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Testimony
Hearing on Puerto Rico Status Legislation
House Committee on Natural Resources
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Chairman Grijalva, Ranking Member Westerman, and distinguished members of the Committee, I am honored to appear before you today to discuss the “Puerto Rico Statehood Admission Act” (H.R. 1522) and the “Puerto Rico Self-Determination Act of 2021” (H.R. 2070).

The last time I testified before Congress on the issue of Puerto Rico self-determination - in 1998 - I urged Congress to acknowledge Puerto Rico’s status as a U.S. territory, and I sought congressional leadership to confirm constitutional parameters on alternatives for Puerto Rico’s future status.

Almost 25 years later, it is now well established that Puerto Rico is indeed a U.S. territory, and it is further recognized that this colonial relationship is no longer acceptable. The question for consideration by the Committee today is what should Congress do next and how to get there.

With respect to the two proposals before the Committee, only H.R. 1522 represents true self-determination. The bill respects the voices of the U.S. citizens of Puerto Rico and recognizes Puerto Rico’s history of local plebiscite votes. The measure provides a Democratic process to resolve the issue of Puerto Rico’s status with a clear, up-or-down ratification vote on an option with 50 precedents: statehood.

On the other hand, H.R. 2070 seeks to create a federally imposed structure that ignores Puerto Rican votes, Puerto Rican history and Puerto Rican voices. The bill proposes a new process with no accountability and no end date. H.R. 2070 provides no explicit guidance on constitutional parameters and creates a new federal commission. The proposal is not true self-determination, and it is not a solution to the legal, political and moral problem we are discussing today.

I. History & Background

• **The “United States-Puerto Rico Political Status Act” & the 1998 Plebiscite**

In 1998, under the leadership of Speaker Newt Gingrich (R-GA), the House of Representatives passed the “United States-Puerto Rico Political Status Act,” H.R. 856, led by Rep. Don Young (R-AK). That bill called for a local referendum in Puerto Rico in which voters could choose from among three ballot options: (1) statehood, (2) independence or free association, or (3) remain a U.S. territory. The bill passed by a bipartisan vote of 209 to 208 but died in the Senate.

In the face of Congressional inaction, later that year, Puerto Rico Governor Pedro Rossello (D) proceeded to hold a local plebiscite vote in Puerto Rico with five options on the ballot: (1)

statehood, (2) independence, (3) free association, (4) continued territory status, or (5) none of the above.

Statehood was the clear winner among the four defined options with 46.5% of the vote, followed by independence (2.5%), free association (.1%) and the current territorial status (.06%). Yet just over half of all voters (50.3%) chose none of the above.

Given four constitutionally valid options, a slight majority of Puerto Rican voters held out hope for something different which they were being told locally was possible.

What they were looking for was known at the time as “Enhanced Commonwealth,” an unconstitutional mixture of sovereignty and federal entitlements. This make-believe status, which former Rep. José Serrano (D-NY) called “a letter to Santa Claus,” requires the U.S. Congress to cede power to Puerto Rico in a permanent agreement and makes accessible a package of federal benefits to Puerto Ricans that go well beyond the rights and responsibilities of any other U.S. citizen.

The 1998 “Enhanced Commonwealth” platform as ratified by the Commonwealth (PDP) Party of Puerto Rico can be found at the conclusion of this testimony along with a related explanatory graphic as published by the San Juan Star.

For additional background, please see attached list of “Commonwealth” proposals debated in Puerto Rico from 1952 to 1998 and a Congressional Research Service (CRS) history of “Commonwealth” ballot options from 1967-1998. The CRS footnotes document the changing definitions of “Commonwealth,” often with constitutional implications.

- **President’s Task Force on Puerto Rico’s Political Status**

In 2000, in response to the “none of the above” vote in the 1998 plebiscite, President Bill Clinton issued Executive Order 13183, establishing the President’s Task Force on Puerto Rico’s Status. The purpose of the Task Force was to “clarify both the status options available to Puerto Rico and the process by which those options can be realized.”

President George W. Bush continued the initiative, consulted extensively with stakeholders, and in December 2005 published the first President’s Task Force on Puerto Rico’s Status report, an authoritative study containing an analysis of the constitutionally viable status options and a proposed process to resolve Puerto Rico’s ultimate status.

The report recommended a two-step plebiscite. First, a vote would ask Puerto Rico’s electorate “whether they wish to remain a U.S. territory.” If voters chose to remain a territory, then this question would be presented periodically to voters to ensure continued “consent of the governed.”

If voters decided they wanted change, the report called for another plebiscite to enable voters to choose between statehood or independence.

In 2007, the Bush administration issued a second report of the President’s Task Force on Puerto Rico’s Status, confirming the previous report’s findings and reinforcing its recommendations.

President Obama released the most recent report of the President’s Task Force on Puerto Rico’s Status in 2011. That report was consistent with the two previous reports in expressing a “marginal preference” for a two-plebiscite system. Recognizing the ongoing definitional dispute over status options, the report also clarified:

“[C]onsistent with the legal conclusions reached by prior Task Force reports, one aspect of some proposals for enhanced Commonwealth remains constitutionally problematic—proposals that would establish a relationship between Puerto Rico and the Federal Government that could not be altered except by mutual consent. This was a focus of past Task Force reports. The Obama Administration has taken a fresh look at the issue of such mutual consent provisions, and it has concluded that such provisions would not be enforceable because a future Congress could choose to alter that relationship unilaterally.”

- **The “Puerto Rico Democracy Act of 2010” & the 2012 Plebiscite**

In 2010, the House of Representatives passed the “Puerto Rico Democracy Act,” H.R. 2499 under the leadership of then Resident Commissioner Pedro Pierluisi (D-PR) by a bipartisan vote (223-169). Unfortunately, the legislation, which was modeled on the two-part structure endorsed by the Bush and Obama Task Force reports, again failed to advance in the Senate.

To continue making progress on the issue, in 2012, Puerto Rico Governor Luis Fortuño (R) proceeded to hold a vote on a two-part plebiscite based on the Bush Task Force recommendation. The first question asked voters whether or not they “agree to maintain the current territorial political condition” of Puerto Rico. The second question instructed voters to select - irrespective of their answer to the first question – their preference from among three non-territorial status options: (1) statehood, (2) independence, or (3) free association.

The plebiscite results indicated that nearly 54% of voters (53.97%) rejected Puerto Rico’s territorial status and that among those who selected a non-territorial option in the second question, a majority (61.16%) preferred statehood over sovereign free association (33.34%) and independence (5.49%).

Support for ending the current territorial status and progress towards statehood were clear despite sources of ambiguity in the plebiscite that possibly dampened support for statehood. For example, free association was simply described as a “voluntary political association, whose specific terms would be agreed between the United States and Puerto Rico as sovereign nations.”

In the three current U.S. free association relationships (Republic of the Marshall Islands, Palau and Federated States of Micronesia), nationals do not have U.S. citizenship or any representation in Congress. The U.S. has sovereignty in free association relationships over the other nation’s defense and national security, and freely associated nations do not qualify for Medicaid or almost all other federal programs currently available in Puerto Rico. Given the vague “free association” definition on the ballot, it is unclear whether voters fully understood the limits of free association.

- **PDP Proposes and then Rejects a Status Convention**

As part of the pro-Commonwealth Party (PDP) platform that Governor Alejandro Garcia Padilla (D) used to get elected in 2012, his party proposed a “status convention” as the mechanism that they would use to help resolve Puerto Rico’s political status. The PDP had also included this proposal in their previous general election party platform in 2008. However, even though the PDP party controlled the Governorship and both chambers of Puerto Rico’s legislature during the 2013-2016 term, once in office the PDP led government did not act toward that end. Specifically, in 2013 prominent PDP members of the House and Senate proposed legislation to hold a referendum to ask the electorate whether or not the legislature should to convene a status convention (P.C. 210 & P.S. 694), and another bill to set up the convention and elect its delegates (P.C. 1334 & P.S. 693). Ultimately, Gov. Garcia Padilla and the top PDP leadership in the legislature did not support that effort. Having had the inherent authority as well as the legislative majority necessary to enact what H.R. 2070 proposes, the Puerto Rican legislature rejected that course of action.

- **The \$2.5 million DOJ Appropriation & the 2017 Plebiscite**

In 2014, under the leadership of Rep. Serrano (D-NY), Congress legislated an appropriation of \$2.5 million for a plebiscite on “options that would resolve Puerto Rico’s future political status” premised on the approval of ballot definitions by the U.S. Department of Justice (DOJ).

In response, Gov. Garcia Padilla promised to use the funds to hold a “fair process.” Yet after repeated unsuccessful attempts to convince the DOJ to approve a ballot that included an “Enhanced Commonwealth” option, in August 2014 Gov. Garcia Padilla withdrew his proposal and the PDP attempted to reach an internal consensus on a new “Enhanced Commonwealth” definition. After a year of internal debate, they disbanded the effort.

Having run and won on a platform of resolving the political status issue and advancing the statehood cause, in 2017 incoming Governor Ricardo Rossello (D) passed legislation and presented a proposal to the DOJ for the utilization of the \$2.5 million appropriation. Relying on the appropriations language that sought to “resolve” Puerto Rico’s future political status, a plebiscite was proposed between statehood, independence and free association, leaving off the – unresolved – territorial status.

After amending the local plebiscite legislation to incorporate DOJ feedback the DOJ declined to review the amended language because of “insufficient time.” The Government of Puerto Rico decided to move forward with the plebiscite in June 2017 without using the \$2.5 million available.

Weeks and days before the plebiscite public polls showed statehood leading by a clear majority, so opponents decided to “boycott” the election with PDP leaders passing a resolution to tell their followers that the plebiscite was not fair because no version of “Enhanced Commonwealth” was on the ballot. Support for statehood was overwhelming at 97%, Independence/Free Association obtained 1.5% and current territory status 1.3%. Yet those who were unwilling to even try to win at the ballot box then turned around to argue that the statehood victory was not legitimate because of low-voter turnout. The victory for statehood was certified by the State Elections Commission

of Puerto Rico, and turnout statistics on “effective voters” showed a participation rate of 31% (*See Voter Turnout Certification Attached*) consistent with those of previous non-general election electoral events on the Island (22.5% in 2005 and 35% in 2012).

- **The 2020 Plebiscite**

In 2020, recognizing the rejection of the current territory status by Puerto Rico’s voters, the Government of Puerto Rico legislated a simple statehood “YES” or “NO” vote. DOJ approval was requested, and again the DOJ failed to approve the ballot irrespective of clear historic and legal precedent for its design and word choice. Instead, DOJ insisted that the current territory status be included despite the intent of Congress in the 2014 appropriation, which sought a permanent solution to “resolve” the current territory status.

Given that Congress has also made clear in federal statute (Pub. L. 114–187 § 402) that Puerto Rico’s right to determine its future political status can be exercised with or without the use of a federal appropriation that requires DOJ approval, the Government of Puerto Rico decided to proceed with the vote. Its purpose was simple, to determine definitively whether or not a majority of Island voters support statehood. Its precedent was clear: Alaska, Hawaii and multiple other territories became states after polling voters on statehood without any federal authorization or approval.

In the case of both Alaska and Hawaii, the results of the non-federally approved statehood referendums served to demonstrate to Congress that voters sought statehood. The locally sponsored votes helped educate and compel Congress to enact admission bills which in turn contained a final statehood ratification vote. In both cases support for statehood grew significantly between the territory’s first locally sponsored “non-binding” statehood vote (58% in 1946 for Alaska & 67% in 1940 for Hawaii) and their final ratification vote after Congress enacted admission legislation (83% in 1958 for Alaska and 94% in 1959 for Hawaii).

The Puerto Rican government’s decision to proceed with the locally sponsored statehood “YES” or “NO” vote last November was consistent with this history.

The plebiscite was held concurrent with the general election, and the voter participation rate was initially estimated at 52%. The Puerto Rico State Elections Commission later certified that among the “effective voters” in Puerto Rico participation in the plebiscite reached 73%. So, any claims of low-voter participation are simply inaccurate.

Additionally, no registered political party in Puerto Rico called for a “boycott” of this plebiscite. In fact, all political parties actively campaigned for either the “YES” (New Progressive Party) or the “NO” (Popular Democratic Party and Puerto Rico Independence Party) options, and the Citizens Victory Movement had some of its candidates campaigning for “YES” and others for “NO”. No one was excluded from the vote.

Out of 1.2 million ballots cast, statehood won with 52.5% of the vote. This percentage represents 655,000 ballots, more votes than were received by either the pro-statehood governor (33.24% with over 427,000 votes) or pro-statehood Resident Commissioner (41.18% with over 512,000 votes),

both of which who also won the election. The result demonstrates that support for statehood in Puerto Rico cuts across all party lines and that voters differentiated between the ballots cast on the status issue and those for individual candidates running for office.

This vote marks the third time in less than a decade in which the U.S. citizens of Puerto Rico rejected the current territory status in favor of statehood and shows definitively that an unquestionable majority of voters support immediate admission as a state.

II. Implications of Puerto Rico Statehood

Under the U.S. Constitution, new states to the union are admitted on “equal footing” with existing states. The “equal footing” doctrine makes it clear that when Puerto Rico becomes a state, full constitutional rights will apply to its residents, including constitutional U.S. citizenship and the Bill of Rights. As a U.S. territory, the Bill of Rights does not fully apply in Puerto Rico, and a 1917 statute, not the U.S. Constitution, grants U.S. citizenship.

Statehood is a responsible ballot option because there are no variations on its definition. Each of the 50 current states is treated equally under federal law. The meaning of “state” is well established and consistent; there is a sense of certainty in the definition.

There are, however, three implications of Puerto Rico statehood that are subject to much conjecture in Washington and often misunderstood: (1) predictions of Puerto Rico’s partisanship as a state, (2) the economic implications of Puerto Rico statehood, and (3) the impact of statehood on Puerto Rican culture. Contrary to assertions that Puerto Rico would be a deep blue state with a struggling economy, Puerto Rico is poised to be a purple state with a strengthened economy, and Puerto Rican culture would thrive as a result.

• The Perils of Political Forecasting

While many in Washington speculate about how Puerto Rico’s admission would impact the political balance in Congress, the reality is that this speculation is not a legitimate basis upon which to deny three million U.S. citizens the full voting rights that they are demanding at the federal level.

First, historically past predictions of partisan leanings have missed the mark. When Hawaii and Alaska were admitted into the union, the pair was approved on the assumption that Alaska would vote Democratic and Hawaii would be Republican.

Second, instead of assuming what voter preferences on the Island will be based on Puerto Rican voter preferences in the states, observers should look at actual election results in Puerto Rico. Currently, the most popular elected official in Puerto Rico is a Republican. As a matter of fact, at the time of the November 2020 election, all of the top government officials in Puerto Rico – Governor Wanda Vázquez, House Speaker Johnny Méndez and Senate President Thomas Rivera Schatz – identified as Republican.

Members of this Committee may also recall former Resident Commissioner and Republican Luis Fortuño, who served in Congress from 2005-2009 before being elected Governor of Puerto Rico from 2009-2013.

Republicans have a clear and active voter base in Puerto Rico due to the Island's large socially conservative population. In fact, last year the James Madison Institute reported that Puerto Ricans living in states such as Florida continue to vote Republican in meaningful numbers for socially conservative candidates and are even more likely to vote for Republican candidates who are clear that they favor Puerto Rico statehood.

We cannot know the partisan makeup of a congressional delegation for the state of Puerto Rico until the U.S. citizens there are afforded full voting rights. What is obvious is that the party that is viewed as being responsible for including Puerto Rico fully in the America's national democratic process will be remembered by Puerto Rican voters for many years to come.

- **Economic Growth Under Statehood**

While some may argue that Puerto Rico must improve its economy and fiscal situation before statehood can be considered, this perspective is based on a flawed understanding of the interplay between a jurisdiction's political status as a territory and its prospects for economic development. Economic underperformance is not uniquely attributable to Puerto Rico as a territory; indeed, throughout history all U.S. territories have underperformed and been in an arrested development compared to after they became states.

Inherent Limitations of Territorial Economics

Territory status prevents Puerto Rico from being fully integrated into the U.S. economy inhibiting investment and generating uncertainty because of the fear of a possible change in political status, or arbitrary treatment by Congress in federal laws and programs. Puerto Rico's lack of representation on the Federal level also severely limits its ability to impact Federal legislative and rulemaking processes which further hampers its integration into the broader U.S. economy.

At its core, the current territory status represents an inherent limitation on Puerto Rico's economic development because it creates an unequal playing field with a distinct disadvantage from which the local economy cannot escape. It also creates incentives for deficits and debt spending as a way to make up for underinvestment by the federal government when local elected officials are faced with the public demands of a local electorate who see the higher quality of life and higher incomes stateside and can easily relocate to obtain better economic opportunities.

Ticking Timebomb of Population Loss

Federal underinvestment under territory status will always hamper Puerto Rico's aggregate demand and cause residents to relocate stateside making sustainable economic growth difficult if not impossible. According to the U.S. Census, the relocation of Puerto Ricans stateside has led to a population decline from 3.9 million in 2000, to less than 3.2 million in 2019. That is absolutely devastating for the Island's economy because it diminishes the consumer base, tax base and the

workforce, and increases per capita debt. This trend makes it crystal clear why a gamechanger like the definitive resolution to the political status issue is urgently needed, and why further delay by Congress could be catastrophic.

History Shows that Statehood Stimulates Economic Growth

Economic data from the transition of Alaska and Hawaii into statehood shows that economic progress is massive as a former territory converges into the national economy through statehood. Both states averaged growth rates two times greater than the U.S. average after admission.

Following statehood, Hawaii's economy skyrocketed – quadrupling in size by 1989. In Alaska, the wages for the average non-agricultural worker increased 28% in the ten years following statehood. The University of Alaska Institute of Social and Economic Research found that after becoming a state, production of goods and services in Alaska increased, employment expanded, gross state product more than doubled, and the state's population grew.

Similarly, economic data in the first decade after statehood also showed consistent growth patterns in Montana, Washington, Idaho, Wyoming, Utah, Oklahoma, New Mexico and Arizona. These economic results were quick and dramatic, and they have been enduring, demonstrating that economic growth follows statehood, not the other way around.

Statehood will provide Puerto Rico the equality, stability, access and certainty needed to attract long term investors. It will increase interstate commerce by boosting consumer demand. Statehood will also help speed up debt restructuring by promoting the economic growth needed to support debt repayment and to regain access to capital markets for making responsible public investments in infrastructure that can generate more growth in the future.

- **Statehood Would Respect and Strengthen Puerto Rican Culture**

The course of Puerto Rico's history changed in 1898, when the United States acquired the Island in the aftermath of the Spanish American War. At the time Puerto Rico already had a rich identity and cultural history with a mixture of Spanish, African and Taino native influences. And while some like to raise concerns about Puerto Rico retaining its unique cultural identity as a state, this again is a false dichotomy. In the United States, every state has its own culture and identity. There is no reason to believe that Puerto Rico would be any different.

The reality is that Puerto Rican culture and identity has already been shaped in undeniable ways from its current territorial relationship with the United States, and American culture has also been shaped by Puerto Rico. There are simply no requirements under statehood that would prevent Puerto Rico from maintaining its culture and identity.

Preserving American Citizenship & Puerto Rican Identity

In 1917, the United States Congress enacted legislation granting U.S. citizenship to the people of Puerto Rico, further including Puerto Ricans in the American political family. The overwhelming majority of Puerto Ricans treasure their U.S. citizenship. Puerto Rico is already included in the

United States, travel is seamless and no passports or visas are required. Statehood will provide a constitutional guarantee of U.S. citizenship for current and future generations born on the Island, allowing us to keep a critical connection, access to and mobility with the six million Puerto Ricans living stateside.

The stateside population of Puerto Ricans is itself the greatest proof that one can continue to carry and cherish one's culture and identity as Puerto Rican while also enjoying the full and equal rights of U.S. citizenship under statehood. There is no contradiction in being proud to be Puerto Rican and proud to be American at the same time.

Language

Puerto Rico is predominantly Spanish speaking, but with a large bilingual population that also speaks English. The official languages in Puerto Rico today are both Spanish and English. Under statehood there would be no limitation on the capacity of Puerto Rico to retain both Spanish and English as its official languages. As a state that right would be reserved to Puerto Rico under the 10th Amendment to the Constitution. Examples of states with more than one official language include Alaska, Hawaii and New Mexico. And for those concerned that Puerto Rico would be alone as a state with a large Spanish speaking population, Census data shows there would still be more Spanish speakers in California (10 million), Texas (7 million) and Florida (6 million) than there are in Puerto Rico (3 million). Past public polling has also shown that an overwhelming majority of parents (95%) support requiring that all public schools in Puerto Rico teach English so that students can become fully bilingual. Parents realize that being fully bilingual preserves Puerto Rican culture while opening doors to better educational and professional opportunities.

Population

When I testified before Congress in 1998, I referred to the 3.8 million U.S. citizens of Puerto Rico. Census data today indicates that Puerto Rico's population has decreased to under 3.2 million. The people of Puerto Rico are voting for statehood with their feet. The heart of Puerto Rican culture is Puerto Rico. The best way to strengthen Puerto Rican culture is by strengthening Puerto Rico.

Today, there are more Puerto Ricans living in the states than Puerto Ricans who live in Puerto Rico. We have experienced population loss and brain drain for years, as the next generation of talented Puerto Ricans are leaving home in favor of Florida, Pennsylvania, Texas, and countless other states. Puerto Rico's most important cultural resource is its people, and under the failed territory status people are leaving Puerto Rico.

If Puerto Rico's relationship with the United States posed an existential threat to Puerto Rican culture we would know that by now. The damage would be done. After all, Puerto Rico has been a territory of the U.S. for 123 years. The so-called "annexation" that, ironically, appears to be feared most by people who do not call Puerto Rico home, occurred in 1898 and was fully enacted in 1917.

Puerto Rican culture continues to endure despite its long colonial history – and its colonial status today. An economically vibrant Puerto Rico under statehood would be much more able to retain

and further develop local talent in arts, music, dance, cuisine, sports and other cultural fields than under the deteriorating territory status where top talent is often times forced to leave the island to be able to fully develop and grow.

III. Puerto Rican Participation in the U.S. Military

U.S. citizens from Puerto Rico have served proudly in all branches of the U.S. Armed Forces, and historically, Puerto Rico has ranked alongside the top states in terms of per capita military service.

Estimated wartime deployment contributions include: Over 18,000 during World War I; Over 65,000 during World War II; Over 61,000 during the Korean War; Over 48,000 during the Vietnam War; Over 10,000 during the Gulf War; and over 25,000 during Operations Enduring Freedom & Iraqi Freedom.

In 2016 Congress awarded the Congressional Gold Medal to the famed 65th Infantry Regiment, known as the Borinqueneers, which was composed mostly of soldiers from Puerto Rico and served as the only Hispanic segregated unit in the Korean War. While nine members of the Armed Forces from Puerto Rico have received the Medal of Honor, our Nation's highest award for military valor.

Puerto Ricans continue to serve today, with tens of thousands in active duty, and reserves, and thousands more in the Puerto Rico National Guard. Indeed, more than 90,000 veterans call Puerto Rico home.

Most poignantly, 1,900 U.S. citizens of Puerto Rico have been casualties of war paying the ultimate price in defense of America's freedom, while lacking full voting rights and equality at the federal level. Only the granting of full rights and equality under statehood would fully honor the sacrifices of blood, sweat, tears and lives made by all the Puerto Ricans who have served and continue to serve in the military to this day and by their families.

IV. The Fallacy of the Puerto Rico Self-Determination Act of 2021 (H.R. 2070)

The biggest fallacy of the Puerto Rico Self-Determination Act, H.R. 2070, is that it ignores all of the previous efforts at locally led self-determination that Puerto Rico has engaged in over the past several decades. It engages in explicit election denial regarding the indisputable reality that a majority of voters in Puerto Rico favor statehood. It disrespects those voters and all election processes, wrapping itself in the language of "fairness," but instead seeking to discard their suffrage to start a new process as if their votes had not happened and didn't matter. That is not how democracy works, and I strongly urge the Members of this Committee to reject this approach.

The other fallacy is that in the name of "inclusion" H.R. 2070 seeks to re-open a debate about what status are possible that has already taken place over decades, and where definitive conclusions have already been reached. Presidents and Members of Congress from both political parties have examined the status issue for decades, and they have come to the same conclusion: clear constitutional parameters are in order when presenting status options on a plebiscite. H.R. 2070 fails to do that.

Instead, H.R. 2070 re-opens the door to endless debate on an undefined number of options when its proponents say that beyond statehood, independence and free association, the bill would consider “any option other than the current territorial arrangement.” Inevitably this includes proponents of the fantasy “Enhanced Commonwealth” option – an impossible mix of the best features of sovereignty and statehood. In doing so, H.R. 2070 would spoil the potential to resolve the island’s ultimate status and would hurt self-determination efforts which ultimately must be a real choice by Puerto Rico’s voters among the constitutionally valid options.

The final insult to the majority of voters in Puerto Rico is that H.R. 2070 proposes a convoluted convention that the people of Puerto Rico have not requested with an “uninterrupted space of dialogue,” and no timeline or end date. As one prominent bill supporter described it recently, “Velázquez and Ocasio-Cortez’s legislation would start a process that could take years...” This is simply disrespectful and wrong, because justice delayed is justice denied.

After almost 70 years of Puerto Ricans wrangling to get out of the “Commonwealth” and “Enhanced Commonwealth” myths, it is time to say enough. Puerto Rico has a legislature and a governor with authority to hold a convention. When they have had a chance to do so, they have chosen not to. Compelling Puerto Rico to hold a convention against the wishes of its governor and legislature is not self-determination, it’s an example of the same paternalistic colonialism that the authors of H.R. 2070 say they are against.

Instead, the duly elected governor and legislature of Puerto Rico have decided to self-determine by holding multiple plebiscite votes, and millions of voters have cast their ballots. The U.S. Constitution grants Congress the power to “make all needful rules and regulations” regarding U.S. territories. With that power comes a responsibility. In this case, Congress has the responsibility to consider and respect Puerto Rico’s plebiscite history, and the most logical next step is to move forward with the ratification vote set forth in H.R. 1522, the Puerto Rico Statehood Admission Act.

V. Conclusion

Puerto Rico’s territorial status represents the unfinished business of American democracy. The resolution of Puerto Rico’s ultimate political status is not only vitally important to the three million U.S. citizens who call the islands home and the nearly six million Puerto Ricans stateside, but to all Americans.

Democracy is the soul of America. In 1980, then-Presidential candidate Ronald Reagan wrote in the Wall Street Journal about Puerto Rico, “we cannot expect our foreign policies to be enjoying prestige around the world...when we are having serious problems with our closest neighbors.” His words still ring true today.

Congress does not have to take a position on statehood today, but the Constitution and fundamental American principles compel Congress to at least provide a dignified path forward. I urge the Committee to listen to the messages that the majority of the people of Puerto Rico have sent in the recent plebiscites and pass H.R. 1522. It is time to put an end to the decades of misleading information that will continue to spread in Puerto Rico if left unchecked by Congress.

There is a new window of opportunity before us today. History will judge us by what we do or fail to do to correct the historic wrong of America's colonial legacy in Puerto Rico. I am deeply hopeful that 2021 will be the year that Congress provides clear direction to finally resolve Puerto Rico's ultimate political status, and unleash our enchanted island's full potential for the benefit of Puerto Rico, America and the world.

ATTACHMENTS:

1. Explanatory graphic related to the 1998 “Enhanced Commonwealth” platform as published by the San Juan Star, 1998
2. 1998 “Enhanced Commonwealth” platform as ratified by the Commonwealth (PDP) Party of Puerto Rico
3. List of “Commonwealth” proposals debated in Puerto Rico from 1952 to 1998
4. Congressional Research Service (CRS) Summary of Results of Puerto Rico plebiscites held from 1967-1998
5. Voter Turnout Certification – Plebiscite 2017

Essential elements for commonwealth:

- ✓ U.S. citizenship
- ✓ A common defense limited to participation in "valid" wars
- ✓ Voluntary military service
- ✓ Spanish as the official language; English as a second language
- ✓ A common market
- ✓ Guarantee of the permanence of Section 936 of the Internal Revenue Code
- ✓ Control over maritime fleets and the flag under which commercial vessels operate
- ✓ Limited freedom to negotiate international commercial accords and treaties
- ✓ Control over labor and immigration laws
- ✓ Jurisdiction over aerial traffic and bankruptcy laws
- ✓ U.S. currency and banking.

■ Areas for improvement to the commonwealth status:

- ✓ Clarification of a permanent, bilateral pact with the United States
- ✓ Ability to protect local agricultural and manufactured products through the imposition of an import duty
- ✓ Power to opt for a variety of maritime transporters, not only U.S. flag ships
- ✓ Ability to set minimum wage and control all labor-related legislation and immigration rules
- ✓ Permission to use federal block grants as local government sees fit
- ✓ Addition of a second resident commissioner and voting powers for both
- ✓ Right of Puerto Rico to become a member of international organizations such as the United Nations and the Organization of American States
- ✓ Control over communications and media content so as to reflect Puerto Rico's societal standards, which were perceived as more conservative than those in the United States
- ✓ Elimination of the federal courts
- ✓ Right to vote for president
- ✓ Return of federally owned lands
- ✓ Jurisdiction over navigable waters to 200 miles offshore
- ✓ Participation in world sporting events, including the Olympics.



**POPULAR DEMOCRATIC PARTY
DEVELOPMENT OF THE COMMONWEALTH**

The people of Puerto Rico, in the exercise of their sovereignty, their natural right to self government and their free will as ultimate sources of their political power, hereby reaffirm the validity of the Commonwealth established as an autonomous political body, that is neither colonial or territorial, in permanent union with the United States under a covenant that cannot be invalidated or altered unilaterally and proposes its autonomic development. The relationship between Puerto Rico and the United States will continue to be based on common defense, market and currency and on the irrevocability of the U.S. citizenship, acquired by birth and protected by the U.S. Constitution.

This relationship guarantees the autonomous development of Puerto Rico based on the democratic precept of government with the consent of the governed and the recognition that Puerto Rico is a nation with its own history, idiosyncrasy, culture and Spanish language.

To achieve its maximum economic progress and well-being, the people of Puerto Rico propose to develop Commonwealth retaining all the powers that are not delegated to the United States. Under Puerto Rico's fiscal autonomy, economic development areas will be identified in which joint action can produce jobs and other benefits for both parties, including the flexibility in the use of federal funds, providing that programs of direct aid to individuals will continue as they are present. The Commonwealth will be able to enter into commercial and tax agreements, among others, with other countries, and belong to regional and international entities, consistent with the common interests of defense and security between the United States and Puerto Rico, as agreed to in the covenant.

Once the request for the development of the people of Puerto Rico is approved, a Constituent Assembly will be called to negotiate with the U.S. government the terms and conditions of the covenant, which will include a mechanism to approve the application of legislation approved by the U.S. Congress.

ARTICLE I – PUERTO RICAN IDENTITY

A. PUERTO RICAN NATIONALITY

Puerto Ricans have a common history, idiosyncrasy, culture and language that constitute a specific nationality separate from that of any other nation.

B. PUERTO RICAN CITIZENSHIP

Persons born in Puerto Rico are Puerto Rican citizens by birth and their Puerto Rican citizenship is transmittable to their descendants as determined by the Commonwealth and would have the rights, privileges and obligations that derive from it.

ARTICLE II – BASIS OF THE UNION

The union between Puerto Rico and the United States will continue to be based on the following fundamental elements determined by Puerto Rico freely and in agreement with the United States:

A. COMMON CITIZENSHIP

People born in Puerto Rico will continue to be citizens of the United States by birth and this citizenship will continue to be protected by the Constitution of the United States and by this Covenant and will not be unilaterally revocable.

B. COMMON DEFENSE

The United States will maintain authority and responsibility over defense matters. This will include: the same responsibility for the defense of Puerto Rico and its people as the United States and its people; denying and limiting military or strategic access to Puerto Rico to any foreign power, maintaining the bases or other military installations currently operating in Puerto Rico as well as the National Guard; stipulating that the case of the Municipality of Vieques will be the object of the highest attention in agreement with the legitimate call of its residents; and, any additional need would be considered and dealt with through specific and separate agreements.

C. COMMON CURRENCY

The U.S. dollar is and will continue to be the currency in Puerto Rico.

D. COMMON MARKET

A common market will continue to exist between Puerto Rico and the United States, by which the free flow of goods and services between the two countries will continue.

ARTICLE III – DISTRIBUTION OF POWERS

A. SELF GOVERNMENT

The Commonwealth emanates from the power of the people to govern themselves, and for that reason, the people of Puerto Rico retain all the powers that have not been delegated to the United States.

B. DELEGATION OF POWERS

The powers related to the Federal laws related to defense, currency, U.S. citizenship, Social Security, Medicare, unemployment insurance, banks and brokerage, Postal Service and the programs for providing social and educational assistance to citizens and veterans are delegated to the United States. In addition, international relations are delegated to the extent consisted with this Covenant.

C. SHARED POWERS

Areas of special cooperation will be identified in which the United States and the Commonwealth will exercise shared powers for the benefit of both people through the process established in Article XII.

ARTICLE IV – RIGHTS OF CITIZENS

A. CONSTITUTIONAL RIGHTS

The U.S. citizens residing in Puerto Rico will be protected by all the rights, privileges and immunities granted by the Constitution of the United States and the Commonwealth.

B. ECONOMIC BENEFITS

The Federal programs that provide social and educational assistance directly to Puerto Rico's residents, such as the Nutritional Assistance Program, Pell Grants and educational loans, among others, will continue and be guided by the applicable Federal and State regulations.

The United States recognizes as acquired rights Federal programs for veterans and Social Security, Medicare, and unemployment insurance benefits for which Puerto Rican workers and employers have made and will continue to make the corresponding Federal contributions.

ARTICLE V – ECONOMIC DEVELOPMENT

A. WITH THE UNITED STATES OF AMERICA

To promote Puerto Rico's economic development, and considering the present and future relations between Puerto Rico and the United States, the U.S. commits to provide the Commonwealth an annual block grant adjusted for inflation, so the Government of Puerto Rico can continue to provide social assistance, develop public works and infrastructure, and provide incentives for the creation of jobs and socioeconomic development.

The U.S. and Puerto Rico will identify and agree on areas of economic development in which joint action will produce jobs and other economic benefits for both parties, including the creation of special incentives programs for investment in the islands.

B. INTERNATIONAL

The Commonwealth will have control over international trade and will establish a policy to promote its maximum economic development. To that effect, it will have the capacity to enter into commercial and tax agreements, among others, with other countries, consistent with the common interests of the defense and security of Puerto Rico and the United States.

The Commonwealth will be able to enter into international agreements and belong to regional and international organizations consistent with the common interests of the defense and security of Puerto Rico and the United States.

The United States commits to support the participation or membership of Puerto Rico in the agreements and organizations to which this article refers.

ARTICLE VI – FEDERAL LANDS

The Government of the United States will transfer to Puerto Rico the lands that now it has in Puerto Rico with the exception of those lands that are used for common defense or that are necessary to exercise the powers delegated in this Covenant.

ARTICLE VII – AREAS OF SPECIAL COOPERATION

Puerto Rico and the United States will establish other areas of special cooperation intended to guarantee the quality of life of Puerto Ricans and to continue nourishing from the collective experiences of institutional and local development of both peoples. For the sake of an orderly and calm future and development in harmony with the cultural, spiritual, psychological, and economic nature of both peoples, Puerto Rico and the United States commit to jointly determine strategies to: control drug trafficking; regulate communications; protect the borders from illegal immigration; protect the environment and recognize guarantees of mutual benefit consistent with international rules; promote a new basis for cooperation between workers and management; deal with natural disasters; share technological advances in the sectors of agriculture, medicine, pharmacology, criminal justice, and other disciplines in the areas of Natural and Social Sciences and Humanities.

ARTICLE VIII – FEDERAL COURT

The Federal Court will have jurisdiction over matters that arise from: provisions of the Constitution of the United States and of the Federal laws that apply to Puerto Rico consistent with this Covenant and not in violation with the laws of the Constitution of Puerto Rico. Spanish and English will be the official languages of that court.

ARTICLE IX – RESOLVING DISPUTES

A. NEGOTIATION COMMITTEE

Any controversy about the interpretation of this Covenant will be resolved through negotiations between the parties to this Covenant, that is the United States and the Commonwealth of Puerto Rico. In all negotiations, the Commonwealth of Puerto Rico will be represented by a negotiating committee of three (3) members appointed by the governor and confirmed by seventy-five percent (75%) of each of the two (2) legislative houses of Puerto Rico.

At least, two (2) of the three (3) members of the committee should believe in the political philosophy described in this Covenant, that is, be Commonwealthers. In the same manner, the United States of America will be represented by a committee of three (3) members appointed by the President of the United States.

B. COMMISSION TO RESOLVE DISPUTES

If it is not possible to resolve a controversy through a negotiation between the parties, the controversy will be submitted to the Commission to Resolve Disputes. This commission will have five (5) members, two (2) appointed by the Commonwealth of Puerto Rico, two (2) appointed by the United States of America and a fifth member appointed by majority of these four (4). The five (5) members will select a chairman from their membership.

Decisions of this Commission in disputes between the Governments of the Commonwealth of Puerto Rico and the United States of America regarding the interpretation of this Covenant will be final and firm.

ARTICLE X – LEGALITY

The agreement between the people of Puerto Rico and the government of the United States of America will have the force recognized by the constitutional and international rights in force as a bilateral covenant that recognizes rights and delegates powers, based on mutual consent, that cannot be unilaterally renounced or altered.

ARTICLE XI – SYMBOLS

The symbols, flags and hymns of the Commonwealth of Puerto Rico will continue to be as at present.

ARTICLE XII – OTHER INTERNATIONAL ASPECTS

The Commonwealth of Puerto Rico will retain the authority to ratify cultural, educational, scientific and sports agreements.

ARTICLE XIII – NEGOTIATION

- a. Once this development proposal is approved by the people of Puerto Rico, a Constituent Assembly will be called that will negotiate with the Government of the United States the terms and conditions of the association between Puerto Rico and the United States and the specific drafting of such agreement on behalf of the people of Puerto Rico. This Constituent Assembly will not be able to adopt proposals that undermine or cancel the mandate expressed by the people of Puerto Rico or that undermines the precepts of common citizenship, market, currency and defense, or against the Puerto Rican national identity.
- b. The Constituent Assembly will design and propose to the Government of the United States a mechanism for a specific agreement regarding the application of legislation approved by the Congress of the United States after the adoption of the covenant and that the people of Puerto Rico wish to have extended to Puerto Rico. The people of Puerto Rico will elect a Resident Commissioner who will represent Puerto Rico before the Government of the United States and who will be considered a Member of the U.S. House of Representatives for purposes of all legislative matters that have to do with Puerto Rico, but whose role will also be extended to representing Puerto Rico before the Executive Branch of the United States.
- c. The main political parties of Puerto Rico will be represented in the Constituent Assembly and will be able to nominate candidates to be part of the assembly.
- d. The Covenant will take effect after it has been negotiated and approved by the Government of the United States and the Constituent Assembly, and it has been approved by the people of Puerto Rico in a referendum called for that purpose.
- e. Any change to the terms of this Covenant will have to be approved by the people of Puerto Rico in a special vote conducted consistent with its democratic processes and institutions.
- f. The Constituent Assembly will not have authority to alter, modify, amend, and/or change the Constitution of the Commonwealth of Puerto Rico.

**Approved by the Governing Board of the Popular Democratic Party
On October 15, 1998**

LIST OF DEFINITIONS PROPOSED OR DISCUSSED FOR COMMONWEALTH OF PUERTO RICO

1. Relationship as established under Law 600 in 1952
2. The Fernós-Murray Bill of 1959
3. The Status Commission (STACOM) Bill of 1964
4. The 1967 local plebiscite
5. Aguas Buenas Declaration (1971)
6. 1972 U.S.-Puerto Rico Ad-Hoc Committee
7. 1975 U.S.-Puerto Rico Commission (Nixon-Hernández Colón)
8. The New Pact (1976)
9. The New Thesis (1979)
10. The New ELA (“Estado Libre Asociado” – Commonwealth) 1989
11. Vizcarrondo Amendment to New ELA
12. 1991 Democratic Rights Referendum (calling for amendments to the Puerto Rico Constitution)
13. The 1993 local plebiscite
14. The Young Bill (H.R. 856)
15. The definition proposed by Former PDP Senate President Miguel Hernández Agosto in 1997
16. The definition proposed by PDP Senator Eudaldo Báez Galib in 1998
17. The definition proposed by PDP Party President and Representative Aníbal Acevedo Vilá in 1998
18. 1998 PDP official party platform



**Congressional
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Service**

Political Status of Puerto Rico: Options for Congress

R. Sam Garrett
Specialist in American National Government

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Prepared for Members and Committees of Congress

Appendix B. Puerto Rico Status Votes in Plebiscites and Referenda, 1967-1998

Table B-I. Puerto Rico Status Votes in Plebiscites and Referenda, 1967-1998

Ballot Options	Votes	
	Number ^a	Percent ^b
July 23, 1967^c		
Commonwealth ^d	425,079	60.5%
Statehood	273,315	38.9%
Independence	4,118	0.6%
Registered voters	1,067,000	
Total votes	702,512	
Percent turnout	66%	
December 8, 1991^e		
Against the reclamation of democratic rights (No)	660,267	53.6%
In favor of the reclamation of democratic rights (Yes)	559,163	45.4%
Registered voters	2,052,537	
Total votes	1,219,430	
Percent turnout	59%	
November 14, 1993^f		
Commonwealth ^g	826,326	48.6%
Statehood	788,296	46.4%
Independence	75,620	4.4%
Registered voters	2,100,000	
Total votes	1,700,000	
Percent turnout	81%	
December 13, 1998^h		
None of the above [option five]	787,900	50.3%
Statehood [option three]	728,157	46.6%
Sovereignty [option four, independence]	39,838	2.6%
Free association [option two]	4,536	0.3%
Limited self-government [option one] ⁱ	993	0.1%
Registered voters	2,197,824	
Total votes	1,561,424	
Percent turnout	71%	

a. Table excludes blank or null and void ballots.

- b. Number of registered voters, total votes, and percent turnout derived from sources of results (noted below), except for registered voters in 1991 calculated by CRS.
- c. Number of votes for independence calculated by CRS based on data presented in: Arturo Morales Carrion, *Puerto Rico: A Political and Cultural History*, (New York: W.W. Norton & Co., Inc., 1983), p. 306. [Total number of registered voters was 1,067,000, according to Surendra Bhana, *The United States and the Development of the Puerto Rican Status Question, 1936-1968*, (Lawrence, KS: The University Press of Kansas, 1975), p. 185.] See also Roberta A. Johnson, "The 1967 Puerto Rican Plebiscite: The People Decide," *Revista/Review InterAmericana*, vol. 5, spring 1975, pp. 27-46.
- d. The votes in favor of the 1967 Commonwealth option arguably demonstrated support for an expanded form of self-government for Puerto Rico, in that the ballot proposition included text referring to the "inviolability" and "indissoluble link" of Puerto Rican citizenship and would have required approval of changes in the political status in a referendum.
- e. Results taken from Representative Robert J. Lagomarsino, "Certification of Puerto Rico Referendum Results," remarks in the House, *Congressional Record*, vol. 138, Feb. 7, 1992, p. 2141. A "yes" vote, generally urged by commonwealth and independence supporters, expressed support for legislation that would have amended the Constitution to support the right of Puerto Ricans to determine a political status not subordinated to Congress and respective of the unique culture and identity of Puerto Rico. A "no" vote, generally urged by statehood supporters, rejected the proposed constitutional amendment.
- f. Results taken from Ivonne Garcia, "Final Status Plebiscite Results Released," *San Juan Star*, Dec. 10, 1993, p. 12.
- g. The text of the ballot for the "Commonwealth" option in 1993 included provisions that arguably exceeded the relationship established in 1950, included "irrevocable U.S. citizenship," "fiscal autonomy for Puerto Rico," and a legislative agenda to be considered by Congress.
- h. Results taken from U.S. Congress, House Committee on Resources, *The Results of the 1998 Puerto Rico Plebiscite*, committee print, 106th Congress, 1st session (Washington: GPO, 1999), p. 10.
- i. The text of the ballot arguably presented the commonwealth option in that it referred to the political status set forth in P.L. 600, the plenary authority of the Congress in the territorial clause of the U.S. Constitution, and other characteristics generally associated with the political status of Puerto Rico.



**State Elections Commission
Office of the PNP Election Commissioner**

**Analysis of the Results of
Plebiscite 2017* held in Puerto Rico**

Plebiscite 2017	Votes for Statehood	Total Voters	Percentage Obtained
	502,616	517,216	97%

Plebiscite 2017	Votes for Statehood	Effective Voters	Percentage Obtained
	502,616	1,622,237	31%

Plebiscite 2017	Votes for Statehood	Registered Voters**	Percentage Obtained
	502,616	2,260,804	22%

Data source, Puerto Rico State Elections Commission webpage, <http://ceepur.org/>

* Preliminary Results Report of the 2017 Plebiscite Night of the Event.

http://resultados2017.ceepur.org/Noche_del_Evento_78/index.html#en/default/CONSULTA_DESCOLONIZACION_Resumen.xml

** By decision of the Federal Court the State Elections Commission (SEC) is required to remain in the General Register of Electors those who did not vote in the General Elections of 2016.