

**JOINT RESOLUTION ON PRESIDENTIAL EXECUTIVE
ORDERS**

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David P. Hinkins

House Sponsor: Phil Lyman

LONG TITLE

General Description:

This joint resolution recognizes and encourages adherence to the proper separation of powers and principles of federalism with regard to certain presidential executive orders.

Highlighted Provisions:

This resolution:

- ▶ recognizes the importance of the appropriate separation of powers among the branches of government as established in the Constitution of the United States;
- ▶ recognizes the core functions of each branch of government, including the checks and balances among the three branches of government;
- ▶ recognizes that other states have introduced legislation intended to provide and maintain balance among the branches of government;
- ▶ requests that the Utah Attorney General review executive orders of the President of the United States and evaluate whether an executive order exceeds the President's power, violates the constitution, or unlawfully infringes on the rights and powers of the state of Utah; and
- ▶ requests that the Utah Attorney General initiate litigation if the Utah Attorney General finds that an executive order exceeds the President's power, violates the constitution, or unlawfully infringes on the rights and powers of the state of Utah.

Special Clauses:



28 None

29

30 *Be it resolved by the Legislature of the state of Utah:*

31 WHEREAS, the United States Constitution creates three distinct branches of
32 government;

33 WHEREAS, the United States Constitution defines the powers of each branch of
34 government;

35 WHEREAS, the power to legislate and enact law is reserved to Congress;

36 WHEREAS, the power to execute the law is granted to the executive branch;

37 WHEREAS, the power to interpret and apply the law is granted to the judicial branch;

38 WHEREAS, each branch is prohibited from exercising the core functions of another
39 branch of government;

40 WHEREAS, each branch provides checks and balances on the other two branches of
41 government;

42 WHEREAS, the principle of federalism provides a check and balance between the
43 federal and state governments and ensures sovereignty of each state by protecting against
44 federal overreach; and

45 WHEREAS, other states, including Nebraska, North Dakota, South Carolina, and South
46 Dakota have introduced legislation intended to provide balance among the branches of
47 government and between state and federal governments:

48 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah
49 requests that the Attorney General of the state of Utah review each executive order issued by
50 the President of the United States if the executive order has not been affirmed by a vote of the
51 Congress of the United States and evaluate whether that executive order exceeds the President's
52 power, violates the constitution, or unlawfully infringes on the rights and powers of the state of
53 Utah.

54 BE IT FURTHER RESOLVED that if the Attorney General determines that the
55 executive order exceeds the President's power, violates the constitution, or unlawfully infringes
56 on the rights and powers of the state of Utah, the Legislature encourages the attorney general to
57 commence litigation to protect against illegal, unconstitutional, or overreaching presidential
58 executive orders.

59 BE IT FURTHER RESOLVED that the Legislature urges the Attorney General to
60 closely scrutinize executive orders that relate to:

- 61 ▶ a pandemic or other public health emergency;
- 62 ▶ the regulation of natural resources;
- 63 ▶ the regulation of the agricultural industry;
- 64 ▶ the regulation of land use;
- 65 ▶ the regulation of the financial sector through the imposition of environmental,
66 social, or governance standards; and
- 67 ▶ the regulation of the constitutional right to keep and bear arms.

68 BE IT FURTHER RESOLVED that the Legislature supports similar efforts of other
69 states to provide appropriate checks and balances among the branches and levels of
70 government.