

**Written Statement**  
**Hon. Ricardo Rosselló**  
**Governor of Puerto Rico**  
**U.S. House of Representatives– Committee on Natural Resources**  
**Hearing, "The Status of the Puerto Rico Oversight, Management and Economic**  
**Stability Act (PROMESA): Lessons Learned Two Years Later"**  
**May 2, 2019**

Oral Testimony  
Governor Ricardo Rossello  
May 2<sup>nd</sup> 2019

Chairman Grijalva, Ranking Member Bishop, and members of the Committee:

Thank you for the opportunity to appear before you to discuss the *Puerto Rico Oversight, Management and Economic Stability Act* (PROMESA) and to address the lessons learned in the two years since its enactment. Congress intended PROMESA to provide Puerto Rico tools that could be used to restructure its debts, achieve fiscal stability, and spur economic growth, under the public policy direction of the elected government of Puerto Rico. Those tools were necessary because, due in large part to its unequal treatment under federal laws as a U.S. territory as well as years of mismanagement both on and off the Island, Puerto Rico and certain of its instrumentalities accrued over \$70 billion in public debt and over \$50 billion in unfunded pension liability that could not be satisfied with available revenues.

There is however a naïve and problematic narrative that the Government is not doing its job, that we refuse to make structural reforms, and that the oversight board is the solution to address said mismanagement.

Allow me to clear and correct that notion.

When I ran for governor, there was no oversight board. It wasn't even an idea in the public discourse. Notwithstanding, my team and I developed a platform with a public policy road map that included, structural reforms, expense reduction and government downsizing measures, the renegotiation of our debt, and economic and social reforms.

With obstacles, both natural and manmade, our government has followed our policy roadmap, achieving the following:

- 1) **The biggest operational budget cuts from one year to the other in the history of Puerto Rico, and of any state in the past couple of decades at least.** We reduced 1.4 Bn or 17% of the operational budget on FY 18.
- 2) Saved the payment of retiree pensions: Pension funds were essentially depleted. Our government assumed the responsibility to pay for pensions,

implementing a new PayGo system. Simply put, if we had not made the budgetary cuts above, we could not meet our obligations with pensioners – something we have not failed to do.

- 3) **We moved forward and implemented structural reforms from our government platform.** Some of these include:
  - a. Education reform
  - b. Local earned income tax credit
  - c. Energy transformation at PREPA and new energy public policy statutes
  - d. The creation of entities external to government to promote investment and tourism known as Invest Puerto Rico and Discover Puerto Rico
  - e. Labor Reforms
  - f. Commenced a reform of our public service system
  - g. Tax Reform
  - h. A new public health care model for the medically indigent
  - i. Promoting new markets, such as medical cannabis, e-gaming, amongst others
  - j. We commenced government agency rightsizing to reduce amount of agencies and increase accountability.
  
- 4) Some of our results include:
  - a. Reduced over 20,000 employees without layoffs
  - b. Reduced 20% of our agencies
  - c. Reduced 17% of our operational budget expenditures
  - d. We arrived at a Title VI agreement with creditors of GDB to restructure its liabilities outside of court.
  - e. Unemployment has been at an all-time low in Puerto Rico.
  
  - f. Created over 18,000 jobs within a year.
  - g. The PREPA transformation is on its way, and we expect to have a concession of the transmission and distribution system by December 2019.
  - h. Worked together with the board to restructure 21 billion dollars of our debt.
  - i. All of this without furloughs, decreased or impaired access to healthcare, without layoffs, or further reducing pension benefits.

On the other hand, the FOMB's scoreboard:

- 1) Proposal of austerity measures that hindered economic growth and would have devastating social impact.
- 2) Complete failure on Title V economic development projects.
- 3) Insistence on overstepping their boundaries such as:
  - a. Attempting to take over PREPA
  - b. Constant intromission into our policy development process

- 4) Constant operational delays on budget reappropriations; it takes the oversight board sometimes 1-3 months to approve budget reallocations that are minor amounts
- 5) A continuous reformulation of fiscal plans that delays proper execution of measures. Note that no fiscal plan certified by the board has lasted more than 6 months.
- 6) Zero results on their objectives to identify economic development initiatives for Puerto Rico, particularly federal initiatives.
- 7) Spending twice as much on lobbying in DC than the Government of Puerto Rico invests in its Washington DC office and to this day, no one knows what they are lobbying for.
- 8) While the elected government must face scrutiny and is accountable to the public, the oversight board conducts all of its business in secret executive meetings where the public and the government are denied access.

Clearly, the Oversight Board has not achieved the objectives for which it was created, and – worse of all – has overstepped its boundaries, making it an even more undemocratic entity.

To add insult to injury, the Oversight Board has gone out of its way to create uncertainty in Puerto Rico. It takes actions and makes public pronouncements that are not supported by PROMESA and then refuses to recognize their mistakes. Two days ago alone, the Oversight Board sued hundreds of local Puerto Rican suppliers. This included health clinics and centers for education for our most vulnerable children. How is the Puerto Rican government supposed to receive goods and services if everyone must fear litigious harassment?

Therefore, with regard to PROMESA, below you will find a thorough review, events that have occurred and our recommendations and petitions to Congress.

### **The Operational Reality of Two Years Under PROMESA**

The Oversight Board was not appointed until August 31, 2016 and did not select an Executive Director until March 20, 2017, almost three months after I took office on January 2, 2017. Hurricanes Irma and Maria delayed the PROMESA process even further when they hit the Island in September 2017, causing widespread devastation and requiring drastic alterations to the fiscal plans and budgets and a virtually complete reset in the pending Title III proceedings.

Since that slow beginning, the Government of Puerto Rico has cooperated with the Oversight Board to craft and adjust the fiscal plans and certified budgets to meet the evolving needs of Puerto Rico in a way that not only addresses the fiscal imbalances of the past, but also prioritizes pro-growth structural reforms in our economy and reforms our government structures to better reflect and respond to the needs and carrying

capacity of our society. Our undeniable commitment to collaboration with the Oversight Board is evidenced by our near constant dialogue with the Oversight Board and its advisors including in weekly meetings.

The relationship with the Oversight Board has been tremendously challenging at times - and I believe requires significant reform - but I am proud of the progress we have been able to make for the people of Puerto Rico despite the tension and inefficiencies of the process.

- ***Fiscal Plans and Budgets***

The process of developing, drafting and certifying fiscal plans and budgets has been time-consuming and fraught with challenges. We have worked diligently to meet the Oversight Board's requirements for submission of fiscal plans and budgets despite unreasonably short deadlines and burdensome information requests.

When my administration took office, we immediately turned our attention to amending the first fiscal plan submitted by our predecessor - a process that was truncated by the Oversight Board requiring submission on a short timeframe. Despite the short deadline, we submitted our first fiscal plan for the Commonwealth of Puerto Rico on February 28, 2017. The Oversight Board considered it for certification on March 13, 2017 and certified it with corrections on April 18, 2017. My administration then submitted its first Commonwealth budget to the Oversight Board on May 31, 2017.

On April 28, 2017, my administration submitted fiscal plans for each of the Puerto Rico Aqueduct and Sewer Authority (PRASA), the Puerto Rico Electric Power Authority (PREPA), the Puerto Rico Highway and Transportation Authority (PRHTA), and the Government Development Bank for Puerto Rico (GDB). The PRHTA and PRASA fiscal plans were certified on April 28, 2017 and the GDB and PREPA fiscal plans were certified on May 3, 2017. The Oversight Board certified budgets for each of those entities on June 30, 2017.

After the certification of the initial fiscal plans and budgets, we have worked with the Oversight Board on the following:

1. Fiscal plans for the Commonwealth of Puerto Rico certified on April 19, 2018, May 30, 2018, June 29, 2018, and October 23, 2018, and a budget certified on June 30, 2018.
2. Fiscal plans for the University of Puerto Rico certified on April 20, 2018, June 29, 2018, and October 23, 2018, and a budget certified on June 30, 2018.
3. Fiscal plans for PRHTA certified on April 20, 2018 and June 29, 2018, and a budget certified on June 30, 2018.
4. Fiscal plans for PREPA certified on April 19, 2018 and August 1, 2018, and a budget certified on June 30, 2018.
5. Fiscal plans for PRASA on certified on April 19, 2018 and June 29, 2018, and a budget certified on June 30, 2018.

6. A standalone fiscal plan for COFINA certified on October 18, 2018, and a budget for fiscal year 2019 certified on February 11, 2019.

Since our initial fiscal plan, we have submitted at least 10 drafts of Commonwealth fiscal plans and numerous drafts of other fiscal plans in response to deadlines from the Oversight Board. Each of those drafts has been accompanied by information requests and diligence from the myriad advisors to the Oversight Board. The Oversight Board's approach to fiscal planning and budgeting has become a full-time job with continual information requests and sometimes obsessive revising, reworking and amending of fiscal plans and budgets. That approach has taken what could have been a powerful tool and turned it into a bureaucratic nightmare that strains Puerto Rico's resources and takes the focus away from moving Puerto Rico forward. The constant amendments and modifications to the fiscal plans have also had the effect of eroding the confidence of stakeholders in the information presented in the plans.

Worse, the Oversight Board has used the fiscal plan and budgeting process to attempt to supplant government policy and force austerity measures on our most vulnerable. For example, as part of the fiscal planning process, the Oversight Board insisted on specific private-sector, human capital and labor reforms, specific plans for governmental agency consolidations and compensation and benefit reductions for public employees. The Oversight Board has also engaged in a crusade to cut public pensions.

The Oversight Board rightly and appropriately should assist Puerto Rico in setting fiscal targets, but decisions on how to achieve those targets should belong to the duly-elected Government of Puerto Rico. The Oversight Board should not be permitted to use the fiscal planning and budgeting process to dictate public policy choices for Puerto Rico.

- ***Title III Filings***

PROMESA provided for a litigation stay so that the Commonwealth could reach consensual arrangements with creditors. That stay was unrealistically short and the Oversight Board did not focus on negotiating forbearance agreements with creditors prior to expiration. When the stay expired on May 1, 2017 without forbearance agreements in place, creditors immediately began commencing lawsuits against the Commonwealth. I was left with little choice but to request that the Oversight Board commence a Title III proceeding for Puerto Rico, which I did on May 2, 2017. Title III filings followed for the Puerto Rico Sales Tax Financing Corporation (COFINA) on May 5, 2017, PRHTA and Employees Retirement System of the Government of the Commonwealth of Puerto Rico (ERS) on May 21, 2017, and PREPA on July 2, 2017.

The Title III filings sparked intense litigation initiated by various bondholder constituencies, the creditors committee and the Oversight Board. To date, that litigation has included proceedings addressing complex issues such as the application of retained revenues to non-GO debt expenses, whether certain GO bond issuances are invalid, the status and scope of the liens purportedly supporting the PRHTA bonds, the claims of Bonistas del Patio, Inc. in COFINA, various issues related to the validity of the ERS bonds

and pension reform, attempts to lift the stay to seek a receiver in PREPA, and whether the Puerto Rico Public Building Authority leases are true leases or disguised financing transactions.

The litigation has been a significant burden for Puerto Rico and has delayed the restructuring process. In addition, professional costs have been astronomical. In addition to its own professionals, Puerto Rico pays for the fees and expenses of the professionals retained by each of the Oversight Board, the creditors committee appointed by the Title III Court, the Commonwealth and COFINA agents appointed by the Oversight Board to address the restructuring of COFINA, and the mediation team appointed by the Title III Court. Each of the bondholder groups has its own professionals and, in connection with any consensual restructuring, expects those fees to be paid by Puerto Rico. The high price tag is exacerbated by the fact that certain of the bondholders and the creditors committee pursue extensive litigations that do not have the opportunity to create value for Puerto Rico.

- ***Role of Government and Oversight Board***

From the beginning of the Title III proceedings, the Government of Puerto Rico and the Oversight Board differed on the proper role of the Oversight Board under PROMESA. The Oversight Board's continued insistence on dictating public policy choices by the Government has been a source of tension and, at times, blunted the effectiveness of PROMESA.

Disputes between my administration and the Oversight Board over expenditure controls began shortly after the certification of the March 13, 2017 Commonwealth fiscal plan. As part of the fiscal planning process, the Oversight Board tried to force us to institute a furlough program and reduce Christmas bonuses. We rejected those recommendations by the Oversight Board. The Oversight Board continued to insist on cutting Christmas bonuses in its fiscal plans despite our explanation that paying the bonus was critical to recognize the dedication and service of public employees who went above and beyond in aiding recovery efforts across the Island after the hurricanes.<sup>1</sup>

We have also struggled to reach common ground with the Oversight Board on the terms of a consensual fiscal plan for the Commonwealth. Most recently, a tentative agreement was reached on May 20, 2018 but that agreement collapsed over the Oversight Board's requirement that the Puerto Rico legislature repeal Puerto Rico's Wrongful Termination Act, Law No. 80 by June 27, 2018. I worked with the Oversight Board in an attempt to

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<sup>1</sup> At times, the Oversight Board has more directly attempted to take over functions of the government. In a filing on October 26, 2017, the Oversight Board attempted to take control of PREPA through a motion to appoint a Chief Transformation Officer. The Title III Court ruled against the Oversight Board but its attempted power grab cost us valuable time and money and created an environment of distrust. Notwithstanding that, the relationship with the Oversight Board has not been wholly-broken as we have cooperated with respect to ERS, where the Board and Government have seen eye to eye on strengthening the retirement system through fiscal plan, budget and legislative measures, as well as a coordinated legal approach in the Title III case.

pass the repeal of Law 80 but the Puerto Rico legislature determined, in an appropriate exercise of its legislative powers, not to do so.

The Oversight Board responded to the failure to repeal Law 80 by certifying a draconian and ill-conceived Commonwealth fiscal plan. That plan, among other things, (i) eliminated the annual appropriation for the Christmas bonus for public sector employees, (ii) eliminated the annual appropriation of \$25 million for student scholarships at the University of Puerto Rico, (iii) eliminated the annual appropriation of \$50 million for economic development initiatives for municipalities, (iv) eliminated the multiyear fund of \$345 million for various economic development and reform implementation initiatives as requested by the Government, (v) maintained the previous elimination of the Christmas bonus for both public sector and private sector employees, as well as the reduction in sick days and paid leave for private sector employees, and (vi) maintained the previous cuts to the budget of the legislature and judiciary.

Since that action by the Oversight Board, we have been engaged in litigation over the appropriate powers of the Oversight Board. The Oversight Board has fought for expansive powers and has failed to recognize the importance and role of the duly-elected Government of Puerto Rico. As part of this overreaching attempt by the Oversight Board, they have also engaged in active lobbying in Congress by hiring numerous lobbying firms with Puerto Rico taxpayer money and then, at times, using those lobbyists to advance the Oversight Board's concerns rather than focusing on the interests of the Puerto Ricans who are paying for this lobbying effort. This anti-democratic approach has hindered the restructuring process under PROMESA.

### **Successes under PROMESA**

Notwithstanding tensions and disagreements with the Oversight Board and aggressive litigation from certain of our creditors, I am proud that we have made real progress towards fiscal responsibility and renewed access to the capital markets. Some highlights are below.

- ***Debt Restructurings***

In recent months, we have restructured more than \$21 billion in funded debt obligations. And we have done it largely consensually, balancing the needs and legal rights of Puerto Rico with the rights of the creditors. My administration has been at the forefront in negotiating with creditors and executing on complex new bond issuances.

In November of 2018, we consummated a deal that restructured more than \$4 billion in bonds issued by the GDB. We reached consensus with on-Island and mainland financial creditors in a highly innovative transaction that represented the first-ever use of Title VI of PROMESA.

We also recently obtained court approval of a Title III plan adjusting more than \$17 billion of COFINA debt. We brought together bondholders, insurers and other parties to provide

recoveries for creditors (many of whom are American citizens residing in Puerto Rico who invested their retirement funds in COFINA) in a deal that reduced debt and provided the central government with access to billions of dollars in revenue over the next 40 years. This money can be used to shore up our finances and take care of our most vulnerable residents.

In addition to our success in restructuring GDB and COFINA, we have also been working with an ad hoc group of PREPA bondholders and Assured Guaranty, a significant monoline insurer of PREPA bonds, toward finalizing a definitive restructuring support agreement (including complex and technical securitization, legislative, and demand protection term sheets). We hope to file that restructuring agreement with the Title III court soon.

After years of hesitancy from the capital markets, we are seeing investors and investment begin to flow back to the Island, and we are determined to ensure that the human capital will follow. This marks a critical first step on our road to financial recovery.

- ***Structural Reforms***

Again and again, Puerto Rico has demonstrated a willingness to make the sacrifices needed to achieve fiscal responsibility and meaningful structural change. We have consolidated numerous agencies through legislation and strengthened our underfunded pension system by moving to a “PayGo” retirement system. I am also proud to report that we have fulfilled my “Pledge for Puerto Rico” to reduce the size of the territorial government without firing anyone and while making it more efficient. We have reduced by 10.7% the number of government employees and are working to support those employees’ transition to the private sector. We have implemented the largest budget reduction from one year to the next in the last 40 years in all the United States. Additionally, we have passed local tax reform to reduce rates, simplify the tax code and broaden the tax base, as well as executing countless other reforms that seek to increase the ease of doing business and spur private sector investment.

Despite the challenges of PROMESA, and that much remains to be done in terms of structural reforms, I am very proud of the economic progress we have made in Puerto Rico during my tenure. For the first time in the past 12 years, Puerto Rico’s economic activity index has grown - up 3%. Our unemployment rate is down to 8.8% from 12% when I took office. Other indicators are also positive: (i) March jobs were up 18,100 over the same period one year ago, (ii) bankruptcies are down 4% over the past 12 months, (iii) retail sales in October 2018 increased 18.4% over the same period in 2017, (iv) housing sales in February 2019 were up 19% over the same period last year, (v) mortgage foreclosures have decreased to their lowest rate in nine years, and (vi) March automotive sales were up 16% over the same period last year. All of these indicators suggest that there is great confidence in Puerto Rico’s recovery.



- ***Transforming the Energy System***

We are also extremely proud of the progress we have made toward transforming our electric system. From the early days of my administration, I set a goal of assuring that all of our citizens had access to safe, reliable and affordable energy. Last June, I signed into law the Puerto Rico Electric System Transformation Act to begin the process of privatizing PREPA and, as discussed below, we are making steady progress in that direction. We also recently passed the Puerto Rico Energy Public Policy Act, which requires the island to obtain 100% of its electric energy from renewable sources by 2050, with an interim target of 40% percent by 2025, and to eliminate the use of coal in the generation of electricity by 2028. Both of those laws were critical steps to insuring the energy future of Puerto Rico.

The process to transfer the transmission and distribution (T&D) system to the private sector is well underway. In late October 2018, the Puerto Rico Public-Private Partnerships Authority (P3 Authority) issued a Request for Qualifications (RFQ) seeking statements of qualification from companies and consortia interested in managing and operating Puerto Rico's electric power T&D. The RFQ defined the project goals as: (i) delivery of low-cost electricity to ratepayers of Puerto Rico; (ii) increasing system resiliency and reliability; (iii) deployment of new technologies; and (iv) implementing industry best practices and operational excellence. Four qualified RFQ respondents - Duke Energy Corporation, Exelon Corporation, PSEG Services Corporation, and a consortium formed by ATCO, Ltd, IRM and Quanta Services - were invited to submit responses to a Request for Proposal (RFP) issued in late January 2019. The process of developing RFP responses is ongoing.

We are also addressing the generation assets as part of remaking our energy sector. Our objectives with regard to generation include:

1. Transferring existing generation assets to private ownership and/or operations and establishing a framework wherein future generation assets are privately owned/operated;
2. Reducing reliance on fuel oil and overall fuel cost;
3. Modernizing the generation fleet, retiring inefficient units and increasing the development of renewable energy and natural gas-fired facilities;
4. Investing in facility repairs and enhancements to improve system resiliency;
5. Leveraging proven energy storage, distributed energy, and "mini-grid" technologies to provide greater flexibility, reliability, and resiliency of energy supply;
6. Improving dispatch capabilities by implementing modern technologies; and
7. Improving overall system operational flexibility

Consistent with these objectives, we expect all new generation assets will be owned and/or operated by private entities and existing generation to be sold or otherwise privately managed. Although the ultimate plan for the privatization of the existing

generation assets has not yet been finalized, we have taken several concrete steps toward this process.

First, PREPA recently executed a San Juan natural gas conversion contract, which should provide a framework for future fuel supply conversion. The fuel conversion project involves upgrading Units 5 and 6 of the San Juan Combined Cycle Power Plant so that those units can operate on liquefied natural gas (LNG). The transaction, announced in December 2018, is one of the most flexible LNG/gas agreements in the world and undeniably the most flexible fuel supply agreement in PREPA's portfolio. This transaction should produce material savings for PREPA customers.

In addition, on February 13, 2019, PREPA filed a new Integrated Resource Plan ("IRP") with the Puerto Rico Energy Bureau for review and approval. The IRP envisions the establishment of a series of mini-grids, which are a design for energy transmission and distribution networks that systematically improves resiliency by separating the existing grid into pockets of critical loads served by distributed resources that can operate in both grid-connected and islanded modes. These mini-grids are distinguished from microgrids in that they utilize existing distribution infrastructure and can be sized much larger than typical microgrids; for example, one mini-grid will encompass the San Juan region. The proposed mini-grids will cover most of the island and will be able to withstand or recover very quickly from a catastrophic weather event.

Also, through the P3 Authority, PREPA has issued a request for proposals to install the first wave of energy storage projects, which would consist of lithium-ion battery storage facilities and has developed a request for qualifications to solicit third party investment and operation/maintenance experience to restore hydroelectric generating capacity to the existing system. In addition, PREPA has initiated discussions with a number of renewable energy project developers that have existing power purchase agreements in various stages of pre-development. Many of these proponents have engaged in contract re-negotiations in the context of the Title III process, to reduce the contracted prices and expedite project development. PREPA is currently engaged in negotiations with project sponsors who could break ground on approximately 350 MW of solar PV projects before the end of 2019, with commercial operations achievable in 2020, each of which would deliver significant cost savings versus their current contracted pricing. PREPA, through the P3 Authority, has also drafted a request for qualifications to solicit third-party development of rooftop solar projects utilizing public building roofs. This request for qualifications is currently being finalized and is expected to be published in the next few weeks.

Putting in place the mini-grid concept, adding more distributed generation resources, including more renewable resources, and adding new, highly efficient natural gas-fired generating facilities, as the IRP envisions, will significantly reduce Puerto Rico's vulnerability to hurricanes and other weather events, and permit the island to respond quickly and effectively when they occur. At the same time, the planned changes to Puerto Rico's electric infrastructure will improve energy efficiency, reduce fuel costs and dramatically reduce air emissions. We are excited by the opportunity to lead the way into

a future in which electric systems are more efficient, more reliable, more resilient and greener.

## **The Good and the Bad of PROMESA**

- ***What Is Working About PROMESA?***

The tools provided in PROMESA have been helpful in facilitating debt restructurings as evidenced by COFINA, PREPA and GDB. Both Title VI and Title III of PROMESA have features that can be effectively used to structure and implement debt restructuring transactions that might not be possible without PROMESA. When a deal is good for Puerto Rico, the Government of Puerto Rico is committed to executing and delivering deals as evidenced by the support of both my administration and the legislature for the GDB deal, COFINA deal, and the PREPA negotiations and transformation process. The Oversight Board has also generally been cooperative and helpful in the debt restructuring process.

- ***What Is Not Working About PROMESA?***

The Oversight Board has tried to use its powers to control the decisions of the duly-elected Government of Puerto Rico and to implement its own view of public policy. These attempts by the Oversight Board to usurp governmental powers have delayed the restructuring process, created an environment of distrust and resulted in unnecessary litigation.

The fiscal plan and budgeting process has been inefficient and has eroded confidence and credibility in what could be a good planning tool. The Oversight Board and Government worked closely together on much of the fiscal planning process, but the process is burdensome. Moreover, the Oversight Board has attempted to use the fiscal plan to impose detailed policy recommendations and even legislation on Puerto Rico rather than recognizing it as a financial planning tool. Through the fiscal plan process, the Oversight Board has also attempted to impose its view of critical public policy issues - such as labor reform - that result in projected speculative thirty-year surpluses that create unrealistic expectations for creditors. So far, the Oversight Board has also failed to deliver any meaningful progress in terms of infrastructure revitalization under Title V of PROMESA.

## **Recommendations**

With regard to PROMESA, I recommend that Congress consider the following changes:

- ***The Oversight Board should not infringe on the day to day operations of government:*** It is critical to the legitimacy of this process that the Government of Puerto Rico always retain its democratically derived powers for setting public policy, operating the government and implementing solutions. Budget

reapportionments should be handled by the Government of Puerto Rico, complying with a commitment NOT to increase the set overall budget expenditure goals.

- ***Eliminate the Role of the Oversight Board as Title III Representative:*** The insertion of the Oversight Board as the Title III representative creates confusion and results in litigation within the Title III process. The Title III debtor is already subject to the scrutiny of the court process. While the Oversight Board has a critical role to play, it is not necessary to create conflicting roles by giving the Board both the debtor role and the oversight function in the Title III process.
- ***Revise Fiscal Planning Process:*** The fiscal plan and budgeting process should be revamped to provide a focus on one-year budgets to make sure that Puerto Rico is not spending more than it is taking in and that an objective and reliable assessment is made each year to determine how much the Government needs to pay for essential services. The fiscal plan and budgeting process should not be used as a public policy tool or turned into an endless modeling exercise.
- ***Address Professional Costs:*** The costs and expenses of the Oversight Board and its professionals should be carefully scrutinized to assure that money is being spent appropriately and in the best interests of Puerto Rico.
- ***Require Oversight Board Transparency:*** The Oversight Board must be held accountable for its use of public funds. Reports of a lack of transparency and potential conflicts of interests of the Oversight Board's consultants are deeply concerning and not surprising given the way the Oversight Board has conducted itself throughout the process. Our Government also supports efforts to apply basic transparency principles to the Oversight Board through federal legislation.
- ***Improve Title V Process:*** The Title V process is one that could be of substantial benefit to Puerto Rico. The challenge with Title V is that, as drafted and implemented, it is disconnected from the rest of PROMESA, creates further bureaucracy, and is not tied to either the fiscal reforms set forth in the fiscal plan or the public policy of Puerto Rico. Title V effectively created yet another path for someone to try to restructure Puerto Rico without checks and balances. Title V should be restructured not to create a parallel path but rather to be a tool that can be used effectively by the Government of Puerto Rico and the Oversight Board to implement the determined fiscal reforms and public policies.

As I did at the outset of my testimony, I also note that the success or failure of PROMESA is also dependent on much more than the words of the statute or even the efforts of my administration of the Oversight Board. The unfortunate reality is that federal policy towards Puerto Rico is oftentimes executed as an afterthought and without a proper understanding of the circumstances of the island and its residents. There are countless examples of federal policies and practices that harm or limit Puerto Rico's economic development potential. These issues must be addressed if the process set forth in PROMESA is to be successful.

To that end, I call upon Congress and the federal government to address the following:<sup>2</sup>

- ***Cure the Inequity in Disaster Recovery Funding:*** Congress must work with us to end the inequity in the disaster recovery funding provided to Puerto Rico relative to other jurisdictions stateside. The discrimination against Puerto Rico is evident in the approach FEMA has taken to Puerto Rico and in the Administration's application of the existing statutes. The discrepancy in the way Puerto Rico is treated is startling and represents discrimination by parts of the federal government against the three million Americans living in Puerto Rico.
- ***Assure the Nutritional Assistance Program (NAP):*** The disaster NAP relief provided by Congress in 2017 ran out at the end of February of this year, and beginning in March, NAP recipients experienced a reduction in benefits, averaging 25%. Still the island's most vulnerable populations continue experiencing food insecurity at high levels. I urge Congress to approve an additional \$600 million in disaster NAP relief funding so that the Government can provide the same basic nutritional assistance as the states through the end of FY19. In the longer-term, I urge Congress to transition Puerto Rico from NAP to Supplemental Nutrition Assistance Program (SNAP) so that the island's nutritional assistance needs are adequately met for the more than 1.3 million U.S. citizens who participate in the program.
- ***Create Equality in Federal Programs & Tools for Economic Growth:*** Congress must end the unequal treatment of Puerto Rico under multiple federal laws, programs (such as Federal Highways, Child Tax Credit, Earned Income Tax Credit), and many other policies. New tools to support economic growth, such as are also needed for Puerto Rico to succeed. Failure to do so, creates an uneven playing field for economic performance, leads to an overall quality of life in Puerto Rico that is below the standard in the states, and encourages outmigration.
- ***Saving the Healthcare System:*** The federal government's inconsistent and incoherent healthcare funding and policy decisions toward Puerto Rico has put the stability of the Island's entire healthcare system at risk and has contributed to a mass exodus of medical and health professionals which cannot be easily replaced. Urgent action is needed. Congress must provide funding stability to our Medicaid system for at least 5 years as it works on a longer-term solution and should also work to address our inequality in Medicare.
- ***Federal Tax Law Revisions to Help Spur Economic Growth:*** Congress should adopt tax policies that support economic growth in Puerto Rico rather than

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<sup>2</sup> For a more detailed exposition of recommendations to Congress see: Written Statement Hon. Ricardo Rosselló, Governor of Puerto Rico, U.S. Senate Committee on Energy & Natural Resources Hearing, "Examine the State of U.S. Territories," February 26, 2019. Available at: <https://www.energy.senate.gov/public/index.cfm/2019/2/full-committee-hearing>.

treating Puerto Rico as a domestic entity for some tax issues and a foreign entity for others.<sup>3</sup>

- ***Resolve Undemocratic & Unequal Territorial Status:*** The question of Puerto Rico's ultimate political status and relationship with the federal government is intimately linked to the island's prospects for economic growth, fiscal stability, and successful disaster recovery. Congress must resolve Puerto Rico's status to unleash its full potential and should implement the democratically expressed will of voters who have expressed twice in the last six years a clear desire to end the current territory status and to achieve statehood for Puerto Rico.

## **Conclusion**

Despite our many challenges, the state of the U.S. territory of Puerto Rico is optimistic, determined and full of potential. In the 19 months since the Hurricanes of 2017 and in the two years since PROMESA was enacted, Puerto Rico has been challenged by the most damaging storms in U.S. history, significant outmigration, and an island-wide recession. Despite these long odds, Puerto Rico continues to endure and recover. Our goal is to re-imagine, revitalize and rebuild Puerto Rico so that it can develop to its full capacity for the benefit of not only island residents, but for America as a whole. To do this we must recognize and acknowledge our past mistakes and work together diligently to correct them. If America's most challenged jurisdiction, Puerto Rico, can turn itself around and be transformed into a place of thriving prosperity, it can serve as a beacon of hope for all Americans, and a sign to the world that the best is yet to come. Statehood for Puerto Rico is not only about realizing Puerto Rico's full potential. It is about America living up to its most noble values by creating a *more perfect Union*.

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<sup>3</sup> Although some argue that this has worked to our benefit because of the lack of federal income tax for island residents on their Puerto Rico derived income, this seeming advantage is nullified for the vast majority of island residents because of their unequal treatment or outright exclusion in federal programs and tax benefits like the Child Tax Credit (CTC) and the Earned Income Tax Credit (EITC). The passage of P.L. 115-97, the Tax Cuts and Jobs Act of 2017, added yet another challenge to Puerto Rico with the imposition of the Global Intangible Low-Taxed Income Tax (GILTI) as if we were a foreign jurisdiction. While we do not yet know the full impact GILTI will have on Puerto Rico's manufacturing sector and the local tax revenues they generate, it's clear that the way this new tax was applied will do nothing to help Puerto Rico attract new investment and economic activity.