

State Senator Ryan P. Aument
36th Senatorial District
Floor Remarks on House Resolution 836
June 9, 2020

Mr. President, I rise today in support of HR 836, the proposal before us to immediately terminate the Governor's current emergency disaster declaration in Pennsylvania issued in response to the COVID-19 pandemic.

There is no doubt that these last few months have been incredibly difficult for every Pennsylvanian. Each member of this chamber has spent hours communicating with constituents, and hearing their heartbreaking stories. This pandemic has created struggle, uncertainty, grief, and frustration in the lives of residents throughout this Commonwealth. Indeed, the coronavirus pandemic and the governor's subsequent response to it has created a set of circumstances for families, schools, businesses, and communities across the Commonwealth that were unthinkable just a few months ago. While the challenges presented by the pandemic are innumerable, the many thoughtful and reasonable requests for changes to the shutdown, and all the calls for a new approach, have merged into one demand—rein in the unilateral powers of the Governor and restore an appropriate balance of power between the branches of state government

I have said consistently throughout this ordeal that I am incredibly disappointed with the lack of transparency and collaboration from the Governor and his Administration. Governor Wolf has shown time and time again throughout this crisis that the unilateral approach his administration has chosen to combat the coronavirus is arbitrary and capricious. This lack of transparency and collaboration has resulted in a number of avoidable missteps and unintended consequences that have unfairly disadvantaged hardworking Pennsylvanians.

To add insult to injury, the Governor has repeatedly moved the goal posts in his reopening plan—a slap in the face to all of those who have been patiently waiting their turn, obeying the Governor's innumerable orders, and risking everything to do so, all because the Administration told them it wasn't safe to resume normal activity yet. Livelihoods are being crushed, businesses are shuttering, never to reopen again, and time is of the essence for many.

We need a better approach to protect public health and reopen Pennsylvania.

But Governor Wolf has made it clear that he has no interest in listening to the voices of the citizens of Pennsylvania through their elected officials in the General Assembly. He has vetoed numerous legislative proposals that would have made common sense modifications and improvements to his shutdown orders. In some cases, he has vetoed bipartisan legislation only to enact the same changes sought by the legislation, but through executive order. This was a clear sign of disrespect and disregard for this institution and the legislative process.

It is our duty to ensure that those voices, the voices of the people of Pennsylvania, are heard. With this vote, we say: We hear you when you say that you're tired of the countless executive orders, constantly evolving guidelines, and daunting uncertainty about the future. We hear you

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when you say that your businesses cannot withstand even another week of this shutdown. We hear you when you say that you're concerned about the future of your children's education and the uphill battle you will face to bridge the learning gap created by widespread school closures. We hear you when you say that you're frustrated by the incompetence displayed by unaccountable and unelected government bureaucrats who promised financial assistance months ago that has yet to reach your wallet. We hear you when you say that rebuilding your small business in the long term under the current guidelines will barely allow you to breakeven. We hear you when you say you're struggling. We hear you when you say you want to be treated as adults who are more than capable of making decisions to protect your health and the health of your friends and neighbors. We hear you.

We trust the people of Pennsylvania.

So let's end the current emergency disaster declaration. Let's reestablish the equal branches of government by supporting House Resolution 836. Let's end the suffering and the uncertainty and the imbalanced concentration of power in the executive branch.

But let's also take steps to ensure that this unilateral abuse of power can never happen again in future emergencies. Let's ensure that no governor, Republican or Democrat, can ever again have this much unchecked power over the people of this Commonwealth, regardless of the circumstances. Let's fix the problems of today by passing HR 836 and protect the state for tomorrow by reforming the system altogether.

To reform the Governor's powers in the future, I have introduced a bill along with my colleague Senator John Yudichak that would reform the handling of future emergencies in Pennsylvania. Specifically, the bill would limit the length of the emergency declaration to 30 days (from 90, as is allowed in current statute), with the option to extend the declaration with the approval of the General Assembly. Further, the bill would require the automatic creation of the Disaster and Recovery Task Force once an emergency is declared in Pennsylvania. And finally, the Governor will be required to notify the General Assembly of any actions his or her Administration intends to take during the declared emergency at least 12 hours prior to the issuance of such orders.

My colleague in the Senate, Senator Kim Ward, has also introduced a constitutional amendment that is similar to my statutory changes. The people of Pennsylvania, through their elected officials, cannot be ignored in the future. We cannot allow any future governor to forcibly impose his or her will on the citizens of this Commonwealth without any input from and collaboration with the other co-equal branches of government.

These efforts are not partisan. They are not Republican attacks against a Democratic Governor. They are essential to a properly functioning government. Balance of power in government is central to a free and civil society. We must protect this principle by ensuring that the people assembled in the form of the Legislature can operate as a co-equal branch of government.

As James Madison wrote in The Federalist Papers – Federalist 51:

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“It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external or internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next oblige it to control itself.”

The bottom line is this: Pursuant to the Title 35, the Governor is granted extraordinary power to issue a Disaster Emergency Declaration after finding that a disaster has occurred or the threat of a disaster is imminent. The obvious reason that the legislature many years ago passed this statute granting the Governor these extraordinary powers to act independent and unilateral of the General Assembly was due to the extraordinary and imminent circumstances our Commonwealth faces when responding to a disaster. However, when granting this extraordinary power, the General Assembly reserved the ability to by “concurrent resolution terminate a state of disaster emergency at any time.” This was clearly a check and balance included in the language of the statute reserving the ability of the General Assembly to terminate the emergency declaration. The only way to interpret that statute without resulting in an absurd conclusion would be that a concurrent resolution by the General Assembly will terminate a Disaster Emergency Declaration.

I think everyone recognizes in a true emergency the Governor needs the ability to respond quickly and appropriately to a disaster and imminent threat to our Commonwealth. However, we are now 95 days out from March 6th, the first day of the Governors Proclamation of Disaster Emergency, and we have long ago since passed the necessity for this Governor to act independent of the General Assembly and the voice of the people; we have long since passed the need for this Governor to impose unequal and unfair impose restrictions on businesses that creates a system of winners and losers, albeit mostly losers.

Senators and Representatives work for the people of this Commonwealth. We are not simply a rubber stamp for the whims of the executive branch. It is our duty to exercise due diligence and ensure a sound system of checks and balances, especially when the people of Pennsylvania demand it.

When our Commonwealth faces difficult challenges, when our people are divided, lively debate in this institution can help bring us together. I don't think it is an accident that political polarization has increased as the unilateral power of the executive branch has increased. The legislative process requires debate and consensus, whereas a unilateral approach by the executive stifles the voice of the people, stifles debate, and sets aside the need for consensus and collaboration. This leads to greater disunity and polarization during a time of crisis, when we least can afford it.

We must not allow the unchecked emergency powers of the governor to stifle the voice of the people. We are their voice. We must listen to them, as we must act on their behalf.

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It is time to end the emergency declaration. It is time for the governor to come back to the people assembled and work together, in collaboration with our local communities, to restore, rebuild, and reimagine a stronger Pennsylvania.

I urge a vote in support of HR 836