

## **Talking Points**

### **S.B. 195 Emergency Response Amendments**

#### **S.B. 195 Overview**

- S.B. 195 is a direct result of concerns the public has voiced regarding executive powers.
- S.B. 195 creates checks on executive emergency powers without hindering rapid emergency response during long-term emergencies.
- The pandemic showed that adjustments were needed to adequately face our next extended emergency, whether it's next year or in 30 years.
  - It does not impact short-term emergencies.
- The bill tightens executive powers both with the executive and state health departments.
- The intent is not to disrupt the executive branch's, Utah Department of Health's or local health agencies ability to respond to typically emergencies, such as natural disasters or chemical spills.
- Creates more opportunities for legislators to be involved in the prolonged state-issued health orders.
- Creates opportunities for public input
- Provides opportunities for oversight at the local county level for local health orders.
- The proposed changes to emergency powers are not a condemnation of any agency, individual or action.
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#### **The Emergency Management Act Needs to be Refined**

- COVID-19 has given the Legislature and Utahns an opportunity to see the Emergency Management Act, policy set in place over 65 years ago, in action.
- The 1953 Emergency Management Act was meant to deal with instances lasting 30, 60 or 90-days, such as when earthquakes, fires and chemical spills occur.
- Even when fires or earthquakes occurred, state of emergencies were isolated to specific locations, not the entire state.
- Emergency powers need refinement while still maintaining the governor's authority to address critical and urgent matters swiftly.
- We have an opportunity to take the lessons we have learned to help prepare and plan for the future.

#### **Some Emergency Powers Should Stay in Place**

- During a state of emergency, decisiveness is critical and some rules and laws may need to be suspended. However, when an emergency extends past a specific time frame, it can no longer be classified as an emergency but instead should be considered a prolonged circumstance.
- For example, in March, when Utah entered a state of emergency due to the pandemic, the usual procurement procedures were rightfully suspended as the state worked around the

clock to secure PPE. However, once immediate needs are met, government purchases should go through the normal procurement procedures.

### **The Emergency Powers Act Needs Appropriate Checks and Balances**

- The state should not stay in a perpetual state of emergency when people are resuming normal activities.
- The public should have the opportunity to weigh in on significant policy changes when it affects their daily lives.
- S.B. 195 creates a Legislative Emergency Response Committee to receive public comment and expert testimony, review extensions and recommend whether to extend an emergency order.
- Puts checks on restrictive public health orders when emergency actions are taken by the state or local health departments apply for orders broadly applied to groups or places that enforce isolations, quarantines, stay-at-home orders, public gatherings or property restrictions through the "*order of constraint*."
- The bill clarifies business and individual fines during a State of Emergency.
  - Reduces businesses' maximum fine for violations of a public health order from \$10,000 to \$5,000.
  - Creates a \$150 maximum fine for individuals and limits fines that can be levied against the same person to only once a week, unless the individual is willful or reckless and a serious threat to public health.
- During future extended emergencies, the public will be given more opportunity to provide input.

### **Emergency Powers is a Complex Policy Issue that Should be Considered Deliberately**

- Just like the formation of the U.S. Constitution, policy should not be created by the executive branch or judges but should be a deliberative process reserved for a larger, more diverse group of elected officials.
- Over the past 11 months, we have listened to concerns and received feedback concerning emergency powers. In response, we started a working group to review ideas and consider unintended consequences.
- We didn't want to create a policy that was just a quick-fix. That is why we waited for the 2021 General Session to allow ample time for feedback, thoroughness and real solutions.

### **Everyone Has a Seat at the Table**

- The Legislature listened to the public and then came together to create better policy.
- The Senate and House majority and minority caucuses and the governor's office have been involved in the process of refining emergency powers.
- All branches support the concept of the bill.
- The public is encouraged to provide feedback on the proposed bill as it goes through the legislative process.