



NEW YORK STATE SENATOR

Patrick M. Gallivan

Senator Gallivan Sponsors Bipartisan Bill to Address State Emergency Declarations

JIM RANNEY May 20, 2020

| ISSUE: **STATE OF EMERGENCY, NEW YORK STATE LEGISLATURE, NYS GOVERNOR**



Senator Patrick M. Gallivan (R-C-I, Elma) is joining Senator Joseph A. Griffo (R-C-I, Rome) and Assembly Members Marianne Buttenschon (D, Utica/Rome) and Angelo Santabarbara (D-Rotterdam) in proposing legislation that would amend executive law, in relation to the length of time of a state disaster emergency declaration. The bill also requires the governor to transmit a weekly report to the Legislature during an emergency declaration and mandates communication between the governor and the parties affected by a suspension of

laws during a state disaster emergency. While the authority of the Legislature has not been abrogated during the COVID-19 pandemic, a review of the governor's authority is warranted.

"Under our Constitution, the Legislature is not only a co-equal branch of government, it is intended to serve as a check on both the Executive and Judicial branches," **Gallivan said.**

"Executive orders should never be used to circumvent the legislative process or limit the input of elected representatives. This bill will better hold the Executive branch accountable for such orders and appropriately limit the scope of disaster declarations in the future."

The proposal would impose a maximum of 30 days for a disaster declaration. Any continuation of the declaration and the suspension of laws would require legislative approval, as exists elsewhere in the United States. All declarations would be in force for no more than 30 days without re-approval. Through this proposed process, residents, through their elected representatives in Albany, would have greater participation in the process of how to close and reopen, a particularly important consideration in light of a potential second wave of the COVID-19 pandemic.

The inconsistency that has occurred in relation to determining what is open and what is essential versus that which is closed and non-essential have proven chaotic and contradictory, leading to unnecessary confusion amongst employers, employees and residents. By requiring the governor to solicit input from local governments, school districts, individuals, businesses, associations and other parties affected by suspended laws and other executive actions, the confusion and inconsistencies surrounding executive orders can be greatly reduced.

The legislators are also calling on the Legislature to address any potential legislative actions taken by the executive and to review all that has been put forward and make determinations accordingly to pass legislation that would both remedy these issues, as well as better protect

the rights of state's residents and businesses by making the Legislature equal partners in the process of disaster emergency declarations.

"The bill is necessary to re-establish the Legislature as a co-equal branch of government, as it was intended to be in the State Constitution," **Griffo said**. "Much of what the governor has issued through his executive orders during the COVID-19 pandemic were expressly allowed through the state constitution prior to the state's current situation; however, some aspects of the shutdown and reopening have been used as an end run around the Legislature and the state constitution, necessitating that the extension of any such powers come with the ability of the Legislature to review and revise what the executive has done."

"The New York State Constitution, just as the U.S. Constitution, was established using the principle of separation of powers in order to ensure the three branches of government, including the Legislature, were able to function equally to provide a system of checks and balances. While I applaud the Governor for the work he has done to protect New Yorkers during this COVID-19 pandemic, it is time to address the need to review the Governor's ability to use Executive Orders during this, and future, emergency and disaster declarations. This legislation is an important step to ensuring the concerns the Legislature hears from their constituents are addressed. The Legislature must be able to play a part and provide input in the important state decisions which have been made to ensure that our constituents are fairly represented. Additionally, weekly reports from State Departments are essential in order to ensure that the Legislature is able to know, understand and articulate all of the steps taken by the Executive to better inform their constituents and to ensure steps are taken to protect them while the Executive is working to resolve matters during a crisis," **Assemblywoman Marianne Buttenschon said**.

"With the re-opening process now being discussed, this legislation seeks to re-establish the state legislature as a co-equal branch of government, as it should be," said **Assemblyman**

Santabarbara. “This doesn’t prevent the governor from doing what is necessary to keep people safe, but it does prevent the use of executive powers to circumvent the legislature,” **Santabarbara said.** “During the COVID-19 shut-down, the governor has suspended hundreds of laws through executive orders and much of the re-opening plans have gone forward without enough input from the local families and businesses we represent,” **Santabarbara added.** “As we move forward with re-opening, we must have safeguards in place to protect the rights of our residents and limit the Governor’s emergency powers if necessary.”

Additionally, the weekly reports being proposed in the bill could have led to significant improvements in how to properly assist nursing homes, as well as make improvements to the unemployment benefit system, which has been beleaguered by monumental delays and frustration for residents.