

EXECUTIVE ORDER NO. 228

WHEREAS, the New Jersey State Legislature has failed to fulfill its most basic constitutional obligation by failing to pass a General Appropriations Law for Fiscal Year 2018 in a timely manner; and

WHEREAS, Article VIII, Section 2, Paragraph 2 of the New Jersey Constitution prohibits the withdrawal of any funds from the State Treasury except for "appropriations made by law;" and

WHEREAS, Article VIII, Section 2, Paragraph 2 of the New Jersey Constitution requires that all monies for the support of State government and for all other State purposes, as far as can be ascertained or reasonably foreseen, shall be provided for in a single General Appropriations Law covering one and the same fiscal year; and

WHEREAS, consistent with the provisions of N.J.S.A. 52:27B-20, as amended, I presented my Fiscal Year 2018 budget message to a joint session of the New Jersey Legislature on February 28, 2017, detailing my requests for a responsible and balanced State budget for Fiscal Year 2018; and

WHEREAS, the authority of the General Appropriations Law for Fiscal Year 2017 will expire at 12:01 a.m. on July 1, 2017; and

WHEREAS, no General Appropriations Law will be enacted before Fiscal Year 2018 commences on July 1, 2017; and

WHEREAS, New Jersey's constitutionally mandated budget system does not provide for partial or interim budgets, temporary spending authorizations, continuing resolutions, or other devices pursuant to which the State might lawfully continue its operations in the absence of a unitary annual General Appropriations Law; and

WHEREAS, it is not known when a General Appropriations Law will be enacted for Fiscal Year 2018; and

WHEREAS, the legislative prerogative over appropriations must be respected and preserved; and

WHEREAS, the New Jersey State Constitution requires the Governor to take care that the laws of this State be faithfully executed, N.J.Const. (1947) Article V, Section 1, Paragraph 11; and

WHEREAS, the Governor of the State of New Jersey is entrusted with the responsibility to protect the health, safety, and welfare of the people of this State, as well as the responsibility to aid in the prevention of damage, loss, or destruction of property in the event of emergency affecting the State; and

WHEREAS, the disruption of essential State services caused by the absence of a General Appropriations Law for Fiscal Year 2018 will result in significant and irreparable harm to the health, safety, and welfare of the people of the State; and

WHEREAS, in order to protect the health, safety, and welfare of the people of this State, it is necessary that the State continue to provide essential services without interruption and effectuate the cessation of services that are not essential in a safe, effective, and orderly manner; and

WHEREAS, the Constitution and the health, safety, and welfare of the people of New Jersey require that a State budget be adopted; and

WHEREAS, certain State employees must remain available in order to deliver services essential to the health, safety, and welfare of the people of the State and to protect against damage to and destruction of property; and

WHEREAS, certain essential services and functions can continue only if the State is able to obligate funds for those essential services and functions; and

WHEREAS, the health, safety, and welfare of the people of the State clearly require that measures be taken immediately to cope with the damaging conditions that would imminently arise in the absence of legal authorization to incur such obligations; and

WHEREAS, protecting the people and the critical assets of the State of New Jersey is the highest priority for the State of New Jersey and its Governor; and

WHEREAS, the management and control of the affairs of the State are beyond the capabilities of local authorities; and

WHEREAS, the Constitution and Statutes of the State of New Jersey, particularly the provisions of the Laws of 1942, Chapter 251, N.J.S.A. App. A:9-33, et seq., as amended and supplemented, confer certain emergency powers upon the Governor of the State of New Jersey;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, including the provisions of N.J.S.A. App. A:9-33 et seq., do hereby DECLARE, ORDER, and DIRECT:

1. A state of emergency exists in the State of New Jersey by reason of the facts and circumstances set forth above.

2. I invoke the emergency powers conferred upon me by N.J.S.A. App. A:9-33 et seq., and all amendments and supplements thereto, and such other powers as may be conferred upon me by the Constitution and the Statutes of the State of New Jersey.

3. Until such time as there is enacted a General Appropriations Law for Fiscal Year 2018, I reserve the right to take such actions and issue such orders or directives as may be necessary to meet the various problems presented by this emergency, to protect the health, safety, and welfare of the people of this State, and to ensure the continued provision of essential State services. The exercise of these emergency powers shall, when required, be subject to future payment of the reasonable value of goods and services, subject to appropriation, and as provided by law.

4. Services and functions of State government directly related to the preservation and protection of human life and safety; the protection of property, including State property; the adoption of the State General Appropriations Law; and such functions of the Judicial

Branch as determined by the Chief Justice, shall be deemed essential and shall continue without interruption during the period in which there is no General Appropriations Law for Fiscal Year 2018. More specifically, but not by way of limitation, the following services and functions of State government are hereby deemed essential:

- a. Activities required to protect life, health, safety, and property;
- b. Care of all prisoners, patients, and other residents in the care or custody of the State at correctional facilities, developmental centers, juvenile detention centers, veterans' homes, psychiatric hospitals, and State-operated residential facilities;
- c. Activities essential to ensure continued public health and safety, including, but not limited to, disease prevention and control, health maintenance, and the safe use of food, drugs, and hazardous materials;
- d. Protection of State lands, buildings, equipment, and other property owned, leased, or operated by the State;
- e. Child welfare involving the Department of Children and Families;
- f. Continuation of transportation safety functions and the protection of transport property;
- g. Environmental emergency response and enforcement;
- h. Activities necessary to preserve and protect the State's financial assets and resources;
- i. Emergency and disaster response activities;
- j. Services to process payments that can be made without a General Appropriations Law;
- k. Information technology, accounting, and payroll services necessary to support essential functions as described in this Order;

- l. Court-mandated activities and appearances, as required; and
- m. Supervisory and oversight functions necessary to ensure the provision of essential services as described in this Order.

5. The head of each department or agency shall designate those employees whose services are considered essential to the health, safety, and welfare of the people of New Jersey in accordance with criteria provided by the Office of the Governor. Employees so designated shall report to work and perform such duties and responsibilities as the respective department or agency heads shall direct. In addition, such other activities and personnel as the Governor may determine to be essential to the health, safety, and welfare of the people of New Jersey are deemed essential for purposes of this Order.

6. The State Treasurer shall take all actions necessary to prevent the State from defaulting on any of its general obligation bonds, including the payment of principal and interest with funds in the State Treasury, and shall take all actions that are essential to protect the State's funds and investments.

7. In accordance with N.J.S.A. 38A:2-4 and N.J.S.A. 38A:3-6.1, I hereby authorize the Adjutant General to order to active duty such members of the New Jersey National Guard who are necessary to assist the State in providing essential services during the present state of emergency. The Adjutant General may authorize the use of any supporting vehicles, equipment, communications, or supplies as may be necessary to support the members so ordered.

8. It is ordered that the statutory and regulatory provisions governing layoffs in State government, N.J.S.A. 11A:8-1 et seq. and N.J.A.C. 4A:8-1 et seq., are hereby suspended and of no force or effect while this Order is in effect.

9. All employees whose services are not deemed essential pursuant to this Order shall be deemed furloughed pursuant to N.J.S.A. 11A:6-1.1 and shall be governed by the rules implementing that program, except as may be prohibited by law. The provisions of this paragraph shall apply to any such employees who are necessary to implement the orderly shut down of programs and functions as provided in paragraph 16 of this Order upon the completion of such shut down, as determined and documented by the head of the department or agency.

10. The State Treasurer and the Director of the Office of Management and Budget are hereby authorized to obligate funds for the purpose of paying employees who have been designated as essential pursuant to this Order or who are necessary to implement the orderly shut down of programs and functions as provided in paragraph 16 of this Order. However, no such funds shall be disbursed except as provided by law.

11. The State Treasurer is directed to continue to make payments where such payments are required by federal law.

12. The time within which any action must be taken by a member of the public or by any State officer or agency including, but not limited to, rejection, approval, or modification of initial decisions pursuant to N.J.S.A. 52:14B-10 and approval or denial of filings or other applications pursuant to Titles 17 and 17B of the Revised Statutes, in connection with the filing of any document or the transaction of any business by or with the State or its agencies, departments, divisions, commissions, or boards shall be tolled by each day on which State offices are closed for regular business. The foregoing shall not apply to: (1) the payment of any fees or taxes due and owing to the State; or (2) payments to the State under any contractual agreements.

13. It shall be the duty of every person in this State or doing business in this State, and the members of the governing body, and of each and every official, agent, or employee of every political

subdivision in this State, and of each member of and all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, fully to cooperate in all matters concerning this emergency.

14. All State officials and agencies shall cooperate fully in the implementation of this Order.

15. Any person who shall violate any of the provisions of this Order or shall impede or interfere with any action ordered or taken pursuant to this Order shall be subject to the penalties provided by law.

16. Each department head and the head of each agency allocated to, but independent of, a department affected by the failure to enact a General Appropriations Law for Fiscal Year 2018 is directed to begin immediately an orderly shut down of all services and functions funded through the General Appropriations Law and not deemed essential under this Order.

17. The executive head of any agency or instrumentality of the State government with authority to promulgate rules may, for the duration of this Order, and subject to prior approval of, and in consultation with, the State Director of Emergency Management, waive, suspend, or modify any existing rule, the enforcement of which would be detrimental to the public health, safety, or welfare during this emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Any such waiver, modification, or suspension shall be promulgated in accordance with N.J.S.A. App. A:9-45.

18. This Order shall remain in effect until such time as a General Appropriations Law is enacted for Fiscal Year 2018.

19. This Order shall take effect immediately.

GIVEN, under my hand and seal this
30th day of June,
Two Thousand and Seventeen, and
of the Independence of the
United States, the Two Hundred
and Forty-First.

/s/ Chris Christie

Governor

Attest:

/s/ Robert L. Garrenger

Acting Chief Counsel to the Governor