

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 40
OFFERED BY M . _____

Strike all that follows after the enacting clause and
insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Commission to Study
3 and Develop Reparation Proposals for African Americans
4 Act”.

5 **SEC. 2. FINDINGS AND PURPOSE.**

6 (a) **FINDINGS.**—The Congress finds that—

7 (1) approximately 4,000,000 Africans and their
8 descendants were enslaved in the United States and
9 colonies that became the United States from 1619 to
10 1865;

11 (2) the institution of slavery was constitu-
12 tionally and statutorily sanctioned by the Govern-
13 ment of the United States from 1789 through 1865;

14 (3) the slavery that flourished in the United
15 States constituted an immoral and inhumane depri-
16 vation of Africans’ life, liberty, African citizenship
17 rights, and cultural heritage, and denied them the
18 fruits of their own labor;

1 (4) a preponderance of scholarly, legal, commu-
2 nity evidentiary documentation and popular culture
3 markers constitute the basis for inquiry into the on-
4 going effects of the institution of slavery and its leg-
5 acy of persistent systemic structures of discrimina-
6 tion on living African Americans and society in the
7 United States;

8 (5) the brutal overthrow of Reconstruction,
9 which represented a significant but constrained mo-
10 ment of advances for Black rights as epitomized by
11 the 13th, 14th, and 15th Amendments to the Con-
12 stitution, the Civil Rights Acts of 1866 and 1875
13 and the Freedman's Bureau, failed African Ameri-
14 cans by failing to ensure their safety and security;

15 (6) following the abolition of slavery and end of
16 Reconstruction the United States Government,
17 through laws enacted at the Federal, State, and
18 local level, continued to perpetuate, condone and
19 profit from practices that continued to brutalize and
20 disadvantage African Americans, including share
21 cropping, convict leasing, Jim Crow, redlining, un-
22 equal education, and disproportionate treatment at
23 the hands of the criminal justice system, resulting in
24 stolen labor and ultimately forestalling landmark

1 contributions in science, arts, commerce and public
2 service;

3 (7) the civil rights movement, and other efforts
4 to redress grievances arising from systemic inequi-
5 ties, were sabotaged, both intentionally and uninten-
6 tionally, thus rendering the accomplishments of
7 those efforts transitory and unsustainable, and fur-
8 ther embedding racial inequality in society;

9 (8) examples of discriminatory federal govern-
10 ment actions directed against African Americans in-
11 clude—

12 (A) the creation of the Federal Housing
13 Administration, which adopted specific policies
14 designed to incentivize residential segregation;

15 (B) the enactment of legislation creating
16 the Social Security program, for which most Af-
17 rican Americans were purposely rendered ineli-
18 gible during its first two decades;

19 (C) the Servicemen's Readjustment Act of
20 1944 (commonly known as the GI Bill of
21 Rights; 58 Stat. 284, chapter 268), which left
22 administration of its programs to the States,
23 thus enabling discrimination against African
24 American veterans; and

1 (D) the Fair Labor Standards Act of
2 1938, which allowed labor unions to discrimi-
3 nate based on race; and

4 (9) as a result of the historic and continued dis-
5 crimination, African Americans continue to suffer
6 debilitating economic, educational, and health hard-
7 ships including but not limited to having nearly
8 1,000,000 Black people incarcerated; an unemploy-
9 ment rate more than twice the current White unem-
10 ployment rate; and an average of less than $\frac{1}{16}$ of
11 the wealth of White families, a disparity which has
12 worsened, not improved over time.

13 (b) PURPOSE.—The purpose of this Act is to estab-
14 lish a commission to study and develop Reparation pro-
15 posals for African Americans as a result of—

16 (1) the institution of slavery, including both the
17 Trans-Atlantic and the domestic “trade” which ex-
18 isted from 1565 in colonial Florida and from 1619
19 through 1865 within the other colonies that became
20 the United States, and which included the Federal
21 and State governments which constitutionally and
22 statutorily supported the institution of slavery;

23 (2) the de jure and de facto discrimination
24 against freed slaves and their descendants from the
25 end of the Civil War to the present, including eco-

1 nomic, political, educational, and social discrimina-
2 tion;

3 (3) the lingering negative effects of the institu-
4 tion of slavery and the discrimination described in
5 paragraphs (1) and (2) on living African Americans
6 and on society in the United States;

7 (4) the manner in which textual and digital in-
8 structional resources and technologies are being used
9 to deny the inhumanity of slavery and the crime
10 against humanity of people of African descent in the
11 United States;

12 (5) the role of Northern complicity in the
13 Southern based institution of slavery;

14 (6) the direct benefits to societal institutions,
15 public and private, including higher education, cor-
16 porations, religious, and associational;

17 (7) and thus, recommend appropriate ways to
18 educate the American public of the Commission's
19 findings to advance racial healing, understanding,
20 and transformation;

21 (8) and thus, recommend appropriate remedies
22 in consideration of the Commission's findings on the
23 matters described in paragraphs (1) through (7);
24 and

1 (9) submit to the Congress the results of such
2 examination, together with such recommendations.

3 **SEC. 3. ESTABLISHMENT AND DUTIES.**

4 (a) ESTABLISHMENT.—There is established in the
5 legislative branch the Commission to Study and Develop
6 Reparation Proposals for African Americans (hereinafter
7 in this Act referred to as the “Commission”).

8 (b) DUTIES.—The Commission shall perform the fol-
9 lowing duties:

10 (1) Identify, compile, and synthesize the rel-
11 evant corpus of evidentiary documentation of the in-
12 stitution of slavery which existed within the United
13 States and the colonies that became the United
14 States from 1619 through 1865. The Commission’s
15 documentation and examination shall include facts
16 related to—

17 (A) the capture and procurement of Afri-
18 cans;

19 (B) the transport of Africans to the United
20 States and the colonies that became the United
21 States for the purpose of enslavement, including
22 their treatment during transport;

23 (C) the sale and acquisition of Africans
24 and their descendants as chattel property in
25 interstate and intrastate commerce;

1 (D) the treatment of African slaves and
2 their descendants in the colonies and the
3 United States, including the deprivation of their
4 freedom, exploitation of their labor, and de-
5 struction of their culture, language, religion,
6 and families; and

7 (E) the extensive denial of humanity, sex-
8 ual abuse, and the chattelization of persons.

9 (2) Study and analyze the role which the Fed-
10 eral and State governments of the United States
11 supported the institution of slavery in constitutional
12 and statutory provisions, including the extent to
13 which such governments prevented, opposed, or re-
14 stricted efforts of formerly enslaved Africans and
15 their descendants to repatriate to their homeland.

16 (3) Study and analyze the effects of laws en-
17 acted by the Federal Government and State govern-
18 ments with discriminatory intent or discriminatory
19 effect on the formerly enslaved Africans and their
20 descendants following the overdue recognition of
21 such persons as United States citizens beginning in
22 1868.

23 (4) Study and analyze the other forms of dis-
24 crimination in the public and private sectors against
25 freed African slaves and their descendants who were

1 belatedly accorded their rightful status as United
2 States citizens from 1868 to the present, including
3 redlining, educational funding discrepancies, and
4 predatory financial practices.

5 (5) Study and analyze the lingering negative ef-
6 fects of the institution of slavery and the matters de-
7 scribed in paragraphs (1) through (7) of section 2(b)
8 on living African Americans and on society in the
9 United States.

10 (6) Recommend appropriate ways to educate
11 the American public of the Commission's findings to
12 advance racial healing, understanding, and trans-
13 formation.

14 (7) Recommend appropriate remedies in consid-
15 eration of the Commission's findings on the matters
16 described in paragraphs (1), (2), (3), (4), (5), and
17 (6). In making such recommendations, the Commis-
18 sion shall address, among other issues, the following
19 questions:

20 (A) How such recommendations comport
21 with international standards of remedy for
22 wrongs and injuries caused by the State, that
23 include full reparations and special measures,
24 as understood by various relevant international
25 protocols, laws, and findings.

1 (B) How the Government of the United
2 States will offer a formal apology on behalf of
3 the people of the United States for the per-
4 petration of gross human rights violations and
5 crimes against humanity on African slaves and
6 their descendants.

7 (C) How Federal laws and policies that
8 continue to disproportionately and negatively
9 affect African Americans as a group, and those
10 that perpetuate the lingering effects, materially
11 and psycho-social, can be eliminated.

12 (D) How the injuries resulting from mat-
13 ters described in paragraphs (1), (2), (3), (4),
14 (5), and (6) can be reversed and provide appro-
15 priate policies, programs, projects, and rec-
16 ommendations for the purpose of reversing the
17 injuries.

18 (E) How, in consideration of the Commis-
19 sion's findings, any form of compensation to the
20 descendants of enslaved Africans is calculated.

21 (F) What form of compensation should be
22 awarded, through what instrumentalities, and
23 who should be eligible for such compensation.

24 (G) How, in consideration of the Commis-
25 sion's finding, what forms of satisfaction, in ad-

1 dition to apology, should be implemented in an
2 effort toward return of dignity and racial heal-
3 ing, and reconciliation.

4 (H) How, in consideration of the Commis-
5 sion's findings, any other forms of rehabilita-
6 tion or restitution to African descendants is
7 warranted and what the form and scope of
8 those measures should take.

9 (c) REPORT TO CONGRESS.—The Commission shall
10 submit a written report of its findings and recommenda-
11 tions to the Congress not later than the date which is 18
12 months after the date of the first meeting of the full Com-
13 mission held pursuant to section 4(f).

14 **SEC. 4. MEMBERSHIP.**

15 (a) NUMBER AND APPOINTMENT.—

16 (1) MEMBERSHIP.—The Commission shall be
17 composed of 15 members, who shall be appointed as
18 follows:

19 (A) POLITICALLY APPOINTED MEMBERS.—
20 Not later than 60 days after the date of enact-
21 ment of this Act:

22 (i) Three members shall be appointed
23 by the President.

24 (ii) Three members shall be appointed
25 by the Speaker of the House of Represent-

1 atives, in consultation with the committee
2 of jurisdiction of the House.

3 (iii) Three members shall be ap-
4 pointed by the President pro tempore of
5 the Senate, in consultation with the com-
6 mittee of jurisdiction of the Senate.

7 (B) SUBJECT MATTER EXPERTS.—Not
8 later than 60 days after the appointment of the
9 Director under section 6(a), six members, who
10 shall be individuals appointed by the Director,
11 and approved by a majority of the members ap-
12 pointed under subparagraph (A). Such individ-
13 uals shall be from the major civil society and
14 reparations organizations that have historically
15 championed the cause of reparatory justice.

16 (2) QUALIFICATIONS.—All members of the
17 Commission shall be persons who are especially
18 qualified to serve on the Commission by virtue of
19 their education, training, activism or experience,
20 particularly in the field of African American studies
21 and reparatory justice.

22 (3) LIMITATION.—No person who is a member
23 of Congress or an officer or employee of the Federal
24 Government or any State or local government may
25 serve as a member of the Commission.

1 (b) TERMS.—The term of office for members shall
2 be for the life of the Commission. A vacancy in the Com-
3 mission shall not affect the powers of the Commission and
4 shall be filled in the same manner in which the original
5 appointment was made.

6 (c) QUORUM.—Seven members of the Commission
7 shall constitute a quorum, but a lesser number may hold
8 hearings.

9 (d) VACANCIES.—Any vacancy on the Commission
10 shall—

11 (1) not affect the powers of the Commission;

12 and

13 (2) be filled in the same manner in which the
14 original appointment was made.

15 (e) CHAIR AND VICE-CHAIR.—There shall be a Chair
16 and a Vice Chair of the Commission selected jointly by
17 the Majority Leader of the Senate and the Speaker of the
18 House of Representatives, in consultation with the com-
19 mittees of jurisdiction. The term of office of each shall
20 be for the life of the Commission.

21 (f) INITIAL MEETING OF FULL COMMISSION.—The
22 Chair shall call an initial meeting of the full Commission
23 not later than 45 days after the appointment of all mem-
24 bers under subsection (a)(1)(B).

1 **SEC. 5. POWERS OF THE COMMISSION.**

2 (a) HEARINGS AND EVIDENCE.—The Commission
3 may, for purposes of carrying out this Act—

4 (1) hold hearings, sit and act at times and
5 places, take testimony, receive evidence, and admin-
6 ister oaths; and

7 (2) require, by subpoena or otherwise, the at-
8 tendance and testimony of witnesses and the produc-
9 tion of books, records, correspondence, memoranda,
10 papers, and documents.

11 (b) SUBPOENAS.—

12 (1) SERVICE.—Subpoenas issued under this
13 section may be served by any person designated by
14 the Commission.

15 (2) ENFORCEMENT.—

16 (A) IN GENERAL.—In the case of contu-
17 macy or failure to obey a subpoena issued
18 under this section, the United States district
19 court for the judicial district in which the sub-
20 poenaed person resides, is served, or may be
21 found, or where the subpoena is returnable,
22 may issue an order requiring such person to ap-
23 pear at any designated place to testify or to
24 produce documentary or other evidence. Any
25 failure to obey the order of the court may be

1 punished by the court as a contempt of that
2 court.

3 (B) ADDITIONAL ENFORCEMENT.—Sec-
4 tions 102 through 104 of the Revised Statutes
5 of the United States (2 U.S.C. 192 through
6 194) shall apply in the case of any failure of
7 any witness to comply with any subpoena or to
8 testify when summoned under the authority of
9 this section.

10 (C) ISSUANCE.—A subpoena may be issued
11 under this section only—

12 (i) by the agreement of the Chair and
13 the Vice Chair; or

14 (ii) by the affirmative vote of a major-
15 ity of the Commission, a majority being
16 present.

17 (e) CONTRACTING.—To the extent or in amounts pro-
18 vided in Appropriations acts, and subject to the applicable
19 laws and regulations, the Commission may enter into con-
20 tracts with government entities, private entities, or per-
21 sons for goods or services, including for conducting re-
22 search or surveys, the preparation of reports, and other
23 activities necessary for the discharge of the duties of the
24 Commission.

1 (d) INFORMATION FROM FEDERAL AGENCIES AND
2 OTHER ENTITIES.—The Commission may secure directly
3 from any department, agency, bureau, board, commission,
4 office, independent establishment, or instrumentality of
5 the United States any information related to any inquiry
6 of the Commission conducted under this Act, including in-
7 formation of a confidential nature (which the Commission
8 shall maintain in a secure manner). Each such depart-
9 ment, agency, bureau, board, commission, office, inde-
10 pendent establishment, or instrumentality shall furnish
11 such information directly to the Commission upon request.

12 (e) ADMINISTRATIVE SUPPORT SERVICES.—Upon
13 the request of the Commission—

14 (1) the Administrator of General Services shall
15 provide to the Commission, on a reimbursable basis,
16 the administrative support services necessary for the
17 Commission to carry out its responsibilities under
18 this Act; and

19 (2) other Federal departments and agencies
20 may provide to the Commission any administrative
21 support services as may be determined by the head
22 of such department or agency to be advisable and
23 authorized by law.

1 (f) DONATIONS OF GOODS AND SERVICES.—The
2 Commission may accept, use, and dispose of gifts or dona-
3 tions of services or property.

4 (g) POSTAL SERVICES.—The Commission may use
5 the United States mails in the same manner and under
6 the same conditions as departments and agencies of the
7 United States.

8 (h) POWERS OF SUBCOMMITTEES, MEMBERS, AND
9 AGENTS.—Any subcommittee, member, or agent of the
10 Commission may, if authorized by the Commission, take
11 any action which the Commission is authorized to take by
12 this section.

13 **SEC. 6. ADMINISTRATIVE PROVISIONS.**

14 (a) DIRECTOR.—The Commission shall have a Direc-
15 tor who shall be, not later than 60 days after the appoint-
16 ment of all members appointed under section 4(a)(1)(A),
17 jointly selected by the Chair and Vice Chair, subject to
18 approval by a majority vote of such members.

19 (b) STAFF.—The Chair and the Vice Chair may joint-
20 ly appoint additional personnel, as may be necessary, to
21 enable the Commission to carry out its functions.

22 (c) APPLICABILITY OF CERTAIN CIVIL SERVICE
23 LAWS.—The Director and staff of the Commission may
24 be appointed without regard to the provisions of title 5,
25 United States Code, governing appointments in the com-

1 petitive service, and may be paid with out regard to the
2 provisions of chapter 51 and subchapter III of chapter 53
3 of such title relating to classification and General Schedule
4 pay rates, except that no rate of pay fixed under this para-
5 graph may exceed the equivalent of that payable for a po-
6 sition at level V of the Executive Schedule under section
7 5316 of title 5, United States Code. Any individual ap-
8 pointed under this section shall be treated as an employee
9 for purposes of chapters 63, 81, 83, 84, 85, 87, 89, 89A,
10 89B, and 90 of that title.

11 (d) **DETAILEES.**—Any Federal Government employee
12 may be detailed to the Commission without reimbursement
13 from the Commission, and such detailee shall retain the
14 rights, status, and privileges of his or her regular employ-
15 ment without interruption.

16 (e) **CONSULTANT SERVICES.**—The Commission is au-
17 thorized to procure the services of experts and consultants
18 in accordance with section 3109 of title 5, United States
19 Code, but at rates not to exceed the daily rate paid a per-
20 son occupying a position at level IV of the Executive
21 Schedule under section 5315 of title 5, United States
22 Code.

23 (f) **COMPENSATION AND TRAVEL EXPENSES.**—

24 (1) **COMPENSATION.**—Each member of the
25 Commission may be compensated at a rate not to

1 exceed the daily equivalent of the annual rate of
2 basic pay in effect for a position at level IV of the
3 Executive Schedule under section 5315 of title 5,
4 United States Code, for each day during which that
5 member is engaged in the actual performance of the
6 duties of the Commission.

7 (2) TRAVEL EXPENSES.—While away from
8 their homes or regular places of business in the per-
9 formance of services for the Commission, members
10 of the Commission shall be allowed travel expenses,
11 including per diem in lieu of subsistence, in the
12 same manner as persons employed intermittently in
13 the Government service are allowed expenses under
14 section 5703(b) of title 5, United States Code.

15 (g) NONAPPLICABILITY OF FEDERAL ADVISORY
16 COMMITTEE ACT.—The Federal Advisory Committee Act
17 (5 U.S.C. App.) shall not apply to the Commission.

18 **SEC. 7. TERMINATION.**

19 The Commission shall terminate 90 days after the
20 date on which the Commission submits its report to the
21 Congress under section 3(c).

22 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

23 To carry out the provisions of this Act, there are au-
24 thorized to be appropriated \$20,000,000.

