SENATE JOINT RESOLUTION 20B-001

CONCERNING TERMINATING THE GOVERNOR'S AUTHORITY UNDER THE DECLARED STATE OF DISASTER EMERGENCY.

WHEREAS, Section 1 of article V of the state constitution vests in the General Assembly plenary legislative power, which includes the authority to enact statutes to promote the public health; and

WHEREAS, The General Assembly enacted part 7 of article 33.5 of title 24, Colorado Revised Statutes, the "Colorado Disaster Emergency Act", which Act sets forth the circumstances under which the governor may declare a disaster emergency and the powers the governor may exercise following that declaration; and

WHEREAS, Following the declaration of an epidemic disaster emergency, pursuant to section 24-33.5-704.5 (1)(e), Colorado Revised
Statutes, the governor may enact executive orders that have the force and
effect of law to implement "reasonable and appropriate measures to
reduce or prevent spread of the disease…and to protect the public health"; and

WHEREAS, A new outbreak of coronavirus disease, now
identified specifically as COVID-19, was detected in Wuhan, China in
December 2019, which virus spread to the United States and ultimately
to Colorado; and

WHEREAS, On March 11, 2020, Governor Polis declared a state
of disaster emergency in Colorado through the issuance of Executive
Order D 2020 003, and the World Health Organization declared a global
pandemic due to the spread of COVID-19; and

WHEREAS, Governor Polis thereafter amended and extended this
state of declared disaster emergency in Colorado by Executive Order D
2020 018 issued on March 26, 2020, Executive Order D 2020 032 issued
on April 8, 2020, Executive Order D 2020 058 issued on May 7, 2020,
Executive Order D 2020 076 issued on May 22, 2020, Executive Order
D 2020 109 issued on June 20, 2020, Executive Order D 2020 125 issued
on July 6, 2020, Executive Order D 2020 152 issued on August 4, 2020,
Executive Order D 2020 176 issued on September 2, 2020, Executive
Order D 2020 205 issued on October 1, 2020, and Executive Order D
2020 234 issued on October 30, 2020, which most recent executive order
will expire thirty days from October 30, 2020, unless amended further by
executive order; and

WHEREAS, Following the declaration of a state of disaster
emergency, Governor Polis has issued at least two hundred twenty-four
additional executive orders related to COVID-19 and has directed the
issuance of a number of public health orders that have had far-reaching
effects on the people of Colorado including, but not limited to, directing
stay-at-home orders, directing noncritical businesses to close, directing
employers to reduce in-person work, suspending normal in-person
instruction of students, ordering the temporary suspension of all voluntary
or elective surgeries or procedures, and ordering the issuance of a public
health order mandating the wearing of nonmedical face coverings; and

WHEREAS, Following the declaration of a state of disaster
emergency, Governor Polis has also enacted executive orders that have
amended certain Colorado statutes including, but not limited to, executive
orders that have delayed tax deadlines, suspended certain regulatory statutes concerning criminal justice including the Colorado department of correction's duty to receive and take custody of prisoners based on the statutory criteria for placement, suspended the authority of the juvenile parole board to grant, deny, or defer parole for certain juveniles, suspended the Colorado department of human services' obligation to receive juveniles committed to its custody based on the statutory criteria for placement, and suspended requirements that govern the form of, compilation of, and information that must be printed on a ballot issue; and

WHEREAS, During the state of declared disaster emergency, Governor Polis disbursed approximately $1.674 billion that the Colorado state government received as a result of the federal Coronavirus Relief Fund pursuant to the federal "Coronavirus Aid, Relief, and Economic Security Act" (CARES Act), Public Law 116-136; and

WHEREAS, By issuing executive orders that have the force of law, by suspending state statutes, and by disbursing CARES Act funds during the state of declared disaster emergency, Governor Polis has exercised legislative power and the authority to appropriate money that is historically reserved to the General Assembly; and

WHEREAS, Over 200,000 Coloradans are unemployed as of October 2020, the Colorado unemployment rate surged as high as 12.2% in April, and roughly $2.62 billion are expected to be paid out in unemployment claims in the current fiscal year; and

WHEREAS, Colorado students have missed out on a quality education due to the suspension of in-person instruction by a school system that was not prepared to provide remote education and parents and teachers have suffered from the increased workload; and

WHEREAS, The governor's executive orders and the related public health orders have been devastating for Colorado small businesses and workers and many are facing financial hardship and bankruptcy; and

WHEREAS, Rural Colorado has unnecessarily been negatively impacted by being subjected to executive orders and related public health orders directed at urban communities; and

WHEREAS, Colorado families are struggling with the financial impacts, confusing orders, supervision of students, and the overall stress
of the governor's executive orders and the related public health orders; and

WHEREAS, The state's revenues have fallen dramatically and the related and necessary cuts to the state's budget have been deep and wide with the General Assembly needing to close nearly a three billion dollar deficit in the latest budget; and

WHEREAS, Pursuant to section 24-33.5-704 (4), Colorado Revised Statutes, the General Assembly may terminate a state of disaster emergency at any time by the adoption of a Joint Resolution and thereby terminate the powers granted to the governor during a declared state of disaster emergency; now, therefore,

Be It Resolved by the Senate of the Seventy-second General Assembly of the State of Colorado, the House of Representatives concurring herein:

That, pursuant to section 24-33.5-704 (4), Colorado Revised Statutes, we, the members of the Seventy-second General Assembly, do hereby terminate the governor's authority under the state of disaster emergency that was initially declared by executive order of the governor in Executive Order D 2020 003, as amended by Executive Order D 2020 018, and extended by Executive Orders D 2020 032, D 2020 058, D 2020 076, D 2020 109, D 2020 125, D 2020 152, D 2020 176, D 2020 205, and D 2020 234.

Be It Further Resolved, That nothing herein shall be interpreted to minimize the health and economic crises facing Colorado, but it is time for the legislature to reassume its role.

Be It Further Resolved, That copies of this Joint Resolution be sent to Governor Jared Polis, Secretary of State Jena Griswold, and Executive Director of the Colorado Department of Public Health and Environment Jill Hunsaker Ryan.