

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

# 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  
9 By: Senators T. Garner, B. Ballinger, Beckham, Bledsoe, B. Davis, Flippo, Irvin, M. Johnson, D. Sullivan

## For An Act To Be Entitled

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11  
12 AN ACT TO ALLOW REVIEW OF PRESIDENTIAL EXECUTIVE  
13 ORDERS; TO ALLOW THE ATTORNEY GENERAL TO REVIEW  
14 PRESIDENTIAL EXECUTIVE ORDERS; TO ADDRESS  
15 IMPLEMENTATION OF A PRESIDENTIAL EXECUTIVE ORDER  
16 UNDER REVIEW; AND FOR OTHER PURPOSES.

## Subtitle

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20 TO ALLOW REVIEW OF PRESIDENTIAL EXECUTIVE  
21 ORDERS; TO ALLOW THE ATTORNEY GENERAL TO  
22 REVIEW PRESIDENTIAL EXECUTIVE ORDERS; AND  
23 TO ADDRESS IMPLEMENTATION OF A  
24 PRESIDENTIAL EXECUTIVE ORDER UNDER  
25 REVIEW.

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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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30 SECTION 1. DO NOT CODIFY. Scope.

31 (a)(1) The Tenth Amendment to the United States Constitution  
32 guarantees to the states and their people all powers not granted to the  
33 United States Government elsewhere in the United States Constitution and  
34 reserves to the State of Arkansas and its people certain powers as those  
35 powers were understood at the time that Arkansas was admitted into statehood  
36 in 1836.



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

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

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

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

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

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

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

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

32           Subchapter 6 – Review of Presidential Executive Orders

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34           25-1-601. Legislative intent.

35           The General Assembly finds that:

36           (1) It is the duty of the General Assembly to make

1 determinations regarding the use of state personnel and state resources;

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

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

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

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10 25-1-602. Review of presidential executive orders.

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

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

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

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

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

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

36 (ii) The Attorney General's opinion of whether the

1 presidential executive order is:

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

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

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

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

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

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

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

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

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

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

29 (ii) Determine:

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

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

35 (B) All determinations of action shall be made by motion  
 36 and must receive a majority vote.

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

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

9                   (A) Pandemics or other health emergencies;

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

12                   (C) The regulation of the agriculture industry;

13                   (D) The use of land;

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

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

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

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

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