

**JOINT RESOLUTION ON PRESIDENTIAL EXECUTIVE  
ORDERS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David P. Hinkins**

House Sponsor: Phil Lyman

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**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:**

None

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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  
57 to 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.