

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: H3/15/21

# A Bill

HOUSE BILL 1637

5 By: Representatives Vaught, Barker, Beaty Jr., Bentley, M. Berry, Brooks, Brown, Bryant, Carr,  
6 Cavanaugh, C. Cooper, Cozart, Dotson, Evans, Gonzales, M. Gray, Haak, Hollowell, Lowery,  
7 Lundstrum, McCollum, McNair, Miller, Milligan, Payton, Ray, Richmond, B. Smith, Speaks, Wardlaw,  
8 Wing, Womack, *Underwood*  
9 By: Senators T. Garner, B. Ballinger, Beckham, Bledsoe, B. Davis, Flippo, Irvin, M. Johnson, D.  
10 Sullivan, *Rapert, Hill*  
11

## For An Act To Be Entitled

12  
13 AN ACT TO ALLOW REVIEW OF PRESIDENTIAL EXECUTIVE  
14 ORDERS; TO ALLOW THE ATTORNEY GENERAL TO REVIEW  
15 PRESIDENTIAL EXECUTIVE ORDERS; TO ADDRESS  
16 IMPLEMENTATION OF A PRESIDENTIAL EXECUTIVE ORDER  
17 UNDER REVIEW; AND FOR OTHER PURPOSES.  
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## Subtitle

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21 TO ALLOW REVIEW OF PRESIDENTIAL EXECUTIVE  
22 ORDERS; TO ALLOW THE ATTORNEY GENERAL TO  
23 REVIEW PRESIDENTIAL EXECUTIVE ORDERS; AND  
24 TO ADDRESS IMPLEMENTATION OF A  
25 PRESIDENTIAL EXECUTIVE ORDER UNDER  
26 REVIEW.  
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29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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31 SECTION 1. DO NOT CODIFY. Scope.

32 (a)(1) The Tenth Amendment to the United States Constitution  
33 guarantees to the states and their people all powers not granted to the  
34 United States Government elsewhere in the United States Constitution and  
35 reserves to the State of Arkansas and its people certain powers as those  
36 powers were understood at the time that Arkansas was admitted into statehood



1 in 1836.

2 (2) The guaranty of those powers is a matter of contract between  
3 the State of Arkansas and its people and the United States as of the time  
4 that the compact with the United States was agreed upon and adopted by  
5 Arkansas and the United States in 1836.

6 (b)(1) The Ninth Amendment to the United States Constitution  
7 guarantees to the people rights not granted in the United States Constitution  
8 and reserves to the people of Arkansas certain rights as they were understood  
9 at the time that Arkansas was admitted into statehood in 1836.

10 (2) The guaranty of those rights is a matter of contract between  
11 the State of Arkansas and its people and the United States as of the time  
12 that the compact with the United States was agreed upon and adopted by  
13 Arkansas and the United States in 1836.

14 (c) The regulation of intrastate commerce is vested in the states  
15 under the Ninth and Tenth Amendments to the United States Constitution.

16 (d) The Second Amendment to the United States Constitution reserves  
17 the right to keep and bear arms to the people as that right was understood at  
18 the time that Arkansas was admitted into statehood in 1836, and the guaranty  
19 of the right is a matter of contract between the State of Arkansas and its  
20 people and the United States as of the time that the compact with the United  
21 States was agreed upon and adopted by Arkansas and the United States in 1836.

22 (e)(1) Arkansas Constitution, Article 2, § 5, clearly secures to  
23 Arkansas citizens and prohibits government interference with the right of  
24 individual Arkansas citizens to keep and bear arms.

25 (2) This constitutional protection is unchanged from the 1836  
26 Arkansas Constitution, which was approved by the United States Congress and  
27 the people of Arkansas, and the right exists as it was understood at the time  
28 that the compact with the United States was agreed upon and adopted by  
29 Arkansas and the United States in 1836.

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31 SECTION 2. Arkansas Code Title 25, Chapter 1, is amended to add an  
32 additional subchapter to read as follows:

33 Subchapter 6 – Review of Presidential Executive Orders

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35 25-1-601. Legislative intent.

36 The General Assembly finds that:

1           (1) It is the duty of the General Assembly to make  
2 determinations regarding the use of state personnel and state resources;

3           (2) Making determinations about how state personnel and state  
4 resources shall be used is a function of the General Assembly;

5           (3) The citizens of Arkansas have elected the members of the  
6 General Assembly to exercise the ability to make political determinations  
7 regarding the resources of the state; and

8           (4) A determination or action taken under this subchapter is not  
9 a judicial determination or action.

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11           25-1-602. Review of presidential executive orders.

12           (a)(1) The General Assembly may take whatever actions it deems  
13 necessary concerning presidential executive orders that may affect the State  
14 of Arkansas, its officials, or its financial resources.

15           (2)(A) During the interim between legislative sessions, the  
16 Legislative Council may schedule a meeting to review an executive order  
17 issued by the President of the United States that has not been affirmed by a  
18 vote of the United States Congress and signed into law as prescribed by the  
19 United States Constitution.

20           (B) During legislative sessions, the Joint Budget  
21 Committee may schedule a meeting to review an executive order issued by the  
22 President of the United States that has not been affirmed by a vote of the  
23 United States Congress and signed into law as prescribed by the United States  
24 Constitution.

25           (3)(A) The Legislative Council or Joint Budget Committee shall  
26 refer an executive order issued by the President of the United States that  
27 has not been affirmed by a vote of the United States Congress and signed into  
28 law as prescribed by the United States Constitution that is under review by  
29 the General Assembly to the appropriate standing committees of the General  
30 Assembly that would address the subject matter of the executive order under  
31 review.

32           (B) The standing committees of the General Assembly  
33 meeting jointly may request the Attorney General to review the presidential  
34 executive order under review by the standing committees and prepare an  
35 opinion to be delivered to the designated standing committees stating:

36           (i) A brief description of the issues involved;

1 (ii) The Attorney General's opinion of whether the  
2 presidential executive order is:

3 (a) Constitutional under the United States  
4 Constitution; or

5 (b) In conflict with the Arkansas  
6 Constitution;

7 (iii) The Attorney General's opinion of whether the  
8 state should seek an exemption from the application of the presidential  
9 executive order;

10 (iv) The Attorney General's opinion of whether the  
11 state should seek to have the order declared to be an unconstitutional  
12 exercise of legislative authority by the President of the United States; and

13 (v) Other information that will enable the  
14 designated standing committee to determine the action that may be deemed  
15 necessary to protect the interests of the General Assembly and the State of  
16 Arkansas.

17 (4) The standing committees shall make a recommendation to the  
18 Legislative Council during the interim between legislative sessions, or the  
19 Joint Budget Committee during legislative sessions, including:

20 (A) Whether state resources and personnel are required to  
21 implement the presidential executive order; and

22 (B) Identifying other action deemed necessary to protect  
23 the General Assembly's and the state's interests in litigation regarding the  
24 presidential executive order.

25 (5)(A) During the interim between legislative sessions, the  
26 Legislative Council shall, and during legislative sessions, the Joint Budget  
27 Committee shall:

28 (i) Call a meeting to discuss the report of the  
29 standing committees' review of a presidential executive order; and

30 (ii) Determine:

31 (a) Whether state resources and personnel are  
32 required to implement the presidential executive order; and

33 (b) Whether to take other action deemed  
34 necessary to protect the General Assembly's and the state's interests in  
35 litigation regarding the presidential executive order.

36 (B) All determinations of action shall be made by motion

1 and must receive a majority vote.

2 (b) Notwithstanding any other provision of law, the state, a political  
3 subdivision, or any entity that receives an appropriation of funds from the  
4 General Assembly shall not implement a presidential executive order using  
5 state resources and personnel if:

6 (1) The Legislative Council or the Joint Budget Committee issues  
7 a political determination that the presidential executive order is  
8 unconstitutional and the presidential executive order restricts a person's  
9 rights and relates to:

10 (A) Pandemics or other health emergencies;

11 (B) The regulation of natural resources, including coal  
12 and oil;

13 (C) The regulation of the agriculture industry;

14 (D) The use of land;

15 (E) The regulation of the financial sector as it relates  
16 to environmental, social, or governance standards; or

17 (F) The regulation of the constitutional right to bear  
18 arms;

19 (2) The Legislative Council, or the Joint Budget Committee if  
20 the General Assembly is in regular, fiscal, or special session, affirmatively  
21 votes to report the determination to the Governor; and

22 (3) The Governor directs the state, the political subdivision,  
23 or the entity that receives an appropriation of funds from the General  
24 Assembly to not implement the presidential executive order.

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26 */s/Vaught*  
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29 **APPROVED: BECAME LAW ON 4/8/21 WITHOUT THE GOVERNOR'S SIGNATURE.**  
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