

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **House Bill 3063**

BY DELEGATES MANDT, FERRELL, CRISS, FAST, HANNA,

PRITT, MCGEEHAN, PHILLIPS, WORRELL AND HOTT

[Introduced March 11, 2021; Referred to the

Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §4-16-1, relating to ensuring that the West Virginia Legislature has the power  
 3 and authority to review presidential executive orders and federal actions; and prohibiting  
 4 implementation of unconstitutional actions.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 16. LEGISLATIVE REVIEW OF PRESIDENTIAL EXECUTIVE ORDERS AND  
 FEDERAL AGENCY ACTIONS.**

**§4-16-1. Providing for legislative review of presidential executive orders and federal  
 agency actions.**

1 (a) The West Virginia Legislature may review any executive order issued by the President  
 2 of the United States, federal agency rule or federal congressional action to determine the  
 3 constitutionality of such action. Upon recommendation from the Legislature, the Attorney General  
 4 shall review such action by the federal government to determine the constitutionality of the action  
 5 and whether the state should seek an exemption from the application of the action or seek to have  
 6 the action declared unconstitutional.

7 (b) Should the Attorney General decline to pursue action based upon the determination of  
 8 the Legislature, the Legislature may declare the action unconstitutional by a majority vote.

9 (c) Notwithstanding any other provision of law, the state, county, political subdivision or  
 10 any other publicly funded organization shall not implement any action that restricts a person's  
 11 rights or that the Office of the Attorney General or the Legislature by a majority vote determines  
 12 to be unconstitutional under subsection a of this section and which relates to:

13 (1) Pandemics or other health emergencies;

14 (2) The regulation of natural resources, including oil and natural gas;

15 (3) The regulation of the agriculture industry;

16 (4) The use of land;

17           (5) The regulation of the financial sector as it relates to environmental, social or  
18 governance standards;

19           (6) The regulation of the constitutional right to keep and bear arms;

20           (7) The regulation of education;

21           (8) The regulation of interscholastic, intramural or other extracurricular sports sponsored  
22 by an institution of higher education, a school district or a charter school; or

23           (9) Any other powers reserved by the State of West Virginia or the people of West Virginia.

NOTE: The purpose of this bill is to provide legislative oversight for potentially unconstitutional presidential executive orders and federal agency actions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.