

**Bill 25-0152, Reparations Foundation Fund and
Task Force Establishment Act of 2023**

Before the

**Committee on Business and Economic Development
The Honorable Kenyon McDuffie, Chair**

**June 15, 2023, 9:30 A.M.
John A. Wilson Building, Room 500**



**Comments by Elissa F. Borges
Assistant General Counsel
Office of Tax and Revenue
Office of the Chief Financial Officer**

**Glen Lee
Chief Financial Officer
Government of the District of Columbia**

Good morning, Chairman McDuffie and members of the Committee on Business and Economic Development. I am Elissa Borges, Assistant General Counsel in the Office of the Chief Financial Officer (“OCFO”). Thank you for the opportunity to comment on Bill 25-0152, the “Reparations Foundation Fund and Task Force Establishment Act of 2023” (the “Bill”).

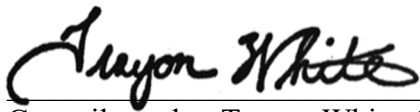
The Bill would require the Commissioner of the Department of Insurance, Securities, and Banking to establish, by a time certain, a slavery era database of records relating to slaveholding; create a Reparations Task Force to study and develop reparation proposals for African Americans directly wronged and traumatized by the ills of slavery, Jim Crow, and structural and institutional racism; and establish a Reparations Foundation Fund (the “RF Fund”) to provide funds for reparations. The OCFO’s comments are limited to the establishment of the RF Fund, taxes which are dedicated to RF Fund and other technical changes.

Regarding the dedication of sales taxes to the RF Fund, the Bill provides that “0.5% of sales tax revenue collected annually under Chapter 20 of Title 47 of the District of Columbia Official Code” will be dedicated to the RF Fund. The OCFO suggests adding a conforming amendment to amend D.C. Code § 47-2002 to add a new subsection (e) to expressly codify the specific dedication of sales taxes consistent with past dedications to other special funds. Such conforming amendment will clarify exactly what portion of the revenue collected under Title 47, Chapter 20 will be dedicated to the RF Fund. The OCFO also suggests the bill be amended to include a dedication of the conforming use tax under Chapter 22 of Title 47 of the District of Columbia Official Code and that § 47-2202 be to add a new subsection (c) consistent with the proposed amendment to add a new subsection (e).

Further, the Bill should clarify that any dedication of the sales tax will not impact any legislatively proposed or existing tax increment financing districts or revenues pledged to the benefit of holders of District bonds or notes that exist before the Bill becomes effective.

The Bill also provides that the RF Fund shall expire on September 30, 2028 if no reparations program has been established or reparations otherwise distributed by the District. OCFO suggests clarifying that provisions establishing the dedication of the funding sources for the RF Fund will, likewise, be repealed if the RF Fund expires. Finally, OCFO suggests that if this Bill is enacted that it be applicable on the first day of the first fiscal year following its effective date.

I have attached to this testimony a mark-up of the bill with OCFO's proposed clarifying changes. I am pleased to discuss further or respond to any additional questions you may have.

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3 Councilmember Trayon White, Sr.



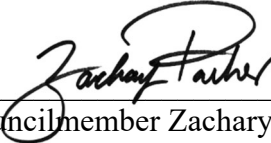
Councilmember Kenyan R. McDuffie

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7 Councilmember Anita Bonds



Councilmember Robert C. White, Jr.

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11 Councilmember Zachary Parker



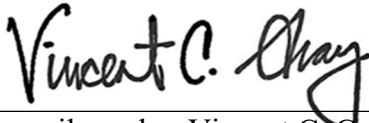
Councilmember Janeese Lewis George

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15 Councilmember Brooke Pinto



Councilmember Brianne K. Nadeau

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19 Councilmember Vincent C. Gray



Councilmember Charles Allen

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22 A BILL

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24 _____
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26 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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31 To amend the Department of Insurance and Securities Regulation Establishment Act of 1996 to
32 require the Commissioner of the Department of Insurance, Securities, and Banking to
33 establish by a time certain a slavery era database of records relating to slaveholding; to
34 establish the Reparations Foundation Fund to provide funds for reparations that may be
35 distributed to certain District residents, and to establish the Reparations Task Force to
36 study and develop reparation proposals for African Americans whose ancestors suffered
37 as a result of the institution of slavery.

38
39 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
40 act may be cited as the "Reparations Foundation Fund and Task Force Establishment Act of
41 2023".
42

43 Sec. 2. The Department of Insurance and Securities Regulation Establishment Act of
44 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31-101 *et seq.*), is
45 amended by adding a new section 5a to read as follows:

46 “Sec. 5a. Slavery era database.

47 “(a) The Commissioner shall request and obtain information from insurers licensed and
48 doing business in the District of Columbia (“insurer”) regarding any records of slaveholder
49 insurance policies issued by the insurer or any predecessor insurer during the slavery era and
50 require all insurers to research and report to the Commissioner on insurance policies that
51 provided coverage for injury to, or death of, enslaved people.

52 “(b) Within 180 days of the effective date of Reparations Foundation Fund and Task
53 Force Establishment Act of 2023, as introduced on _____ (Bill 25-___) (“Reparations
54 Act”), the Commissioner shall have established, and continue to maintain, a slavery era database
55 that includes all records made available to the Department pursuant to subsection (a) of this
56 section.

57 “(c) Upon request of the Reparations Task Force, established by section 4 of the
58 Reparations Act, the Commissioner shall make the slavery era database available to the
59 Reparations Task Force to aid it in its study of reparations proposals.

60 (d) For the purposes of this section, the term:

61 (1) “Reparations” means the compensation, restitution, or economic redress
62 provided to eligible recipients directly wronged and traumatized by the ills of slavery, Jim Crow,
63 and structural and institutional racism.

64 (2) “Slavery era” means the period from 1619 through 1865.”.

65 Sec. 3. Subchapter XI of Chapter 3 of Title I of the D.C. Code is amended by adding a
66 new Part II as follows:

67 “Part TT. Reparations Foundation Fund.

68 § 1-325.411. Reparations Foundation Fund.

69 (a) There is established as a special fund, the Reparations Foundation Fund (“RF Fund”),
70 which shall be administered by the Chief Financial Officer of the District of Columbia in
71 accordance with subsections (c) and (d) of this section.

72 (b) ~~Revenue from~~ The following ~~sources-funds~~ shall be deposited into the RF Fund:

73 (1) 0.5% of sales tax revenue collected annually under Chapter 20 of Title 47 of
74 the District of Columbia Official Code ~~#~~ Dedicated taxes pursuant to §§47-2002(e) and 47-
75 2202(c);

76 (2) 0.5% of revenue collected by the Department of Motor Vehicles in fees and
77 penalties;

78 (3) Appropriated funds;

79 (4) Gifts made to the RF Fund;

80 (5) Grants made to the RF Fund; and

81 (6) Donations made to the RF Fund.

82 (c) Except as provided in subsection (d) of this section:

83 (1) The money in the RF Fund shall be used for the payment of reparations under
84 a program established pursuant to the findings and recommendations of the Reparations Task
85 Force, established by section 4 (“reparations program”).

86 (2) The money deposited into the RF Fund but not expended in a fiscal year shall
87 not revert to the unassigned fund balance of the General Fund of the District of Columbia at the
88 end of a fiscal year, or at any other time.

89 (3) Subject to authorization in an approved budget and financial plan, any funds
90 appropriated in the RF Fund shall be continually available without regard to fiscal year
91 limitation.

92 (d) If by September 30, 2028, no reparations program has been established or
93 reparations otherwise distributed by the District,

94 (1) Subsection (b) of this section and §§47-2002(e) and 47-2202(c) are repealed;

95 and

96 (2) The RF Fund shall expire and of the monies in the RF Fund:

97 _____ (A1) Fifty percent shall be deposited into the Child Trust Fund,

98 established by section 3 of the Child Wealth Building Act of 2021, effective February 18, 2022

99 (D.C. Law 24-53; D.C. Official Code § 4-681.02); and

100 _____ (B2) Fifty percent shall be deposited into the Small Business Capital

101 Access, established by section 2375 of Small and Certified Business Enterprise Development

102 and Assistance Act of 2005, effective September 18, 2007 (D.C. Law 17-20; D.C. Official Code

103 § 2-218.75) (“CBE Act”) to provide financial assistance under section 2375(b)(3) of the CBE

104 Act.

105 Sec. 4. Reparations Task Force.

106 (a) There is established a Reparations Task Force (“Task Force”) to:

107 (1) Study and develop reparation proposals for African Americans as a result of:

108 (A) The institution of slavery, including both the transatlantic and
109 domestic “trade” that existed from 1565 in colonial Florida and from 1619 to 1865, inclusive,
110 within the other colonies that became the United States, and that included the federal and state
111 governments, that constitutionally and statutorily supported the institution of slavery;

112 (B) The de jure and de facto discrimination against freed slaves and their
113 descendants from the end of the Civil War to the present, including economic, political,
114 educational, and social discrimination;

115 (C) The lingering negative effects of the institution of slavery and of the
116 discrimination on living African Americans today, and on society in the District and the United
117 States;

118 (D) The manner in which instructional resources and technologies are used
119 to deny the inhumanity of slavery and the crime against humanity committed against people of
120 African descent in the District and the United States;

121 (E) The role of Northern complicity in the Southern-based institution of
122 slavery;

123 (F) The direct benefits to societal institutions, public and private, including
124 higher education, corporate, religious, and associational; and

125 (G) The lingering effects of the institution of slavery and the matters
126 described in the preceding paragraphs on living African Americans in the District of Columbia;

127 (b) The Task Force shall:

128 (1) Identify, compile, and synthesize the relevant corpus of evidentiary
129 documentation of the institution of slavery that existed within the United States and the colonies

130 that became the United States from 1619 to 1865, inclusive. The Task Force’s documentation
131 and examination shall include the facts related to:

132 (A) The capture and procurement of Africans;

133 (B) The transport of Africans to the United States and the colonies that
134 became the United States for the purpose of enslavement, including their treatment during
135 transport;

136 (C) The sale and acquisition of Africans as chattel property in interstate
137 and intrastate commerce;

138 (D) The treatment of African slaves in the colonies and the United States,
139 including the deprivation of their freedom, exploitation of their labor, and attempted destruction
140 of their culture, language, religion, and families;

141 (E) The extensive denial of humanity, sexual abuse, and chattelization of
142 persons;

143 (F) The federal and state laws that discriminated against formerly enslaved
144 Africans and their descendants who were deemed United States citizens from 1868 to the
145 present;

146 (G) The other forms of discrimination in the public and private sectors
147 against freed African slaves and their descendants who were deemed United States citizens from
148 1868 to the present, including redlining, educational funding discrepancies, and predatory
149 financial practices; and

150 (H) The lingering negative effects of the institution of slavery and the
151 matters described in this subsection on living African Americans who are descendants of persons
152 enslaved in the United States and on society at large.

153 (2) Recommend appropriate ways to educate the public of the Task Force's
154 findings.

155 (3) Recommend appropriate remedies based on the Task Force's findings
156 including:

157 (A) How the recommendations comport with international standards of
158 remedy for wrongs and injuries caused by the District, which include full reparations and special
159 measures, as understood by various relevant international protocols, laws, and findings;

160 (B) How the District will offer a formal apology on behalf of the people of
161 the District for the perpetration of gross human rights violations and crimes against humanity on
162 African slaves and their descendants;

163 (C) How District laws and policies that continue to disproportionately and
164 negatively affect African Americans as a group and perpetuate the lingering material and
165 psychosocial effects of slavery can be eliminated;

166 (D) How the resultant injuries can be reversed, including how to provide
167 appropriate policies, programs, projects, and recommendations to effect that reversal;

168 (E) How the form of compensation to African Americans, with a special
169 consideration for African Americans who are descendants of persons enslaved in the United
170 States, should be calculated;

171 (F) What form of compensation should be awarded, through what
172 instrumentalities, and who should be eligible for such compensation; and

173 (G) What other forms of rehabilitation or restitution to African
174 descendants are warranted and what form and scope those measures should take.

175 (c) The Task Force shall submit a written report of its findings and recommendations to
176 the Mayor and Council no later than one year after the date of the first meeting of the Task Force
177 held pursuant to section subsection (d)(6).

178 (d)(1) The Task Force shall consist of 9 members, appointed as follows:

179 (A) Five members, one of which shall be the Chair, shall be appointed by
180 the Mayor; and

181 (B) Four members, one of which shall be the Co-Chair, shall be appointed
182 by the Council;

183 (2) The Mayor's appointees shall include:

184 (A) One appointee from the field of academia that has expertise in civil
185 rights; and

186 (B) Two appointees from major civil society and reparations organizations
187 that have historically championed the cause of reparatory justice;

188 (3) No more than 4 appointees shall be Members of the Council.

189 (4) Members shall be drawn from diverse backgrounds to represent the interests
190 of communities of color throughout the District, have experience working to implement racial
191 justice reform, and, to the extent possible, represent geographically diverse areas of the District.

192 (5) The term of office for members shall be for the life of the Task Force. A
193 vacancy in the Task Force shall not affect the powers of the Task Force and shall be filled in the
194 same manner that the original appointment was made.

195 (6) The first meeting of the Task Force shall occur no later than June 1, 2024.

196 (7) Five members of the Task Force shall constitute a quorum.

197 (8) The Task Force shall elect a chair and co-chair from among its members.

198 (9) Subject to an appropriation for the purpose, members of the Task Force shall
199 be entitled to per diem compensation and reimbursement of expenses for up to 12 meetings.

200 (e)(1) The Task Force shall have the authority to:

201 (A) Hold hearings and sit and act at any time and location in the District;

202 (B) Request the attendance and testimony of witnesses;

203 (C) Request the production of books, records, correspondence,

204 memoranda, papers, and documents; and

205 (D) Seek an order from a Superior Court compelling testimony or

206 compliance with a subpoena.

207 (2) Any subcommittee or member of the Task Force may, if authorized by the

208 chair of Task Force, take any action that the Task Force is authorized to take pursuant to this

209 section.

210 (3) The Task Force may acquire directly from the head of any executive agency

211 available information that the Task Force considers useful in the discharge of its duties.

212 (4) All executive agencies shall cooperate with the Task Force with respect to

213 such information and shall furnish all information requested by the Task Force to the extent

214 permitted by law.

215 (5) The Task Force shall keep information received from an executive agency that

216 is confidential, as required by law.

217 (f) Subject to the appropriation of funds, the Task Force may:

218 (1) Appoint and fix the compensation of such personnel as the Task Force

219 considers appropriate;

220 (2) Employ administrative, technical, and legal assistance;

221 (3) Procure supplies, services, and property by contract in accordance with
222 applicable laws and rules; and

223 (4) Enter into contracts for the purposes of conducting research or surveys,
224 preparing reports, and performing other activities necessary for the discharge of the duties of the
225 Task Force with executive agencies, instrumentalities of the District, federal departments,
226 agencies, other instrumentalities, and private entities.

227 (g) Any reparation provided to pursuant to this act shall be in addition to and not in lieu
228 of any reparations provided at the federal level.

229 (h) The Task Force shall sunset after December 31, 2025 or after the report required by
230 subsection (c) of this section has been submitted.

231 Sec. 5. Conforming changes.

232 (a) D.C. Code § 47-2002 is amended by adding a new subsection (e) that reads as
233 follows:

234 “(e) 0.5% of the sales tax revenue collected at the rate provided by the lead-in language
235 of subsection (a) of this section that is not dedicated to legislatively proposed or existing tax
236 increment financing districts or pledged to the benefit of holders of District bonds or notes
237 existing on or before September 30, [2024¹], shall be dedicated to the Reparations Foundation
238 Fund, established by § 1-325.411.”

239 (b) D.C. Code § 47-2202 is amended by adding a new subsection (c) that reads as
240 follows:

¹ This date should be the last day of the fiscal year immediately preceding the applicability date for this section. It is presumed that the earliest possible fiscal year in which this bill could be included in an approved budget would be fiscal year 2025 beginning October 1, 2024. If the bill is included in an approved budget for a later fiscal year, this date should be adjusted accordingly to a later year.

241 “(c) 0.5% of the use tax revenue collected at the rate provided by the lead-in language of
242 subsection (a) of this section that is not dedicated to legislatively proposed or existing tax
243 increment financing districts or pledged to the benefit of holders of District bonds or notes
244 existing on or before September 30, [2024]², shall be dedicated to the Reparations Foundation
245 Fund, established by § 1-325.411.”

246 Sec. 56. Fiscal impact statement.

247 The Council adopts the fiscal impact statement in the committee report as the fiscal
248 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
249 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

250 Sec. 7. Applicability.

251 This act shall apply as of October 1, [2024]³.

252 Sec. 6. Effective date.

253 This act shall take effect following approval by the Mayor (or in the event of veto by the
254 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
255 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
256 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
257 Columbia Register.

² See comment footnote 1.

³ It is presumed that the earliest possible fiscal year in which this bill could be included in an approved budget would be FY 2025 beginning October 1, 2024. If the bill is included in an approved budget for a later fiscal year, this date should be adjusted accordingly.