition, operating retail establishments which have reached or expect to reach Emergency Maximum Occupancy must clearly mark six (6) feet of spacing in a designated line outside the establishment.

C. **Cleaning and Disinfection**. All operating retail establishments shall perform frequent and routine environmental cleaning and disinfection of high-touch areas with a disinfectant approved by the Environmental Protection Agency ("EPA") for SARS-CoV-2 (the virus that causes COVID-19).

D. **Impact on Businesses Remaining Open**. Section 2(C)(1) of Executive Order No. 121 allowed some businesses and operations to remain open only if they could maintain specified Social Distancing Requirements. These businesses and operations must now also meet the Additional Social Distancing Requirements specified in this Section to remain open.

   Businesses or operations that received letters from the North Carolina Department of Revenue stating that they could continue to operate only if they satisfied the Social Distancing Requirements in Executive Order No. 121 must also satisfy the Additional Social Distancing Requirements to remain open.

E. **No New Authority to Remain Open**. Nothing herein shall be deemed to authorize a business to operate which does not currently qualify as a COVID-19 Essential Business and Operation under Executive Order No. 121. Likewise, nothing herein shall be deemed to authorize a business to

operate if it has been deemed nonessential or otherwise has been ordered to be closed by a political subdivision.

F. **Effect on Local Orders.** In an effort to create uniformity across the state for retail businesses that may continue to operate, the undersigned amends all local prohibitions and restrictions imposed under any local state of emergency declarations to remove any language that sets a different standard for maximum occupancy in retail establishments or otherwise directly conflicts with this Section of this Executive Order. The undersigned also hereby prohibits during the pendency of this Executive Order the adoption of any prohibitions and restrictions under any local state of emergency declarations that set a different standard for maximum occupancy in retail establishments or otherwise directly conflict with this Section of this Executive Order.

G. **Effective Date and Duration.** This Section of this Executive Order is effective Monday, April 13, 2020, at 5:00 pm. This Section of this Executive Order shall remain in effect for thirty (30) days from that date or unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Section.

Section 2. Recommended Policies for Retail Establishments

All operating retail establishments are strongly encouraged to take the following additional steps to limit the risk of spreading COVID-19, and to ensure that employees and customers maintain appropriate social distancing.

A. **Reduce Transmission Among Employees.**

1. All retail establishments are encouraged to supply, provide education on proper use, and encourage the use of cloth face coverings for all employees in positions that do not allow them to consistently maintain a six(6)-foot distance from other employees or customers, subject to the availability of these products.

2. All retail establishments should instruct employees to stay home if they are sick.

3. To encourage the minimum social distancing recommended by the CDC, all retail establishments are encouraged to mark six (6) feet of spacing in high-traffic areas within the staff-only portions of the establishment's premises.

B. **Hand Hygiene.**

1. All retail establishments are encouraged to place hand sanitizer prominently at entry and exit points, subject to availability of this product and to have disinfecting wipes and/or sprays that are EPA approved against SARS-CoV-2 available for shopping carts and baskets.

2. All employers should have their employees wash hands or use hand sanitizer, subject to the availability of that product, between interactions with customers and other employees.

C. **Designated Shopping Times for Seniors and At-Risk Groups.** All retail establishments are encouraged to designate exclusive shopping times for seniors and other at-risk groups as defined by the CDC.

D. **Signage for Social Distancing.** All retail establishments are encouraged to post signage that reminds customers and employees about required social distancing (at least six (6) feet apart).

E. **Online Ordering, Curbside Pickup, and No-Contact Checkout.** All retail establishments are encouraged to develop and use systems that allow for online, email, or telephone ordering, no-contact curbside or drive-through pickup or home delivery, and contact-free checkout.

F. **Additional Recommendations for High-Volume Retail Establishments.** High-volume retail establishments, such as grocery stores and pharmacies, are strongly encouraged to take the following additional measures to promote social distancing (at least six (6) feet apart) of customers and prevent spread of respiratory droplets:

1. Use acrylic or plastic shields at cash registers.

2. Clearly mark designated entry and exit points.
3. Provide assistance with routing through aisles in the store.

Section 3. Long Term Care Risk Mitigation Measures

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

A. **Scope of this Section**. This Section of this Executive Order places mandatory requirements on skilled nursing facilities. This Section strongly encourages the same measures, to the extent possible given constraints on the availability of personal protective equipment, for other kinds of long term care facilities, including adult care homes, family care homes, mental health group homes, and intermediate care facilities for individuals with intellectual disabilities.

B. **Mitigation Measures**. Skilled nursing facilities shall:

1. Remind staff to stay home when they are ill and prevent any staff who are ill from coming to work and/or staying at work.

2. Screen all staff at the beginning of their shift for fever and respiratory symptoms. This shall include:

    a. Actively taking that staff member's temperature; and

    b. Documenting an absence of any shortness of breath, any new cough or changes in cough, and any sore throat.

    If the staff member is ill, the facility must have the staff member put on a facemask and leave the workplace.

3. Cancel communal dining and all group activities, including internal and external activities.

4. Implement universal use of facemasks for all staff while in the facility, assuming supplies are available.

5. Actively monitor all residents upon admission, and at least daily, for fever and respiratory symptoms (shortness of breath, new cough or change in cough, and sore throat), and shall continue to monitor residents.

6. Notify the local health department immediately about either of the following:

    a. Any resident with new, confirmed, or suspected COVID-19.

    b. A cluster of residents or staff with symptoms of respiratory illness. A "cluster" of residents or staff means three (3) or more people (residents or staff) with new-onset respiratory symptoms in a period of 72 hours.

C. **Other kinds of long term care facilities**. Adult care homes, family care homes, mental health group homes, and intermediate care facilities for individuals with intellectual disabilities are strongly encouraged to follow the mitigation measures listed in subdivisions (1) through (6) above, assuming supplies are available.

D. **Effective Date and Duration**. This Section of this Executive Order is effective tomorrow, Friday, April 10, 2020, at 5:00 pm. This Section of this Executive Order shall remain in effect unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Section.

Section 4. Expediting Processing of Unemployment Insurance Claims by Expanding Availability of the Attached Claim Process

For the reasons and pursuant to the authority set forth above and in Executive Order No. 118, the undersigned orders as follows:

A. If the North Carolina Department of Commerce determines that it will significantly speed the processing of unemployment insurance claims and ease the administrative burden upon the Division of Employment Security (the "Division"), the Division may choose not to enforce the requirements of N.C. Gen. Stat. § 96-15(a1) for the duration of this Section of this Executive Order, to the extent articulated in this Section, and to the extent necessary to expedite the distribution of unemployment insurance benefits mandated under Public Laws 116-36 and 116-127.

B. To the extent necessary for the immediate application and processing of unemployment insurance claims submitted by employers, the Division may choose not to enforce the requirements of N.C. Gen. Stat. § 96-15(a1) to the extent that:

1. The Division need not require an employer to pay to the Division an amount equal to the full cost of attached unemployment benefits payable to the employee at the time the claim is filed; and

2. The Division need not reject partial unemployment attached claims for claims exceeding six weeks; and

3. The Division need not reject partial unemployment attached claims submitted more than once during any benefit year with respect to an employee; and

4. The Division may accept claims by employers who do not have a positive credit balance at the time their application is filed.

C. To the extent, if any, that Subsection A of this Section cannot be fulfilled, the Division shall establish an automated process that allows employers to file attached claims for employees and that is consistent with Subsection A above.

D. Notwithstanding 2020 first-quarter unemployment payments remaining due and payable, the North Carolina Department of Commerce, Division of Employment Security, is further ordered to notify employers that, as under current law:

1. If employers decide to file attached claims for their employees, their 2020 first-quarter unemployment payments due to the Division need not be collected by the Division in advance of the employer submitting an attached claim.

E. **Effective Date and Duration**. This Section of this Executive Order is effective nunc pro tunc April 1, 2020, at 12:01 am. This Executive Order shall remain in effect for sixty (60) days unless repealed, replaced, or rescinded by another applicable Executive Order, or unless a Public Law is enacted that codifies this Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Section.

Section 5. No Private Right of Action

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

Section 6. Savings Clause

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

Section 7. Distribution

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed

with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 8. Enforcement

A. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provisions of this Executive Order shall be enforced by state and local law enforcement officers.

B. A violation of this Executive Order may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d), and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A.

C. Nothing in this Executive Order shall be construed to preempt or overrule a court order regarding an individual's conduct (e.g., a Domestic Violence Protection Order or similar orders limiting an individual's access to a particular place).

Section 9. Effective Date

Unless otherwise expressly stated in another Executive Order, Sections 1, 3, and 4 of this Executive Order shall be effective and remain in effect as stated in Sections 1(G), 3(D), and 4(E) above. The remainder of this Executive Order is effective immediately and shall remain in effect for sixty (60) days from that date or unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 9th day of April in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

ROY COOPER

GOVERNOR

April 13, 2020

EXECUTIVE ORDER NO. 132

DECLARATION OF A STATE OF EMERGENCY AND TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS TO ENSURE RESTORATION OF UTILITY SERVICES

WHEREAS, on April 12-13, 2020, the State of North Carolina experienced severe weather including tornadoes, torrential rainfall, flooding, high winds and severe thunderstorms; and

WHEREAS, the impacts from the severe weather have resulted in extensive damage including widespread power outages throughout the state, requiring the transportation of vehicles bearing equipment and supplies for utility restoration and debris removal to be moved through North Carolina on the interstate and intrastate highways; and

WHEREAS, the uninterrupted supply of electricity, fuel oil, diesel oil, gasoline, kerosene, propane, liquid petroleum gas, food, water, and medical supplies to residential and commercial establishments is essential after the storm and interruptions in the delivery of those commodities threatens the public welfare; and

WHEREAS, the prompt restoration of utility services is essential to the safety and well-being of the State's residents; and

WHEREAS, N.C. Gen. Stat. § 166A-19.1(4) provides that it is the responsibility of the undersigned, state agencies, and local governments to "provide for cooperation and coordination of activities relating to emergency mitigation preparedness, response, and recovery among agencies and officials of this state and with similar agencies and officials of other states, with local and federal governments, with interstate organizations, and with other private and quasi-official organizations;" and

WHEREAS, N.C. Gen. Stat. §§ 166A-19.10 and 166A-19.20 authorize the undersigned to declare a state of emergency and exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, the necessity in movement of vehicles transporting equipment and supplies to respond to the widespread power outages as a result of the severe weather and damages to the highway infrastructure constitutes a state of emergency for the State of North Carolina as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19); and

WHEREAS, the emergency area, as defined in N.C. Gen. Stat §§ 166A-19.3(7) and 166A-19.20(b), is the entire State of North Carolina; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(3), the undersigned, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with

the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a State agency which restricts the immediate relief of human suffering; and

WHEREAS, the undersigned has found that residents may suffer losses and further widespread damage within the meaning of N.C. Gen. Stat. §§ 166A-19.3(3) and 166A-19.2l(b); and

WHEREAS, with the concurrence of the Council of State, the undersigned hereby waives the registration requirements of N.C. Gen. Stat. §§ 20-86.1 and 20-382, the fuel tax requirements of N.C. Gen. Stat. § 105-449.47, and the size and weight requirements of N.C. Gen. Stat. §§ 20-116, 20-118 and 20-119 that would apply to vehicles carrying emergency relief supplies or services or to assist with the restoration of utility services; and

WHEREAS, 49 C.F.R. § 390.23 allows the Governor of a state to suspend the rules and regulations under 49 C.F.R. Parts 390-399 for up to thirty (30) days if the Governor determines that an emergency condition exists; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.70, the undersigned may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C. Gen. Stat. § 20-381 should be waived for (1) persons transporting essential fuels, food, water, medical supplies and (2) vehicles used in the restoration of utility services.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1.

I hereby declare that a state of emergency, as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19), exists in the State of North Carolina due to loss of power and other essential utilities as a result of the impacts from the severe weather event.

For purposes of this Executive Order, the emergency area is the entire State of North Carolina ("the Emergency Area").

Section 2.

I order all state and local government entities and agencies to cooperate in the implementation of the provisions of this declaration and the provisions of the North Carolina Emergency Operations Plan ("the Plan").

Section 3.

I delegate to Erik A. Hooks, the Secretary of the North Carolina Department of Public Safety ("DPS"), or his designee, all power and authority granted to and required of me by Article 1A of Chapter 166A of the North Carolina General Statutes for the purpose of implementing the Plan and deploying the State Emergency Response Team to take the appropriate actions necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4.

Further, Secretary Hooks, as Chief Coordinating Officer for the State of North Carolina, shall exercise the powers prescribed in N.C. Gen. Stat. § 143B-602.

Section 5.

I further direct Secretary Hooks or his designee to seek assistance from any and all agencies of the United States Government as may be needed to meet the emergency and seek reimbursement for costs incurred by the State in responding to this emergency.

Section 6.

DPS, in conjunction with the North Carolina Department of Transportation ("'DOT"), shall waive the maximum hours of service for drivers prescribed by DPS pursuant to N.C. Gen. Stat. § 20-381.

Section 7.

DPS, in conjunction with DOT, shall waive certain size and weight restrictions and penalties arising under N.C. Gen. Stat. §§ 20-116, 20-118, and 20-119, certain registration requirements and penalties arising under N.C. Gen. Stat. §§ 20-86.1 and 20-382, and certain registration and filing requirements and penalties arising under N.C. Gen. Stat. §§ 105-449.45, 105-449.47, and 105-449.49 for vehicles transporting equipment and supplies for the restoration of utility services, and vehicles carrying essentials and equipment for any debris removal in support of emergency relief efforts in the Emergency Area.

Section 8.

Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
b. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
c. When a vehicle and vehicle combination exceed twelve (12) feet in width and the total overall vehicle combination's length exceeds seventy-five (75) feet from bumper to bumper.
d. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having (A) a yellow banner on the front and rear that is seven (7) feet long and eighteen (18) inches wide and bears the legend "Oversized Load" in ten (10) inch black letters, 1.5 inches wide and (B) red flags measuring eighteen (18) inches square on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding eight (8) feet six (6) inches in width.

Section 9.

Vehicles referenced under Sections 7 and 8 of this Executive Order shall be exempt from the following registration requirements:

a. The requirement to obtain a temporary trip permit and payment of the associated $50.00 fee listed in N.C. Gen. Stat. § 105-449.49.
b. The requirement of filing a quarterly fuel tax return as the exemption in N.C. Gen. Stat. § 105-449.45(b)(1) applies.
c. The registration requirements under N.C. Gen. Stat. §§ 20-382.1 and 20-382 concerning interstate for-hire authority are waived; however, vehicles shall maintain the required limits of insurance as required.
d. Non-participants in North Carolina's International Registration Plan and International Fuel Tax Agreement will be permitted to enter North Carolina in accordance with the exemptions identified by this Executive Order.

Section 10.

The size and weight exemption for vehicles will be allowed on all DOT designated routes, except those routes designated as light traffic roads under N.C. Gen. Stat. § 20-118. This order shall not be in effect on bridges posted pursuant to N.C. Gen. Stat. § 136-72.

Section 11.

The waiver of regulations under Title 49 of the Code of Federal Regulations does not apply to the Commercial Drivers' License and Insurance Requirements. This waiver shall be in effect for thirty (30) days or the duration of the emergency, whichever is less.

Section 12.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 6 through 11 of this Executive Order in a manner that does not endanger North Carolina motorists.

Section 13.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish that their loads are being used for bearing equipment and supplies for utility restoration, debris removal, carrying essentials in commerce, in the State of North Carolina.

Section 14.

This Executive Order does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale, or purchase of alcoholic beverages as provided in N.C. Gen. Stat. § 166A-19.30(c).

Section 15.

Pursuant to N.C. Gen. Stat. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C. Gen. Stat. §§ 75-37 and 75-38 in the Emergency Area.

Section 16.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 13th day of April in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

ROY COOPER

GOVERNOR

April 17, 2020

EXECUTIVE ORDER NO. 133

EXTENDING CERTAIN TRANSPORTATION-RELATED PROVISIONS IN PREVIOUS EXECUTIVE ORDERS

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116 which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq*. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency, retroactive to March 1, 2020; and

WHEREAS, on March 25, 2020, the President of the United States, pursuant to Section 401 of the Stafford Act, approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, community spread of COVID-19 continues to increase in North Carolina and nationwide, and increased testing capacity would undoubtedly show that COVID-19 is circulating in communities across North Carolina that have not yet identified a confirmed case; and

WHEREAS, the continued presence of community spread in North Carolina, the rapid increase in COVID-19 cases, and the rising number of COVID-19 related deaths, both globally and in North Carolina, require us to continue our measures to slow the spread of this pandemic; and

WHEREAS, a composite modeling forecast, constructed by experts from North Carolina universities and research organizations, estimates that by the end of May 2020, approximately 250,000 North Carolinians will be infected with the novel coronavirus, even if social distancing measures continue through that date; and

WHEREAS, hospital administrators and health care providers have expressed concerns that unless the spread of COVID-19 is limited, existing health care facilities may be insufficient to care for those who become sick; and

WHEREAS, slowing the community spread of COVID-19 is critical to ensuring that our healthcare facilities remain able to accommodate those who require intensive medical intervention; and

WHEREAS, as proactive steps to prevent and respond to COVID-19, and for the purposes of protecting the health, safety and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-25, and 129-131; and

WHEREAS, Executive Order No. 116, issued on March 10, 2020, included certain suspensions of federal motor carrier safety regulations; and

WHEREAS, 49 C.F.R. § 390.23(a)(1)(ii)(B) allows for the undersigned to extend the suspension of the regulations in 49 C.F.R. Parts 300-399, the federal motor carrier safety regulations, for an additional thirty (30) day period if the undersigned determines that an emergency condition continues to exist; and

WHEREAS, the undersigned has determined that the Executive Order needs to remain in place to allow for the continued expedited movement of vehicles in the State; and

WHEREAS, Executive Order No. 119, issued on March 20, 2020, the undersigned facilitated critical motor vehicle operations; and

WHEREAS, the provisions concerning the Division of Motor Vehicles ("DMV") in Executive Order No. 119 are set to expire unless the undersigned takes further action; and

WHEREAS, the undersigned has determined that these DMV-related provisions should be extended; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Extensions and technical amendments

For the reasons and pursuant to the authority set forth above and set forth in the relevant Executive Orders referenced below, the undersigned orders as follows:

A. **Executive Order Nos. 116 and 119**.

1. Sections 3 to 6 of Executive Order No. 119 are hereby extended through the end of the calendar day on May 19, 2020.

2. Sections 5 and 6 of Executive Order No. 116 (which were rewritten by Section 7 of Executive Order No. 119) and Sections 7 and 8 of Executive Order No. 116, which interpret and implement those sections, are also hereby extended through the end of the calendar day on May 19, 2020. Nothing in this Executive Order modifies the effectiveness of any provisions of Executive Order No. 116 other than Sections 5 through 8.

3. This Executive Order does not amend the sixty (60) day postponement of DMV-related hearings established in Section 3.f of Executive Order No. 119.

4. The first sentence of Section 8 of Executive Order No. 119 is amended to read:

   "This Executive Order is effective immediately and shall remain in effect until the end of the calendar day on May 19, 2020, or until rescinded or superseded by another applicable Executive Order; provided, however, that expiration of this Executive Order will not invalidate postponements of DMV-related hearings that occurred under Section 3.f of this Executive Order."

B. **Miscellaneous provisions**. For avoidance of doubt:

1. Future Executive Orders may extend the term of the restrictions, delegations, and requirements listed above.

2. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

Section 2. Distribution

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 3. Effective Date

This Executive Order is effective immediately. This Executive Order shall remain in effect for the periods stated in Sections 1.A.1 and 3 of this Executive Order, unless this Executive Order is repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 17th day of April in the year of our Lord two thousand and twenty.

Roy Cooper

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall

Elaine F. Marshall
Secretary of State

State of North Carolina

ROY COOPER
GOVERNOR

April 20, 2020

EXECUTIVE ORDER NO. 134

ALLOWING BUSINESSES FLEXIBILITY TO MAKE PAYMENTS THAT ASSIST THEIR EMPLOYEES DURING THE COVID-19 PANDEMIC

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116 which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq.* and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency, retroactive to March 1, 2020; and

WHEREAS, the undersigned has issued Executive Order Nos. 117-122, 124-125, 129-131, and 133 for the purposes of protecting the health, safety and welfare of the people of North Carolina; and

WHEREAS, on March 25, 2020, the President of the United States, pursuant to Section 401 of the Stafford Act, approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") has confirmed the number of cases of COVID-19 in North Carolina continues to rise and has lab documentation that community spread has occurred; and

WHEREAS, COVID-19 has caused and will continue to cause substantial economic disruption in North Carolina, including disruption to employees and employers; and

WHEREAS, on March 17, 2020, with the concurrence of the Council of State, the undersigned issued Executive Order No. 118, which broadened unemployment insurance benefits availability in response to COVID-19; and

WHEREAS, since that date, the Division of Employment Security (the "Division") has received more than six hundred thousand (600,000) claims; and

WHEREAS, to timely process this unprecedented volume of claims, the undersigned has determined that the Division must explore all measures available to expedite the claims process and get relief to North Carolinians; and

WHEREAS, the Division has hired new staff and engaged additional resources to address the increased number of unemployment benefits claims; and

WHEREAS, on April 9, 2020, the undersigned issued Executive Order No. 131, which expanded availability of the attached claim process so that employers may submit claims to the Division by automated means independent of whether those employers have a positive credit balance in their accounts; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

WHEREAS, businesses that have temporarily furloughed employees wish to assist their employees by providing them with payments; and

WHEREAS, under N.C. Gen. Stat. § 96-15.01, the temporarily-furloughed employees could have their unemployment benefits be delayed or reduced by these payments; and

WHEREAS, the U.S. Department of Labor ("USDOL") issued Unemployment Insurance Program Letter No. 10-20, Unemployment Compensation for Individuals Affected by the Coronavirus Disease 2019, on March 12, 2020, which grants additional flexibility to the Division and other state unemployment insurance agencies; and

WHEREAS, in USDOL Letter 10-20, the USDOL emphasized existing regulatory authority, at 20 C.F.R. § 604.5(a)(3), which provides that a "State may consider an individual to be available to work" if the "individual is on temporary lay-off and is available to work only for the employer that has temporarily laid off the individual"; and

WHEREAS, USDOL Letter 10-20 also stressed, "An individual need not quit or be discharged to potentially be eligible for benefits"; and

WHEREAS, USDOL Letter 10-20 noted that the USDOL's model statute defined, for claimant eligibility purposes, the "week of unemployment" as any week where the claimant performs less than full-time work "if the wages ... with respect to such week are less than the weekly benefit amount" (emphasis added); and

WHEREAS, in other states, USDOL has allowed state unemployment insurance programs to consider severance payments as a form of payment not "with respect to such week," but instead for services previously rendered, so that those severance payments are not taken into account when determining whether a claimant is currently receiving pay and therefore employed; and

WHEREAS, the President of the United States signed the Families First Coronavirus Response Act (Public Law 116-127) on March 18, 2020, which included the Emergency Unemployment Insurance Stabilization and Access Act of 2020 in Division D of the Act; and

WHEREAS, the Emergency Unemployment Insurance Stabilization and Access Act of 2020 includes emergency flexibility for states to temporarily modify certain aspects of their unemployment compensation laws, a short-term waiver of interest on state trust fund advances, and full federal funding during extended benefit periods through December 31, 2020; and

WHEREAS, the Emergency Unemployment Insurance Stabilization and Access Act of 2020 allows a State to "modif[y] its unemployment compensation law and policies with respect to work search, waiting week, good cause, or employer experience rating on an emergency temporary basis as needed to respond to the spread of COVID-19"; and

WHEREAS, the orders and authorizations below are modifications of the state's unemployment compensation law and policies with respect to waiting weeks that otherwise would be required for claimants; and

WHEREAS, the USDOL issued Unemployment Insurance Program Letter No. 13-20, Families First Coronavirus Response Act, Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020, on March 22, 2020, which provides direction for emergency flexibility to states administering unemployment insurance programs; and

WHEREAS, the President of the United States signed the CARES Act of 2020 (Public Law 116-136) on March 27, 2020, which provided increased unemployment insurance benefits under Title II, Subtitle A of the Act; and

WHEREAS, the USDOL issued Unemployment Insurance Program Letter No. 14-20, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 Summary of Key Unemployment Insurance (UI) Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility, on April 2, 2020, which provides additional guidance for states in administering emergency state unemployment programs; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(4) gives the undersigned the authority to "cooperate and coordinate" with the President of the United States; and

WHEREAS, under USDOL Letter 10-20 and the federal laws described above, federal laws and regulations allow unemployment benefits to temporarily-furloughed employees who receive employer payments, under the reasoning that these employer payments are for services from prior weeks rather than payment for services currently rendered; and

WHEREAS, the undersigned has determined that, consistent with USDOL Letter 10-20 and the federal laws described above, and to allow benefits to the maximum extent permitted under federal law, the Department of Commerce (the "Department") may allow temporarily-furloughed employees to receive voluntary payments from employers without impairing unemployment benefits and without resulting in the employees waiting additional weeks for benefits; and

WHEREAS, the orders and authorizations below cooperate and coordinate with USDOL and utilize the flexibility provided in the federal laws described above and in USDOL Letters 10-20, 13-20, and 14-20; and

WHEREAS, in Section 3(c) of Executive Order No. 118, with the concurrence of the Council of State, the undersigned directed the Department to identify "state laws, regulations, and policies that may inhibit the fair and timely distribution of unemployment benefits to those affected by COVID-19," and the Department was authorized, upon written notice from the Office of the Governor, to "interpret flexibly, modify, or waive those state laws, regulations, and policies, as appropriate, to the maximum extent permitted under applicable federal law to effectuate the purposes of this Executive Order"; and

WHEREAS, the undersigned has determined that to allow fair and timely distribution of unemployment benefits to the maximum extent permitted under applicable federal law and allowed under USDOL guidance, the Department may allow temporarily-furloughed employees to receive voluntary payments from employers without impairing unemployment benefits; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the undersigned may take such action and give such directions to state and local agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of the Emergency Management Act and with the orders, rules, and regulations made thereunder.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Authorizing Employers to Make COVID-19 Support Payments to Their Employees.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

A. **Definitions**. In this Section:

1. A "furlough" shall mean a temporary period of time during which an employee performs no personal services for the employer as a result of a layoff caused by the economic impacts or public health impacts of COVID-19.

2. "COVID-19 Support Payments" shall mean a payment, or a series of payments, that:

    a. Are voluntarily made by an employer to an employee in response to furloughing the employee; and

    b. Are for services rendered by the employee in the past; and

    c. Hold no obligation for the employee (or the employee's estate) to repay; and

    d. Are provided without obligation for the employee to perform or not perform any act in connection with the individual's status as an employee; and

    e. Are made pursuant to a COVID-19 Support Payment Plan provided to the Division using the Division's form for that purpose.

3. "COVID-19 Support Payment Plan" shall mean a plan submitted to the Division that includes each of the items listed in Subsection (c)(2) below.

B. **Furloughed employees.**

The Department and Division are authorized, to the maximum extent permitted under federal law, pursuant to USDOL Letter 10-20 and other USDOL Letters, and for so long as this State of Emergency remains in place, to:

1. Consider an individual able to work, available to work, actively seeking work, and accepting suitable work if that individual has been temporarily furloughed by an employer and remains available to work only for that employer, regardless whether that individual receives COVID-19 Support Payments; and

2. Cause COVID-19 Support Payments to not reduce or delay the unemployment benefits that an otherwise eligible individual would be entitled to receive; and

3. Treat furloughed recipients of COVID-19 Support Payments as unemployed under N.C. Gen. Stat. § 96-15.01; and

4. Determine that no overpayment occurs when a claimant receives unemployment insurance benefits at the same time as COVID-19 Support Payments.

C. **Employer implementation**.

1. Employers must submit employer-filed unemployment insurance claims, according to guidance provided by the Division, for each employee receiving COVID-19 Support Payments.

2. The employer's COVID-19 Support Payment Plan must:

   a. Detail the anticipated length of the furlough;

   b. State the amount of the COVID-19 Support Payments;

   c. Identify the names of the employees receiving COVID-19 Support Payments;

   d. Include a promise that the employer is not making the COVID-19 Support Payments as a form of remuneration for the employees' performance of personal services during the furlough; and

   e. Include a promise that employees are not required to return or repay the COVID-19 Support Payments.

3. COVID-19 Support Payment Plans need not be approved by the Division, but must be submitted to the Division.

4. COVID-19 Support Payment Plans are not promises by the employer to make the payments listed in the Plans. If employers choose to provide COVID-19 Support Payment Plans that involve a series of payments, employers retain the flexibility to stop those payments before the scheduled end of the plan.

5. COVID-19 Support Payments and COVID-19 Support Payment Plans are not promises by the employee to return to work for the employer. Employees who accept COVID-19 Support Payments retain any flexibility they may have to accept other employment.

D. **Guidance for the public**. The Division shall publish on its website:

1. A form for COVID-19 Support Payment Plans.

2. Guidance for employers submitting employer-filed unemployment insurance claims while providing COVID-19 Support Payments.

Section 2. No Private Right of Action.

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

Section 3. Savings Clause.

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

Section 4. Distribution.

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 5. Effective Date.

This Executive Order is effective immediately. This Executive Order shall remain in effect unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 20th day of April in the year of our Lord two thousand and twenty.

Roy Cooper

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall

Elaine F. Marshall
Secretary of State