

1 INTERIM STUDY PROPOSAL 2021-087

2 State of Arkansas

As Engrossed: S4/20/21

3 93rd General Assembly

A Bill

4 Regular Session, 2021

SENATE BILL 674

5
6 By: Senators Elliott, *L. Chesterfield*, *C. Tucker*

7 By: Representatives V. Flowers, Ennett, McCullough, D. Whitaker

8 Filed with: Arkansas Legislative Council
9 pursuant to A.C.A. §10-3-217.

10 For An Act To Be Entitled

11 AN ACT TO CREATE THE UNIFY ARKANSAS COMMISSION; TO
12 PROMOTE RACIAL HEALING IN THE STATE; TO ESTABLISH THE
13 OFFICIAL OBSERVANCE OF THE NATIONAL DAY OF RACIAL
14 HEALING IN THE STATE; TO ENCOURAGE THE CREATION OF A
15 COMMUNITY REMEMBRANCE COMMITTEE IN EACH COUNTY; AND
16 FOR OTHER PURPOSES.

17 18 19 Subtitle

20 TO CREATE THE UNIFY ARKANSAS COMMISSION;
21 TO ESTABLISH THE OFFICIAL OBSERVANCE OF
22 THE NATIONAL DAY OF RACIAL HEALING IN THE
23 STATE; AND TO ENCOURAGE THE CREATION OF A
24 COMMUNITY REMEMBRANCE COMMITTEE IN EACH
25 COUNTY.

26
27
28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

29
30 *SECTION 1. Arkansas Code Title 25 is amended to add an additional*
31 *chapter to read as follows:*

32 CHAPTER 44

33 UNIFY ARKANSAS COMMISSION

34
35 25-44-101. Legislative findings and intent.

36 (a) The General Assembly finds that:

1 (1) The National Day of Racial Healing in the State of Arkansas
2 is a statewide community observance created by the Arkansas Peace and Justice
3 Memorial Movement in 2020 to provide citizens of the state with the
4 opportunity to come together to courageously discuss truth, healing, and
5 transformation;

6 (2) The original National Day of Racial Healing observance was
7 developed by the W.K. Kellogg Foundation in Battle Creek, Michigan, in 2016;

8 (3) In 2020, Governor William Asa Hutchinson II issued the
9 nation's first-ever gubernatorial proclamation for the National Day of Racial
10 Healing, and he repeated his action in 2021; and

11 (4) In 2021, the Arkansas Peace and Justice Memorial Movement,
12 in association with the Arkansas Municipal League and the University of
13 Central Arkansas Center for Community and Economic Development, successfully
14 encouraged over one hundred (100) executives of political subdivisions,
15 presidents and chancellors of institutions of higher education, and school
16 superintendents throughout the state to issue their own proclamations.

17 (b) It is the intent of the General Assembly to:

18 (1) Establish a commission to promote truth and reconciliation
19 relating to incidents of documented *extralegal*, racial, religious, and
20 political injustice and violence;

21 (2) Encourage all county intergovernmental councils to establish
22 community remembrance committees and to assist the community remembrance
23 committees in their mission, including ensuring that the executives of all
24 political subdivisions, the presidents and chancellors of all institutions of
25 higher education, and all school superintendents in each county also
26 commemorate the National Day of Racial Healing in the state by the issuance
27 of a proclamation;

28 (3) Provide for the creation of an academic course of study of
29 Arkansas Black culture; and

30 (4) Encourage the House of Representatives and the Senate to
31 convene jointly, along with all state government elected executive officials
32 and the justices of the Supreme Court, at a time certain during each regular
33 session on the National Day of Racial Healing in the state to hear the
34 Governor present and read an annual proclamation for the National Day of
35 Racial Healing in the state.

36

1 25-44-102. Unify Arkansas Commission – Creation and duties.

2 (a) The Unify Arkansas Commission is created.

3 (b) The commission shall:

4 (1) Promote *truth, healing, and transformation* relating to
5 incidents of documented or verified *extralegal*, racial, religious, and
6 political injustice and violence, including without limitation lynching,
7 discriminatory cleansing, expulsion, and exploitation, that were perpetrated
8 against citizens, veterans, and others in Arkansas throughout its history as
9 a territory and as a state;

10 (2) Cooperate and assist with the erection of historical markers
11 at confirmed sites of the incidents identified in subdivision (b)(1) of this
12 section to memorialize the victims of those incidents;

13 (3) Coordinate and facilitate the public distribution of
14 scholarly research, publications, and interpretation of the incidents
15 identified in subdivision (b)(1) of this section;

16 (4) Assist in the development of programs, legislation, and
17 policies that promote truth and reconciliation relating to the incidents
18 identified in subdivision (b)(1) of this section;

19 (5) Obtain and maintain expertise concerning the incidents
20 identified in subdivision (b)(1) of this section;

21 (6)(A) Publish and submit reports with specific recommendations
22 to the executive and legislative branches concerning ways that the state can
23 and should officially, publicly, and individually address the incidents
24 identified in subdivision (b)(1) of this section.

25 (B)(i) In recognition of the one hundredth anniversary of
26 the Elaine Race Massacre, the commission shall immediately streamline a
27 report with specific recommendations relating to the Elaine Race Massacre,
28 including without limitation a public apology and the full posthumous
29 exoneration of all one hundred twenty-two (122) Black Arkansans who were
30 wrongfully convicted of various crimes, as well as Robert L. Hill, the
31 cofounder of the Progressive Farmers and Household Union of America, who fled
32 to Kansas to avoid unjust arrest and prosecution.

33 (ii) The commission shall present the report
34 required under subdivision (b)(6)(B)(i) of this section to the Attorney
35 General for approval by May 31, 2022.

1 (iii) Upon approval of the report submitted under
2 subdivision (b)(6)(B)(ii) of this section, within fourteen (14) days of
3 receipt, the Attorney General shall transmit the report to the Governor.

4 (iv) The Governor shall formally execute the report
5 transmitted by the Attorney General within fourteen (14) days of the
6 Governor's receipt of the report.

7
8 25-44-103. Unify Arkansas Commission – Members – Meetings – Staffing.

9 (a)(1) The Unify Arkansas Commission shall consist of the following
10 members:

11 (A) Two (2) members appointed by the Governor;

12 (B) Two (2) members appointed by the Speaker of the House
13 of Representatives;

14 (C) Two (2) members appointed by the President Pro Tempore
15 of the Senate; and

16 (D) Three (3) members appointed by the Chair of the
17 Arkansas Legislative Black Caucus.

18 (2)(A) Except as provided in subdivision (a)(2)(B) of this
19 section, a member of the Unify Arkansas Commission shall serve for a term of
20 four (4) years.

21 (B) The initial appointments to the Unify Arkansas
22 Commission shall be for staggered terms.

23 (b)(1) Except as provided in subdivision (b)(2) of this section, the
24 Unify Arkansas Commission, in consultation with the Board of Trustees of the
25 Arkansas Historical Association, shall provide a list of at least three (3)
26 but no more than five (5) qualified persons to each appointing official under
27 this section from which each appointing official is highly encouraged to
28 choose his or her appointees.

29 (2) If the Unify Arkansas Commission fails to provide the list
30 of qualified persons at least forty-five (45) days before the term of an open
31 position on the Unify Arkansas Commission begins, the appointing official
32 shall make the appointment without consulting the list.

33 (c) The members of the Unify Arkansas Commission shall select a chair,
34 who shall serve as the chair for two (2) years.

35 (d)(1) If a vacancy occurs on the Unify Arkansas Commission, the
36 vacancy shall be filled by the same process as the original appointment.

1 (2) The person appointed to fill the vacancy shall serve the
2 remainder of the vacating member's term.

3 (e) A member of the Unify Arkansas Commission may receive expense
4 reimbursement and stipends under § 25-16-901 et seq.

5 (f)(1) The Unify Arkansas Commission shall establish rules and
6 procedures for conducting its business.

7 (2)(A) A majority of the voting members of the Unify Arkansas
8 Commission shall constitute a quorum for transacting business of the Unify
9 Arkansas Commission.

10 (B) An affirmative vote of a majority of a quorum present
11 shall be required for the passage of a motion or other action of the Unify
12 Arkansas Commission.

13 (g) The Unify Arkansas Commission may:

14 (1) Hire and retain staff;

15 (2) Hire and employ consultants;

16 (3) Fix the compensation, duties, authority, and
17 responsibilities of the staff or consultants; and

18 (4) Be funded through a public-private partnership using
19 private funds held in trust by the Black History Commission of Arkansas.

20 (h) The Unify Arkansas Commission shall dissolve on December 31, 2034,
21 unless it is extended by the General Assembly at the request of the Unify
22 Arkansas Commission.

23
24 25-44-104. Custodian of records.

25 The Arkansas State Archives shall be the custodian of all property,
26 reference, and source materials of the Unify Arkansas Commission.

27
28 SECTION 2. DO NOT CODIFY. Unify Arkansas Commission initial
29 appointments.

30 (a)(1)(A) The Arkansas History Commission, Black History Commission of
31 Arkansas, the Arkansas State Archives, and the Board of Trustees of the
32 Arkansas Historical Association shall convene a joint public meeting using a
33 virtual platform no later than forty-five (45) days after the effective date
34 of this act.

35 (B) The date and time of the meeting required under
36 subdivision (a)(1)(A) of this section shall be set by the Chair of the

1 Arkansas History Commission, Chair of the Black History Commission of
2 Arkansas, the Director of the Arkansas State Archives, and the President of
3 the Arkansas Historical Association.

4 (2) After soliciting and accepting public recommendations, the
5 Arkansas History Commission, the Black History Commission of Arkansas, the
6 Arkansas State Archives, and the Board of Trustees of the Arkansas Historical
7 Association shall provide the lists required under § 25-44-103(b) to the
8 appointing officials no later than sixty (60) days after the effective date
9 of this act.

10 (b)(1) The first term of the appointees to the Unify Arkansas
11 Commission shall begin on January 1, 2022.

12 (2) The Governor's initial appointments under § 25-44-
13 103(a)(1)(A) shall be as follows:

14 (A) One (1) member whose initial term shall end on
15 December 31, 2025; and

16 (B) One (1) member whose initial term shall end on
17 December 31, 2026.

18 (3) The initial appointments of the Speaker of the House of
19 Representatives under § 25-44-103(a)(1)(B) shall be as follows:

20 (A) One (1) member whose initial term shall end on
21 December 31, 2024; and

22 (B) One (1) member whose initial term shall end on
23 December 31, 2025.

24 (4) The initial appointments of the President Pro Tempore of the
25 Senate under § 25-44-103(a)(1)(C) shall be as follows:

26 (A) One (1) member whose initial term shall end on
27 December 31, 2024; and

28 (B) One (1) member whose initial term shall end on
29 December 31, 2025.

30 (5) The initial appointments of the Chair of the Arkansas
31 Legislative Black Caucus under § 25-44-103(a)(1)(D) shall be as follows:

32 (A) One (1) member whose initial term shall end on
33 December 31, 2024;

34 (B) One (1) member whose initial term shall end on
35 December 31, 2025; and

1 (C) One (1) member whose initial term shall end on
2 December 31, 2026.

3 (c) The appointing officials under this act shall make their initial
4 appointments before January 1, 2022.

5
6 SECTION 3. Arkansas Code § 1-5-106, concerning state memorial days, is
7 amended to add additional subdivisions to read as follows:

8 (14) National Day of Racial Healing – Third Tuesday in January;
9 and

10 (15) Elaine Remembrance Week – October 1-7.

11
12 SECTION 4. Arkansas Code § 6-16-107(a), concerning patriotic
13 observances in elementary and secondary schools, is amended to read as
14 follows:

15 (a) February 1, as National Freedom Day, February 22, as the birthday
16 of George Washington, and such other days as may be designated by the State
17 Board of Education for patriotic observance shall be observed with
18 appropriate exercises.

19
20 SECTION 5. Arkansas Code Title 6, Chapter 16, Subchapter 1, is amended
21 to add additional sections to read as follows:

22 6-16-152. Elaine Remembrance Week.

23 (a) To educate students about the role of Black Arkansans in labor and
24 civil rights organizations and to highlight the sacrifices they made in
25 advancing the cause of racial equity, the first seven (7) days of October
26 shall be recognized as “Elaine Remembrance Week”.

27 (b) During Elaine Remembrance Week, particular study shall be made of
28 the Elaine Race Massacre, the deadliest race massacre in United States
29 history.

30 (c) Curricula and materials to be used during Elaine Remembrance Week
31 shall be devised, approved, and distributed by the State Board of Education
32 in cooperation with the Black History Commission of Arkansas and the Unify
33 Arkansas Commission by August 1 of each year.

34 (d) The Secretary of Education shall ensure that the curricula and
35 materials devised and approved by the State Board of Education under

1 subsection (c) of this section are reproduced and sent to all public school
2 districts in the state by September 1 of each year.

3
4 6-16-153. Arkansas Black culture course.

5 (a)(1) The State Board of Education shall allow for an elective
6 academic study of Arkansas Black culture course that consists of a
7 nonpartisan, unbiased academic study of Arkansas and American Black culture
8 and its influence on American literature, art, music, popular culture, and
9 politics, to be offered to students in public schools or school districts if
10 the academic study of Arkansas Black culture course meets the standards
11 listed in this section.

12 (2) The curriculum standards submitted by a public school or
13 school district for approval of an academic study of Arkansas Black culture
14 course shall meet the:

15 (A) Academic rigor and curriculum standards of other
16 elective courses approved by the state board; and

17 (B) Requirements of the Arkansas Constitution and the
18 United States Constitution.

19 (b)(1) A public school or school district that elects to offer an
20 academic study of Arkansas Black culture course shall implement the course in
21 accordance with state and federal law, including the manner in which the
22 course is taught in the classroom and the assignment of public school or
23 school district personnel teaching the course.

24 (2) Personnel assigned to teach the course shall be licensed to
25 teach in the State of Arkansas.

26 (c) A public school or school district that elects to offer an
27 academic study of Arkansas Black culture course shall use only the standards
28 in this section to:

29 (1) Evaluate textbooks for an academic study of Arkansas Black
30 culture course; and

31 (2) Teach an academic study of Arkansas Black culture course.

32 (d) The Division of Elementary and Secondary Education shall, by the
33 2022-2023 school year, identify, develop, and approve an Arkansas Black
34 culture course for high school credit that meets the requirements in
35 subsections (a) and (b) of this section.

36

1 SECTION 6. Arkansas Code Title 14, Chapter 13, Subchapter 1, is
2 amended to add an additional section to read as follows:

3 14-13-101. Community remembrance committees.

4 (a) Each county is encouraged to establish a community remembrance
5 committee to facilitate and encourage participation in regular, courageous,
6 ongoing dialogues among the citizens and elected officials of the county.

7 (b) Community remembrance committees:

8 (1) Shall be funded through a public-private partnership using
9 private funds that may be held in trust by and accessed through the Unify
10 Arkansas Commission;

11 (2)(A) Shall publicly recommend actions to all elected executive
12 and legislative branch officials on specific measures that the state should
13 take to correct the unjust outcome of any incident of documented
14 extrajudicial, racial, religious, or political injustice and violence,
15 including without limitation lynching, discriminatory cleansing, expulsion,
16 and exploitation, that were perpetrated against citizens, veterans, and
17 others in the respective county and in Arkansas generally throughout its
18 history as a territory and a state.

19 (B) Incidents regarding which a community remembrance
20 committee recommends actions under subdivision (b)(2)(A) of this section
21 shall have:

22 (i) Been a subject of the work of the Unify Arkansas
23 Commission for at least one (1) year; and

24 (ii) Occurred at least seventy (70) years before the
25 recommendation.

26 (C) A community remembrance committee shall:

27 (i) Not make more than three (3) recommendations
28 under subdivision (b)(2)(A) of this section in one (1) year; and

29 (ii) Publish each recommendation made under
30 subdivision (b)(2)(A) of this section; and

31 (3) May serve as committees of the Unify Arkansas Commission,
32 giving local citizens input on the Unify Arkansas Commission's operations
33 within each of the counties of the state.

34 (c) A community remembrance committee is encouraged to:

35 (1) Work with the Unify Arkansas Commission and the Department
36 of Parks, Heritage, and Tourism to erect historical markers at confirmed

1 sites to memorialize the victims of documented extrajudicial, racial,
2 religious, or political injustice and violence throughout the history of
3 Arkansas as both a territory and a state; and

4 (2) Host regular public meetings and other activities that focus
5 on future-building through countywide solidarity and collaboration across
6 differences with the goal of addressing ordinances, policies, regulations,
7 norms, cultures, institutions, and narratives that have historically
8 fostered, either explicitly or implicitly, *selective exclusion based on*
9 *partiality.*

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12 */s/Elliott*
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14

15 Referred requested by the Arkansas Senate

16 Prepared by: MBM/KFW
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