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Political Status of Puerto Rico: Brief Background and Recent Developments for Congress

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SUMMARY

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Political Status of Puerto Rico: Brief Background and Recent Developments for Congress

Puerto Rico lies approximately 1,000 miles southeast of Miami and 1,500 miles from Washington, DC. Despite being far outside the continental United States, the island has played a significant role in American politics and policy since the United States acquired Puerto Rico from Spain in 1898.

Puerto Rico's *political status*—referring to the relationship between the federal government and a territorial one—is an undercurrent in virtually every policy matter on the island. Puerto Rico has held several popular votes (referenda or plebiscites) on the island's relationship with the United States. Most recently, plebiscites were held in 2012, 2017, and 2020. In 2020, 52.3% of voters answered affirmatively when asked a single ballot question of whether Puerto Rico should immediately be admitted to the union as a state.

In some cases, the results of previous plebiscites have been controversial, as political parties on the island debated ballot wording and voter participation. If Congress chose to alter Puerto Rico's political status, it could do so through statute. Ultimately, the Territory Clause of the U.S. Constitution grants Congress broad discretion over Puerto Rico and other territories. Although Congress may authorize a popular vote on status, Puerto Rico may hold, and has held, such votes without congressional preapproval.

In the 117th Congress, the House and Senate are considering legislation that would provide future opportunities for Puerto Rico to reconsider its relationship with the United States. Bills introduced in the 117th Congress include H.R. 1522; H.R. 2070; H.R. 8393; S. 780; S. 865; and S. 4560.

Congress has not enacted any recent legislation devoted specifically to status. However, even in seemingly unrelated federal policy debates, Puerto Rico status often arises at least tangentially. The Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA; P.L. 114-187; 48 U.S.C. §2101 et seq.), enacted during the 114th Congress, does not explicitly affect territorial status, although some Members have suggested that economic issues on the island should be addressed before considering political status, while others contend that the two topics are inherently linked. This report does not provide economic or legal analysis of topics that may provide context for considering political status; instead, it provides policy and historical background for understanding status and its potential relevance for Congress.

This report will be updated in the event of significant legislative or status developments.

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Introduction

This report provides policy and historical background about Puerto Rico's *political status*—referring to the relationship between the federal government and a territorial one.[1] Congress has not altered the island's status since 1952, when it approved a territorial constitution. Status is the lifeblood of Puerto Rican politics, spanning policy and partisan lines in ways that are unfamiliar on the mainland.

Because the U.S. Constitution grants Congress broad discretion over territories, the House and Senate may choose to reexamine Puerto Rico's political status, or to decline to do so. If Congress chose to alter Puerto Rico's political status, it could do so through statute regardless of whether a plebiscite were held or what sentiment such a vote revealed.

Scope of the Report

As with all CRS reports, this product provides background information and analysis for Congress. It emphasizes those facets of the status policy debate that historically have been most relevant for House and Senate consideration, and that appear to remain most relevant for Members and staff who are considering those issues. It emphasizes the recent status debates in Puerto Rico specifically rather than examining status in all U.S. territories.

This report is not intended to substitute for a comprehensive analysis of the complex and culturally sensitive issues surrounding Puerto Rico's more than 100-year affiliation with the United States. The report also is not intended to be an analysis of the various legal, economic, or social issues that might arise in considering Puerto Rico's political status or a change in its relationship with the United States. Parts of this report are adapted from another CRS product, which provides additional discussion of the 2012 plebiscite.[2]

Brief General Background

Puerto Rico has been the subject of strategic and political attention for more than 500 years.[3] Spain was the first colonial power to claim the island. Christopher Columbus landed on the west coast of the main island of present-day Puerto Rico on November 19, 1493. There, he encountered native Taíno Indians, who called the island "Borinquén" (or, in some spellings, "Borinkén").[4] As one scholar has noted, "[a] permanent foothold was finally established in 1508, when Juan Ponce León led a group of settlers from Hispaniola."[5] Spanish colonizers forced the Taíno into servitude, and "[b]y 1521, the Indian *Borinquén* had become another Spanish

[1] For a brief overview of territorial political status and statehood, see CRS In Focus IF11792, *Statehood Process and Political Status of U.S. Territories: Brief Policy Background*, by R. Sam Garrett.

[2] See CRS Report R42765, *Puerto Rico's Political Status and the 2012 Plebiscite: Background and Key Questions*, by R. Sam Garrett.

[3] For additional discussion of the topics discussed in this paragraph, see, for example, Arturo Morales Carrión, *Puerto Rico: A Political and Cultural History* (New York: W.W. Norton, 1983), pp. 3-8; Robert M. Poole, "What Became of the Taino?," *Smithsonian*, October 2011, p. 58; and Manuel Maldonado-Denis, *Puerto Rico: A Socio-Historic Interpretation*, trans. Elena Vialo (New York: Random House, 1972), pp. 13-16.

[4] Columbus called the island "San Juan Bautista."

[5] Arturo Morales Carrión, *Puerto Rico: A Political and Cultural History* (New York: W.W. Norton, 1983), p. 6. Hispaniola lies west of Puerto Rico and includes present-day Haiti and the Dominican Republic.

settlement in an expanding empire."[6] For the next 400 years, Puerto Rico served as a Spanish agricultural and mining outpost in the Caribbean.

When the United States defeated Spain in the Spanish-American War (1898), the United States acquired Puerto Rico, Guam, and the Philippines from Spain via the Treaty of Paris.[7] Puerto Rico provided the United States with a central location from which to exercise military and strategic power in the Caribbean, particularly before World War II.[8] The U.S. military briefly administered the island until Congress established a civilian government in 1900.

Figure 1. Puerto Rico and Surrounding Area

Source: CRS figure using data from Map Resources (2012).

Today, Puerto Rico is both deeply integrated into American society and insulated from it. On one hand, the American flag has flown over San Juan, the capital, for more than 100 years. In addition, those born in Puerto Rico are U.S. citizens. Many live and work on the mainland and serve in the military. On the other hand, as shown in **Figure 1**, the island is geographically isolated from the mainland United States;[9] it lies approximately 1,500 miles from Washington, DC, and 1,000 miles from Miami. Residents of Puerto Rico lack full voting representation in Congress, typically do not pay federal income taxes on income earned on the island, do not have

[6] Arturo Morales Carrión, *Puerto Rico: A Political and Cultural History* (New York: W.W. Norton), p. 8.

[7] Treaty of Paris, Art. II; 30 Stat. 1754-1755.

[8] For a brief overview of the historic U.S. military presence in and around Puerto Rico, see, for example, Humberto García Muñiz, "U.S. Military Installations in Puerto Rico: Controlling the Caribbean," in *Colonial Dilemma: Critical Perspectives on Contemporary Puerto Rico*, ed. Edwin Meléndez and Edgardo Meléndez (Boston: South End Press, 1993), pp. 53-65.

[9] Despite consisting of three major islands, Puerto Rico is typically referred to as "the island," as a reference to the largest island of the same name. Culebra and Vieques are also inhabited. A fourth major island, Mona, primarily serves as a nature preserve

the same eligibility for some federal programs as those in the states, do not vote in presidential elections (although they may do so in party primaries), and enjoy a culture and predominant Spanish language that some argue more closely resembles Latin America than most of the 50 states.

Why Status Might be Relevant for Congress

Some regard status as the fundamental political question that drives everything else about the Puerto Rico-U.S. relationship. Others see status as a distraction from more compelling everyday policy and economic challenges. Perhaps because that debate remains unsettled, status is an undercurrent in virtually every policy matter on the island. Federal policy debates generally are less affected by status, but here, too, status often arises at least tangentially. As such, even a basic knowledge of the topic may be helpful in multiple policy areas.

Status has also been a contextual factor in congressional oversight of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA)[10] enacted during the 114th Congress (discussed elsewhere in this report and in other CRS products)[11] in response to the island's financial crisis. Legislation introduced in the 117th Congress, discussed elsewhere in this report (see "Status Developments in the 117th Congress"), could affect the island's political status. Congress also could choose to take no action.

Finally, before proceeding, it is noteworthy that much of the status debate in Puerto Rico concerns attitudes surrounding past or future plebiscites. Whether in the past or future, Puerto Rico may choose to hold its own plebiscites without congressional authorization. Recently, however, plebiscite supporters have argued that federal support for a plebiscite could increase the perceived legitimacy of the results. Plebiscites are not required to revisit status. Whether or not a plebiscite were held, Congress could admit Puerto Rico as a state, or decline to do so, at its discretion, through statute.

Brief Political Status and Policy History

Puerto Rico is a U.S. territory subject to congressional authority derived from the Territory Clause of the U.S. Constitution.[12] The Territory Clause grants Congress "Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States."[13] Congress has enacted various statutes to address specific matters concerning the island's political status. Puerto Rico's current political status, as determined by federal statute (or otherwise, as noted), is summarized briefly below.

- After military governance since the United States acquired Puerto Rico in 1898, Congress established a civilian government on the island in 1900. Among other points, the Foraker Act established an "executive council" consisting of a presidentially appointed civilian governor and various department heads. The

[10] 130 Stat. 549; 48 U.S.C. §2101 et seq.

[11] See CRS Report R44532, *The Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA; H.R. 5278, S. 2328)*, coordinated by D. Andrew Austin.

[12] U.S. Const., Art. IV, Sec. 3, cl. 2. For background discussion of the Territory Clause, see CRS, *The Constitution of the United States of America: Analysis and Interpretation*, available to congressional clients on the CRS website under the Quick Link "Constitution Annotated."

[13] U.S. Const., Art. IV, Sec. 3, cl. 2.

new government also included a popularly elected House of Delegates (which shared decisionmaking power with the executive council) and a U.S.-style judiciary system.[14]

- The Foraker Act also established the Resident Commissioner position to represent island interests in Washington.[15] These duties came to include nonvoting service in the U.S. House of Representatives (the primary role of the Resident Commissioner today).[16] Through the Jones Act (1917), Congress authorized appropriations for legislative staff and franking privileges for the Resident Commissioner.[17]
- Devoted primarily to strengthening Puerto Rico's civil government, the Jones Act also extended U.S. citizenship to Puerto Ricans and established a bill of rights for the island.[18] Major governmental changes included establishing a three-branch government similar to the one on the mainland.[19]
- Congress recognized island authority over matters of internal governance in 1950 through the Federal Relations Act (FRA) and when it approved the island's Constitution in 1952.[20] No major status changes have occurred since.

After enactment of the FRA and approval of the territorial constitution, Puerto Rico became known formally as the "Commonwealth of Puerto Rico." Use of the word "commonwealth" and whether the term carries particular legal or political significance is a topic of substantial historical and scholarly debate—most of which is not addressed herein. A brief summary of the competing major perspectives, however, provides important context for understanding the ongoing status debate.

Some contend that Puerto Rico's commonwealth status signifies a unique recognition somewhere between territory and state. This perspective is often called "enhanced commonwealth" or "new commonwealth." As longtime territories scholar Arnold H. Leibowitz has summarized, those holding this view have

> argued that more than local self-government was achieved by the 1950-1952 legislation. It contends that a new legal entity was created with a unique status in American law: the Commonwealth, a status which is an internationally recognized non-colonial status.... Most important, in this view, Commonwealth is not a "territory" covered by the 'Territory Clause' of the Constitution, nor quite obviously is it a state; rather, Commonwealth is *sui generis* and its judicial bounds are determined by a "compact" which cannot be changed without the consent of both Puerto Rico and the United States.[21]

Others, however, contend that, at least in the Puerto Rican context, the term "commonwealth" does not hold particular legal or political significance. From this viewpoint, "commonwealth" is a

[14] 31 Stat. 77.

[15] 31 Stat. 86.

[16] For additional discussion, see CRS Report R40170, *Parliamentary Rights of the Delegates and Resident Commissioner from Puerto Rico*, by Christopher M. Davis.

[17] 39 Stat. 951; 39 Stat. 963.

[18] 39 Stat. 951.

[19] The act created a bicameral legislature by transferring the previous executive council legislative functions to a new Senate and by establishing a House of Representatives. See 39 Stat. 958.

[20] See 64 Stat. 319 (popularly known as "P.L. 600" (P.L. 81-600)); and 66 Stat. 327 respectively.

[21] Arnold H. Leibowitz, *Defining Status: A Comprehensive Analysis of United States Territorial Relations* (Dordrecht, Netherlands: Martinus Nijhoff Publishers, 1989), p. 163. Internal footnotes omitted.

stylistic or historical term of art, as used in the formal names of states such as the Commonwealth of Pennsylvania. Some also suggest that commonwealth refers to a form of government, but does not designate a unique nonterritorial status. As Leibowitz has observed,

> From the outset the non-Commonwealth parties in Puerto Rico, seeking either Statehood or independence ... questioned the concept of the Commonwealth. They have argued that although Congress may delegate powers to a territorial government, the broad powers granted to Congress under the Territorial Clause of the Constitution and the implied powers of the national government remain and may be exercised should the need arise. Further they cite the legislative history of Public Law 600 [the FRA] to challenge the compact and Commonwealth concept.[22]

Debate over significance of the "commonwealth" term notwithstanding, action by Congress would be necessary to alter Puerto Rico's political status. Doing so, of course, would require passage of legislation by Congress and approval by the President.

Finally, those rejecting the status quo also generally suggest that Puerto Rico's current status was not intended to be—or perhaps should not be—permanent, and that statehood or independence are natural next steps.

Political Parties and Status

The dominant Democratic and Republican party labels found in the mainland United States do not necessarily translate to Puerto Rican politics. In Puerto Rico, politics tends to revolve around three status perspectives represented by the three most established political parties:

- The status quo or "procommonwealth" position is generally associated with the Popular Democratic Party (PDP/PPD).
- The prostatehood position is generally associated with the New Progressive Party (NPP/PNP).
- The independence position is generally associated with the Independence Party (PIP or *Independentistas*). In recent years, the PIP has not consistently received sufficient electoral support to be certified a major party, but the independence perspective continues to be a factor in the status debate.

Views within the three major parties, as well as among other parties and interest groups, are not necessarily uniform. These differences regularly produce active factional groups or officially recognized minor parties.[23] The PDP, NPP, and PIP nonetheless remain the most consistent partisan forces in Puerto Rican politics.

Other options that call for modified versions of the current commonwealth status or independence may appeal to members of one or more parties. Typically, the two major perspectives other than the status quo, statehood, or independence are (1) "enhanced commonwealth" and (2) "free association." The former arguably signals a semiautonomous status whereas the latter suggests independence with closer ties to the United States than a more traditional independence option. The viability of the "enhanced commonwealth" position is not universally accepted.

At the federal level, positions on status do not necessarily follow clear partisan patterns. For those Members of Congress who have firm positions on status, personal preference or constituent issues

[22] Arnold H. Leibowitz, *Defining Status: A Comprehensive Analysis of United States Territorial Relations* (Dordrecht, Netherlands: Martinus Nijhoff Publishers, 1989), p. 164.

[23] For example, in 2020, the Citizens' Victory Movement and Project Dignity became "registered" political parties, entitling them to membership on the territorial State Elections Commission (CEE).

appear to be key motivations. Particularly in recent years, Members of both parties in Congress have generally argued that if the island is to choose a different status, clear consensus is necessary among the Puerto Rican people, regardless of the selected option.

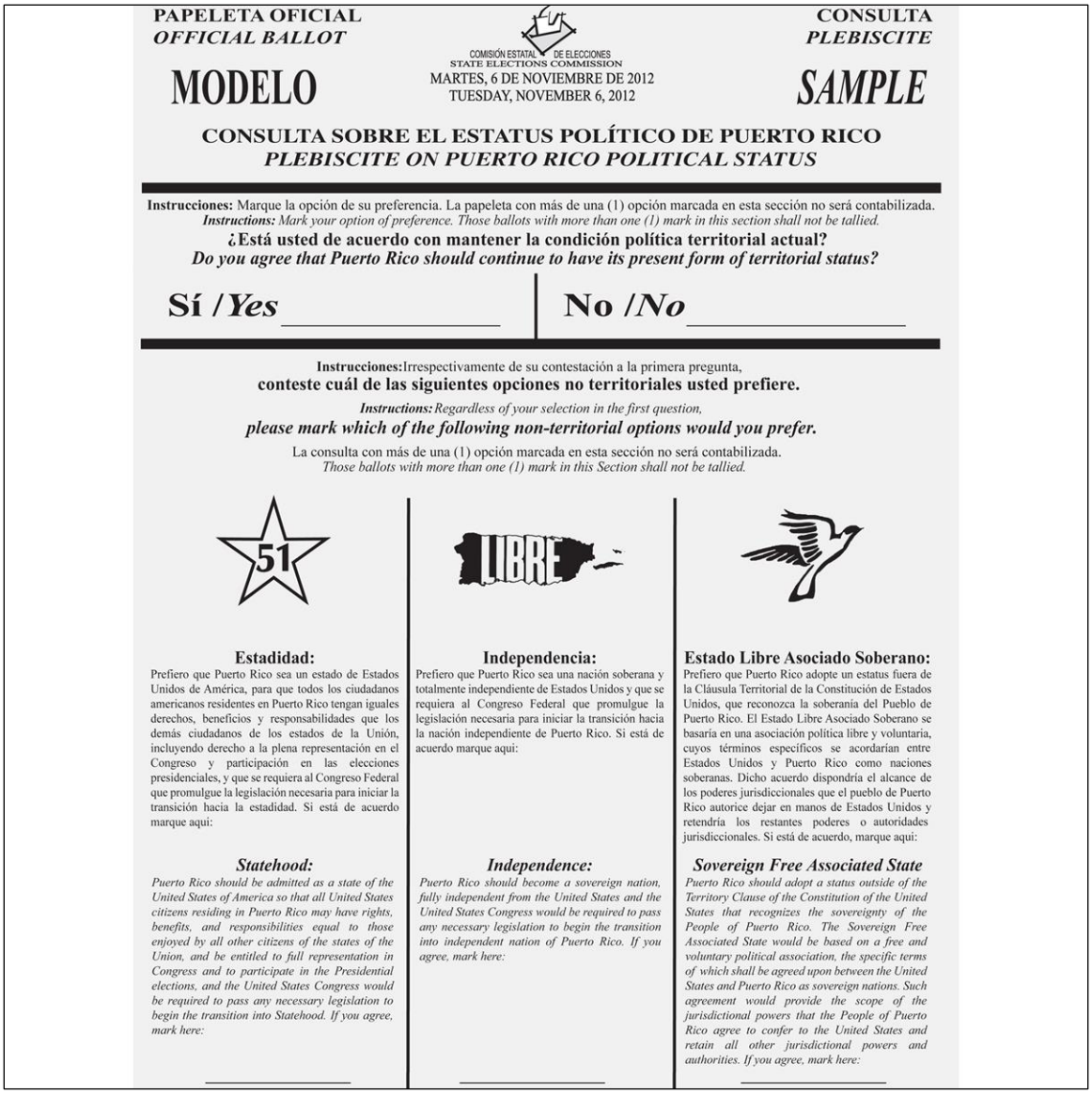
Recent Policy and Political Developments Most Relevant for Congress

A series of votes in Puerto Rico, held since 2012, have organized much of the status debate during the past decade. An overview appears below.

The 2012 Plebiscite in Brief

In 2012, voters were asked to answer two questions: (1) whether they wished to maintain Puerto Rico's current political status; and (2) regardless of the choice in the first question, whether they preferred statehood, independence, or to be a "sovereign free associated state." **Figure 2** shows a sample ballot.

Figure 2. Sample 2012 Plebiscite Ballot



PAPELETA OFICIAL
OFFICIAL BALLOT

COMISIÓN ESTATAL DE ELECCIONES
STATE ELECTIONS COMMISSION

MARTES, 6 DE NOVIEMBRE DE 2012
TUESDAY, NOVEMBER 6, 2012

CONSULTA
PLEBISCITE

MODELO

SAMPLE

CONSULTA SOBRE EL ESTATUS POLÍTICO DE PUERTO RICO
PLEBISCITE ON PUERTO RICO POLITICAL STATUS

Instrucciones: Marque la opción de su preferencia. La papeleta con más de una (1) opción marcada en esta sección no será contabilizada.
Instructions: *Mark your option of preference. Those ballots with more than one (1) mark in this section shall not be tallied.*

¿Está usted de acuerdo con mantener la condición política territorial actual?
Do you agree that Puerto Rico should continue to have its present form of territorial status?

Sí /*Yes* _____ **No /*No*** _____

Instrucciones: Irrespectivamente de su contestación a la primera pregunta,
conteste cuál de las siguientes opciones no territoriales usted prefiere.

Instructions: *Regardless of your selection in the first question,*
please mark which of the following non-territorial options would you prefer.

La consulta con más de una (1) opción marcada en esta sección no será contabilizada.
Those ballots with more than one (1) mark in this Section shall not be tallied.

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LIBRE

Estadidad:
Prefiero que Puerto Rico sea un estado de Estados Unidos de América, para que todos los ciudadanos americanos residentes en Puerto Rico tengan iguales derechos, beneficios y responsabilidades que los demás ciudadanos de los estados de la Unión, incluyendo derecho a la plena representación en el Congreso y participación en las elecciones presidenciales, y que se requiera al Congreso Federal que promulgue la legislación necesaria para iniciar la transición hacia la estadidad. Si está de acuerdo marque aquí:

Statehood:
Puerto Rico should be admitted as a state of the United States of America so that all United States citizens residing in Puerto Rico may have rights, benefits, and responsibilities equal to those enjoyed by all other citizens of the states of the Union, and be entitled to full representation in Congress and to participate in the Presidential elections, and the United States Congress would be required to pass any necessary legislation to begin the transition into Statehood. If you agree, mark here:

Independencia:
Prefiero que Puerto Rico sea una nación soberana y totalmente independiente de Estados Unidos y que se requiera al Congreso Federal que promulgue la legislación necesaria para iniciar la transición hacia la nación independiente de Puerto Rico. Si está de acuerdo marque aquí:

Independence:
Puerto Rico should become a sovereign nation, fully independent from the United States and the United States Congress would be required to pass any necessary legislation to begin the transition into independent nation of Puerto Rico. If you agree, mark here:

Estado Libre Asociado Soberano:
Prefiero que Puerto Rico adopte un estatus fuera de la Cláusula Territorial de la Constitución de Estados Unidos, que reconozca la soberanía del Pueblo de Puerto Rico. El Estado Libre Asociado Soberano se basaría en una asociación política libre y voluntaria, cuyos términos específicos se acordarían entre Estados Unidos y Puerto Rico como naciones soberanas. Dicho acuerdo dispondría el alcance de los poderes jurisdiccionales que el pueblo de Puerto Rico autorice dejar en manos de Estados Unidos y retendría los restantes poderes o autoridades jurisdiccionales. Si está de acuerdo, marque aquí:

Sovereign Free Associated State
Puerto Rico should adopt a status outside of the Territory Clause of the Constitution of the United States that recognizes the sovereignty of the People of Puerto Rico. The Sovereign Free Associated State would be based on a free and voluntary political association, the specific terms of which shall be agreed upon between the United States and Puerto Rico as sovereign nations. Such agreement would provide the scope of the jurisdictional powers that the People of Puerto Rico agree to confer to the United States and retain all other jurisdictional powers and authorities. If you agree, mark here:

Source: Sample November 2012 plebiscite ballot provided to CRS by the Puerto Rico State Elections Commission, September 2012.

Notes: Size and spacing differed on the actual ballot. Ballot wording and format are as provided in the original document. To fit the image in the space herein, CRS removed some white space on the ballot and at the margins of the original file.

According to results certified by the Puerto Rico State Elections Commission, approximately 54.0% of those who cast ballots answered "no" to the first question. In the second question, approximately 61.2% of voters chose statehood.[24] However, results of the plebiscite were controversial. Debate focused on whether almost 500,000 blank answers on the second question should be included in the total, thereby affecting whether any option received a majority. A concurrent resolution approved by the territorial legislature and supported by PDP Governor Alejandro García Padilla (who was elected on the same day as the plebiscite) contended that the results were "inconclusive." Another CRS report provides additional detail about the 2012 plebiscite.[25] After Governor García Padilla assumed office in 2013, momentum toward revisiting status waned on the island. As explained below, interest in status rebounded in 2016.

In Washington, the House and Senate provided federal funds to support a future plebiscite. Specifically, in the FY2014 omnibus appropriations law, Congress appropriated $2.5 million for "objective, nonpartisan voter education about, and a plebiscite on, options that would resolve Puerto Rico's future political status."[26] These plebiscite-education funds remain available until expended, but Congress placed conditions on their release that appear to exclude the "enhanced commonwealth" status option as a choice on the ballot.[27] As discussed below, the Justice Department determined in 2017 that enhanced commonwealth remained inconsistent with the U.S. Constitution.

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[24] Puerto Rico State Elections Commission, *Certification of Official Results for Plebiscite on Puerto Rico Political Status*, First Question, San Juan, PR, December 31, 2012, provided to CRS by the Puerto Rico State Elections Commission.

[25] See CRS Report R42765, *Puerto Rico's Political Status and the 2012 Plebiscite: Background and Key Questions*, by R. Sam Garrett.

[26] The $2.5 million was provided in the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2014 (Div. B of P.L. 113-76, Consolidated Appropriations Act, 2014), as part of the appropriations for the Edward Byrne Memorial Justice Assistance Grant program (see 128 Stat. 61).

[27] The $2.5 million was initially included in the House version of the FY2014 Commerce-Justice-Science (CJS) appropriations bill (H.R. 2787). The House Appropriations Committee report accompanying that bill recommended conditioning the funding on certification to congressional appropriators, from the U.S. Attorney General, that "the voter education materials, plebiscite ballot, and related materials are not incompatible with the Constitution and laws and policies of the United States." See U.S. Congress, House Committee on Appropriations, *Commerce, Justice, Science, and Related Agencies Appropriations Bill, 2014*, report to accompany H.R. 2787, 113th Cong., 1st sess., July 23, 2013, Report 113-171 (Washington: GPO, 2013), p. 59. Although the CJS bill was superseded by the omnibus measure, relevant explanatory-statement language notes that "[r]eport language included in H.Rept. 113-171 ... that is not changed by this explanatory statement or this Act is approved." See "Explanatory Statement Submitted by Mr. Rogers of the House Committee on Appropriations Regarding the House Amendment to the Senate Amendment on H.R. 3547, Consolidated Appropriations Act, 2014," *Congressional Record*, daily edition, vol. 160, part 9, Book II (January 15, 2014), p. H475. Furthermore, the relevant budget justification document included similar language, as did previous Congressional correspondence. See U.S. Department of Justice, Office of Justice Programs, *FY2014 Performance Budget*, p. 29, http://www.justice.gov/jmd/2014justification/pdf/ojp-justification.pdf. In addition, in December 2010, Senate Energy and Natural Resources Committee Chairman Jeff Bingaman and Ranking Member Lisa Murkowski wrote to President Obama noting that enhanced or "new" commonwealth status "is incompatible with the Constitution and basic laws of the United States in several respects." See Letter from Sens. Jeff Bingaman and Lisa Murkowski, chairman and ranking member (respectively), Senate Committee on Energy and Natural Resources, to President Obama, December 1, 2010. For additional historical perspective on administration perspectives referenced in the letter, see Letter from Robert Raben, Assistant Attorney General, to Sen. Frank Murkowski, chairman, Senate Committee on Energy and Natural Resources, January 18, 2001. For additional views and debate, see also, for example, witness statements and responses to written questions in U.S. Congress, Senate Committee on Energy and Natural Resources, *U.S. Virgin Islands, Republic of the Marshall Islands, Puerto Rico, and Political Status Public Education Programs*, 111th Cong., 2nd sess., May 19, 2010, S. Hrg. 111-666 (Washington: GPO, 2010).

The 2016 Elections in Puerto Rico

In the 2016 general election, Puerto Rico voters selected NPP candidates for both the Governor and Resident Commissioner posts. The prostatehood NPP also retained majorities in the territorial House and Senate. Governor-Elect Ricardo Rosselló announced that he "intend[ed] to make joining the union [as a state] the central focus of his administration."[28] Soon after the November election, some in the NPP began urging congressional action to admit Puerto Rico as a state.[29]

In his election night victory speech, according to one media report, Rosselló called his election an "'unequivocal mandate to tell the world that the transition to statehood has started,' which he will promote through the Tennessee Plan."[30] The "Tennessee Plan" is a term of art referring to the method by which Tennessee and six other states joined the union.[31] Each territory employed this method somewhat differently, but the central thrust of the Tennessee Plan involves organizing a political entity that is essentially a state in all but name. Steps typically include drafting of a state constitution, election of state officers, and sending an elected congressional delegation to Washington to lobby for statehood.[32] These developments notwithstanding, there is no single path to statehood. Changing Puerto Rico's political status by the Tennessee Plan or any other method ultimately would require a statutory change by Congress with presidential approval.

The 2017 Plebiscite

In January 2017, Rosselló assumed the governorship and the NPP assumed the majority in the legislature. Puerto Rico was thus now primarily represented by a Governor, legislative majority, and Resident Commissioner who publicly favored statehood. On February 3, 2017, the legislature enacted, and the Governor subsequently signed, legislation setting the June 11, 2017, plebiscite date.[33] The new NPP government framed the 2017 plebiscite as the first "sanctioned" by the federal government (through the FY2014 appropriations language discussed above). The legislature also characterized the 2017 plebiscite as a way to "reassert the desire for decolonization and the request for Statehood" from 2012.[34] Similar arguments that had surrounded the previous plebiscite language resurfaced in 2017.[35] Similar criticisms also emerged from those who opposed the plebiscite.

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[28] Dánica Coto, "Top Candidate Wants Puerto Rico Statehood," *Chicago Tribune*, November 6, 2016, p. 27.

[29] Jose Aponte-Hernandez, "Puerto Rico Takes Giant Leap Toward Statehood," *The Hill*, blog posting, November 15, 2016, https://origin-nyi.thehill.com/blogs/congress-blog/politics/305990-puerto-rico-takes-giant-leap-towards-statehood. Aponte-Hernandez is a former Speaker of the territorial House of Representatives and remains a legislator.

[30] Cindy Burgos Alvarado, "Rosselló Says He Will Be 'Last Governor of the Colony,'" *Caribbean Business*, November 8, 2016, http://caribbeanbusiness.com/rossello-says-he-will-be-last-governor-of-the-colony/; accessed via CRS Factiva subscription.

[31] Tennessee was the first territorial area admitted to the union as a state. For historical background, see, for example, John Whitfield, *The Early History of Tennessee: From Frontier to Statehood* (Paducah, KY: Turner Publishing Company, 1999), p. 125. Other former territories that followed statehood paths similar to the Tennessee Plan include, in chronological order, Michigan, Iowa, California, Oregon, Kansas, and Alaska.

[32] See, for example, Grupo de Investigadores Puertoriqueños, *Breakthrough from Colonialism: An Interdisciplinary Study of Statehood* (Río Piedras, PR: Editorial de la Universidad de Puerto Rico, 1984), pp. 1209-1215. Some of these steps would be relevant for Puerto Rico, while others would not; an analysis of the topic is beyond the scope of this report.

[33] Puerto Rico Act No. 7-2017. This report refers to a certified translation provided to CRS by the Puerto Rico Office of Legislative Services, May 2017.

[34] Puerto Rico Act No. 7-2017, p. 25.

[35] See, for example, Richard Fausset, "In Puerto Rico, Fiscal Crisis Renews Statehood Debate," *New York Times*, May

Initial Plebiscite Ballot and DOJ Reaction

As explained below, the initial ballot was subsequently amended after the U.S. Department of Justice (DOJ) declined to certify the federal funds appropriated in FY2014 (discussed above) to administer the plebiscite.

- NPP supporters argued that the 2012 plebiscite established that Puerto Rican voters preferred a nonterritorial option, and that statehood or a form of independence were the only constitutionally permissible choices.[36]
- The plebiscite law thus included two "non-territorial and non-colonial political status" options on the ballot: (1) "Statehood" and (2) "Free Association/Independence." The law further specified that only ballots marking one of those options would be counted—a reference to controversy over "blank" ballots believed to be cast in protest in 2012.[37]
- The law also directed that if the "Free Association/Independence" option received a majority in the June 11 plebiscite, an October 8, 2017, referendum would be held for voters to select from these two choices.[38] Both free association and independence would entail Puerto Rico becoming an independent country. The former suggests an ongoing, mutually negotiated relationship in which the United States might continue to provide some benefits or services, such as the United States today has with the Western Pacific nations of the Federated States of Micronesia (FSM), the Republic of Micronesia, and the Republic of Palau.[39]
- PDP supporters objected to the ballot wording and choices. They argued that the ballot improperly omitted a status-quo option and was biased to favor a statehood outcome.[40]

17, 2017, p. 11, late edition.

[36] For example, the "statement of motives" section of the law states that "The issue of rejecting the century-old territorial and colonial status was clearly resolved locally by a majority vote of the citizens of Puerto Rico in the 2012 Plebiscite. Colonialism is not a choice for Puerto Rico under any method or modality of judicial interpretation of the 'territory clause' of the U.S. Constitution." See p. 10 of the English translation. The "statement of motives" is similar to committee-report language or a "findings" section in federal legislation.

[37] This information appears on pp. 43-45 of the certified English translation of Puerto Rico Act No. 7-2017.

[38] The law uses the terms "plebiscite" and "referendum" separately. Definitions in the law (p. 30) address both terms but do not indicate why different terms are used. It is possible that different terms are used simply to avoid confusion between the June 11 and October 8 events. In general, "plebiscite" was more common historically and in European contexts than currently and in the U.S. context. In modern U.S. usage, "referendum" typically refers to voter approval of legislative action. "Plebiscite" in modern U.S. usage (to the extent it is relevant) typically refers to a popular vote as an expression of nonbinding preference. For additional discussion of these terms, see, for example, *Referendums: A Comparative Study of Practice and Theory*, ed. David Butler and Austin Ranney (Washington: American Enterprise Institute, 1978), pp. 4-5; Francesco Biagi, "Plebiscite: An Old But Still Fashionable Instrument," *University of Illinois Law Review*, 2017, pp. 713-738; and Rafael A. Declet, Jr., "The Mandate Under International Law for a Self-Executing Plebiscite on Puerto Rico's Political Status, and the Right of U.S.-Resident Puerto Ricans to Participate," *Syracuse Law of International Law and Commerce*, vol. 28, no. 19 (2001), pp. 19-60.

[39] The United States administered these three freely associated states (FASes) on behalf of the United Nations after World War II. For additional discussion, see CRS Report R44753, *The Pacific Islands: Policy Issues*, by Thomas Lum and Bruce Vaughn.

[40] See, for example, Aníbal Acevdeo-Vilá, "Puerto Rico and the Right to Self-Determination of the USA," *The Hill*, blog posting, February 13, 2017, http://thehill.com/blogs/congress-blog/politics/319024-puerto-rico-and-the-right-to-self-determination-of-the-usa. Acevdeo-Vilá is a former PDP Governor and Resident Commissioner. In addition, a group of eight U.S. Senators wrote to Attorney General Jeff Sessions to oppose the draft ballot and related materials. The Senators wrote that the draft ballot language and related materials "[did] not comply with the requirements set

- After the legislature enacted the initial law establishing the plebiscite date and ballot, attention turned to whether the U.S. Justice Department would approve releasing the federal funds appropriated in FY2014. Importantly, Puerto Rico does not require federal approval to conduct a plebiscite or to otherwise reconsider its political status, but plebiscite supporters argued that federal approval would enhance the vote's perceived legitimacy in Washington.
- On April 13, 2017, Acting Deputy Attorney General Dana Boente wrote to Governor Rosselló that "multiple considerations preclude [DOJ] from notifying Congress that it approves of the plebiscite ballot and obligating the funds."[41] According to the letter, "the Department does not believe that the results of the 2012 plebiscite justify omitting Puerto Rico's current status as an option on the [2017] ballot." Boente explained that DOJ also had determined that the ballot language included "several ambiguous and potentially misleading statements, which may hinder voters' ability to make a fully informed choice as well as efforts to ascertain the will of the people from the plebiscite results." In particular, DOJ raised concerns about what it regarded as deficiencies in how U.S. citizenship rights were explained in the "statehood" ballot description; and the chance that voters could "misperceive" the "free association" option as a constitutionally impermissible form of "enhanced commonwealth."[42]

Amended Plebiscite Ballot

After DOJ issued its determination, attention shifted back to the island. As discussed briefly below, the prostatehood government amended the plebiscite law to include a commonwealth option.

- Soon after the DOJ issued its April 13 letter, the Rosselló Administration and the NPP majority in the legislature announced that they would amend the plebiscite law.[43] The amended "statement of motives" declared that,"[D]ue to the position stated by the U.S. Department of Justice, [the Legislative Assembly has] acted, under protest, on [DOJ's] recommendation to include the current territorial status among the options, so that the Plebiscite may be fully supported by the Federal Government."[44]
- As **Figure 3** below shows, the revised ballot included three options: (1) statehood, (2) "free association/independence," and (3) "current territorial status."
- The Justice Department did not formally respond to the ballot changes before voters went to the polls. However, supporters framed the new ballot options as

forth in the [FY2014] Consolidated Appropriations Act" because they excluded a status quo ("commonwealth") option. See Letter from Roger Wicker, U.S. Senator, et al. to Hon. Jeff Sessions, U.S. Attorney General, April 5, 2017.

[41] Letter from Dana J. Boente, Acting Deputy Attorney General, to Ricardo A. Rosselló Nevares, Governor of Puerto Rico, April 13, 2017, p. 1.

[42] Letter from Dana J. Boente, Acting Deputy Attorney General, to Ricardo A. Rosselló Nevares, Governor of Puerto Rico, April 13, 2017, p. 2-3.

[43] Ismael Torres, "Status Referendum Process Affected by Commonwealth Inclusion," *Caribbean Business*, April 17, 2017, http://caribbeanbusiness.com/status-referendum-process-affected-by-commonwealth-inclusion/.

[44] This text appears on p. 6 of the certified English translation of Puerto Rico Act No. 23-2017, the amendments to Puerto Rico Act No. 7-2017.

tantamount to federal endorsement for the plebiscite. Opponents noted that the department had not approved the language.[45]

- Changing the ballot language was intended to address the Justice Department's concerns, but it also reignited political controversy among the island's political parties. The Independence Party (PIP), which initially announced that it would encourage its supporters to participate in the plebiscite in hopes of defeating statehood, changed its position. In light of what it regarded as a colonial "commonwealth" ballot option now being included, the PIP announced that it would boycott the plebiscite, as did the PDP, in addition to some other nonparty groups.[46] PDP leadership called for repealing the plebiscite law and beginning anew.[47]

[45] See, for example, Colin Wilhelm, "Puerto Rico Governor Pushes Statehood as Vote Looms Despite No U.S. Support," *Politico* online, May 26, 2017, http://www.politico.com/story/2017/05/26/puerto-rico-statehood-is-it-possible-238867.

[46] See, for example, Ismael Torres, "PIP to Defend Independence in Status Referendum," *Caribbean Business*, February 5, 2017, http://caribbeanbusiness.com/pip-to-defend-independence-in-status-referendum/; Ismael Torres, "Status Referendum Process Affected by Commonwealth Inclusion," *Caribbean Business*, April 17, 2017, http://caribbeanbusiness.com/status-referendum-process-affected-by-commonwealth-inclusion/; and Alex Figueroa Cancel, "'El Jute' Pro Sovereignty Group Joins Plebiscite Boycott," *El Nuevo Dia*, April 20, 2017, http://www.elnuevodia.com/english/english/nota/eljunteprosovereigntygroupjoinsplebisciteboycott-2312855/.

[47] See, for example, Robert Slavin, "Puerto Rico Rewriting Statehood Plebiscite Language After U.S. Rejection," *The Bond Buyer*, April 18, 2017, accessed via CRS Factiva subscription.

Figure 3. Sample Amended 2017 Plebiscite Ballot

MODELO/CEE/21APR2017 MODELO/CEE/21APR2017

COMISIÓN ESTATAL DE ELECCIONES
STATE ELECTIONS COMMISSION

11 de junio de 2017 / *June 11, 2017*

PLEBISCITO Y PAPELETA / *PLEBISCITE AND BALLOT*

PLEBISCITO PARA LA DESCOLONIZACIÓN INMEDIATA DE PUERTO RICO

PLEBISCITE FOR THE IMMEDIATE DECOLONIZATION OF PUERTO RICO

ESTADIDAD *Statehood*	**LIBRE ASOCIACIÓN/ INDEPENDENCIA** *Free Association/Independence*	**ACTUAL ESTATUS TERRITORIAL** *Current Territorial Status*
Con mi voto, reitero mi petición al Gobierno Federal para comenzar de inmediato el proceso para la descolonización de Puerto Rico con la admisión de Puerto Rico como estado de la unión de los Estados Unidos de América. Soy consciente de que el resultado de esta petición de Estadidad, conllevaría iguales derechos y deberes con los demás estados; y la unión permanente de Puerto Rico con los Estados Unidos de América. Soy consciente, además, que mi voto en reclamo de la Estadidad significa mi apoyo a toda gestión dirigida a la admisión de Puerto Rico como un estado de la Unión y a toda legislación estatal o federal dirigida a establecer la igualdad de condiciones, la Representación Congresional y el Voto Presidencial para los ciudadanos americanos de Puerto Rico. *With my vote, I reiterate my request to the Federal Government to immediately begin the process for the decolonization of Puerto Rico with the admission of Puerto Rico as a state of the United States of America. I am aware that the result of this request for Statehood would entail equal rights and duties with the other states, and the permanent union of Puerto Rico with the United States of America. I am also aware that my vote claiming Statehood means my support to all efforts towards the admission of Puerto Rico as a state of the Union, and to all state or federal legislation aimed at establishing equal conditions, congressional representation and the presidential vote for the American citizens of Puerto Rico.*	Con mi voto realizo la primera petición al Gobierno Federal para comenzar el proceso de descolonización a través de: (1) "Libre Asociación": prefiero que Puerto Rico adopte un estatus fuera de la cláusula territorial de la Constitución de los Estados Unidos, que reconozca la soberanía del Pueblo de Puerto Rico como una completa y absoluta Independencia. La Libre Asociación se basaría en una asociación política libre y voluntaria, cuyos términos específicos se acordarían entre Estados Unidos y Puerto Rico como naciones soberanas. Dicho acuerdo dispondría el alcance de los poderes jurisdiccionales que el Pueblo de Puerto Rico autorice dejar en manos de Estados Unidos y retendría los restantes poderes o autoridades jurisdiccionales; o (2) La Proclamación de la "Independencia", demando al Gobierno de los Estados Unidos que, en el ejercicio de su poder para disponer del territorio, reconozca la soberanía nacional de Puerto Rico como una nación totalmente independiente y que el Congreso Federal promulgue la legislación necesaria para iniciar la negociación y la transición hacia la nación independiente de Puerto Rico. Mi voto por la Independencia representa, además, mi reclamo de los derechos, deberes, poderes y prerrogativas de las repúblicas independientes y democráticas; mi apoyo a la ciudadanía puertorriqueña; y a un "Tratado de Amistad y Cooperación" entre Puerto Rico y los Estados Unidos con posterioridad al proceso de transición. *With my vote, I make the initial request to the Federal Government to begin the process of the decolonization through: (1) Free Association: Puerto Rico should adopt a status outside of the Territory Clause of the Constitution of the United States that recognizes the sovereignty of the People of Puerto Rico. The Free Association would be based on a free and voluntary political association, the specific terms of which shall be agreed upon between the United States and Puerto Rico as sovereign nations. Such agreement would provide the scope of the jurisdictional powers that the People of Puerto Rico agree to confer to the United States and retain all other jurisdictional powers and authorities; (2) Proclamation of Independence, I demand that the United States Government, in the exercise of its power to dispose of territory, recognize the national sovereignty of Puerto Rico as a completely independent nation and that the United States Congress enact the necessary legislation to initiate the negotiation and transition to the independent nation of Puerto Rico. My vote for Independence also represents my claim to the rights, duties, powers, and prerogatives of independent and democratic republics, my support of Puerto Rican citizenship, and a "Treaty of Friendship and Cooperation" between Puerto Rico and the United States after the transition process.*	Con mi voto expreso que deseo que Puerto Rico se mantenga como está hoy, bajo los poderes plenarios del Congreso y sujeto a la cláusula territorial de la Constitución de Estados Unidos que en su Artículo IV, Sección 3 establece que: "El Congreso tendrá facultad para ejecutar actos de disposición y para formular todos los reglamentos y reglas que sean precisos con respecto a los territorios y otros bienes que pertenezcan a los Estados Unidos, y nada de lo que esta Constitución contiene se interpretará en un sentido que cause perjuicio a los derechos aducidos por los Estados Unidos o por cualquier Estado particular". *With my vote, I express my wish that Puerto Rico remains, as it is today, subject to the powers of the Congress and subject to the Territory Clause of the United States Constitution that in the Article VI, Section 3 states: "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State".*

En caso de que la "Libre Asociación/Independencia" obtenga la mayoría de votos válidos en este Plebiscito, quedaría automáticamente convocado un Referéndum el 8 de octubre de 2017, en cuya papeleta solamente aparecerían la "Libre Asociación" y la "Independencia".

In the case that "Free Association/Independence" obtains the majority of valid votes cast in this Plebiscite, a Referendum would be automatically convened on October 8, 2017, in which only "Free Association" and "Independence" would appear on the ballot.

MODELO/CEE/21APR2017 MODELO/CEE/21APR2017

Source: CRS figure from April 21, 2017, sample plebiscite ballot posted to the Puerto Rico State Elections Commission website, http://plebiscito2017.ceepur.org/docs/Papeleta%20Plebiscito.pdf.

Notes: Size and spacing will differ on the actual ballot. Ballot wording and format are as provided in the original document.

2017 Plebiscite Results

On June 11, 2017, voters in Puerto Rico chose among the three options on the revised plebiscite ballot.

- 97.2% of voters chose statehood,
- 1.5% of voters chose free association/independence, and
- 1.3% of voters chose the "current territorial status."

Turnout for the plebiscite was 23% (approximately 518,000 of 2.3 million registered voters).[48]

In anticipation of a statehood victory in the plebiscite, the territorial legislature enacted, and the Governor signed, legislation in June 2017 to pursue a "Tennessee Plan" path to statehood, including appointing a "delegation" to advocate for statehood before the House and Senate in Washington.[49] The PDP opposition criticized the law and vowed to challenge it in court and in future elections.[50]

The 2020 Plebiscite and Election Results

Partially as a result of ongoing debate surrounding previous results, the Puerto Rico Legislature authorized another plebiscite in May 2020, to be held in conjunction with the November general election. In the November 3, 2020, plebiscite, approximately 52.3% of voters answered affirmatively, compared with 47.7% who answered negatively, when asked a single ballot question of whether Puerto Rico should immediately be admitted to the union as a state. Approximately 52.2% of voters participated in the 2020 plebiscite (approximately 1.2 million of 2.4 million registered voters).[51] At the same time that voters selected the statehood option in 2020, they also elected a pro-statehood Governor, Pedro Pierluisi (NPP), and reelected Resident Commissioner Gonzalez-Colon (NPP), but defeated the previous pro-statehood New Progressive Party majority in the legislature.[52]

As with previous status debates, controversy continues over the extent of popular interest in revisiting status and, if so, how. Discussions within the major parties in Puerto Rico regarding status also appear to be ongoing.[53] Statehood supporters generally argue that statehood has been victorious in multiple recent plebiscites, while opponents counter that previous plebiscite methods have predetermined the statehood outcome, that participation was insufficient, or both.

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[48] These data, posted by the Puerto Rico State Elections Commission, are based on 99.5% of precincts reporting results. See http://resultados2017.ceepur.org/Noche_del_Evento_78/index.html#es/default/CONSULTA_DESCOLONIZACION_Resumen.xml.

[49] Cindy Burgos Alvarado, "Puerto Rico Governor Approves Tennessee Plan," *Caribbean Business*, June 5, 2017, http://caribbeanbusiness.com/puerto-rico-governor-approves-tennessee-plan/.

[50] Ismael Torres, "Puerto Rico's PDP to Challenge Constitutionality of Tennessee Plan Law," *Caribbean Business*, June 7, 2017, http://caribbeanbusiness.com/puerto-ricos-pdp-to-challenge-constitutionality-of-tennessee-plan-law/.

[51] See the Puerto Rico State Elections Commission November 7, 2020, preliminary certification, at https://ww2.ceepur.org/sites/ComisionEE/es-pr/Certificaciones/Certificaci%C3%B3n%20-%20resultado%20preliminar%20del%20Plebiscito%202020.pdf. CRS rounded these figures.

[52] Some observers have argued that the 2020 election results suggested increasing popular interest in nontraditional parties. See, for example, Robert Slavin, "Puerto Rico Governance Clashes Likely with Changes in Party Control," *The Bond Buyer*, Nov. 13, 2020, accessed via CRS Factiva subscription.

[53] See, for example, Dánica Coto, "Puerto Rico Party to Hold Vote on its Political Future," Associated Press, June 16, 2022.

Status Developments in the 117th Congress

Bills addressing Puerto Rico status introduced during the 117th Congress include H.R. 1522; H.R. 2070; H.R. 8393; S. 780; S. 865; and S. 4560. As of this writing, one of those bills, H.R. 8393, has been subject to a markup. Additional detail appears below.

Representative Grijalva, House Natural Resources Committee chair, introduced H.R. 8393, the Puerto Rico Status Act, on July 15, 2022. On July 20, 2022, the House Natural Resources Committee held a markup on the bill. The bill would authorize another plebiscite among three status options.

At the markup, Chair Grijalva stated that H.R. 8393 represented a compromise measure based on two other bills, H.R. 1522, the Puerto Rico Statehood Admission Act (Soto), and H.R. 2070, the Puerto Rico Self-Determination Act (Velázquez), both of which had been introduced previously in the 117th Congress. During the first session of the 117th Congress, the Committee on Natural Resources held two hearings on the initial bills.[54]

During the markup on H.R. 8393, Resident Commissioner González-Colón, Puerto Rico's Delegate to the House, voiced support for the compromise bill. Discussion during the markup addressed issues such as whether maintaining territories is consistent with U.S. democratic values; how Congress had addressed statehood admission previously; whether the committee had adequately considered H.R. 8393; whether input from other committees was needed; and whether or how federal benefits and citizenship should be extended during a transition process to an independent or freely associated Puerto Rico. The committee considered several amendments during the markup.[55]

Highlights of H.R. 8393 considered during the markup include the following:

- The bill would authorize another plebiscite, to be held on November 5, 2023. Under the bill, the ballot options would include (1) independence; (2) "sovereignty in free association with the United States"; and (3) statehood. If one of those options did not receive a majority vote, a runoff would be scheduled for March 3, 2024, between the two options that received the largest number of votes in the first plebiscite. The bill also specifies explanatory text to accompany each ballot option. The bill does not include a ballot option for maintaining the status quo.
- The bill would assign the Puerto Rico State Elections Commission with conducting a voter education campaign, and would authorize federal funding for such purposes.
- If voters chose the independence or sovereignty in free association options, the bill would authorize a transition process, such as establishing a convention in Puerto Rico to draft a constitution; electing governmental officers; reviewing implications for terminating federal law over the island; and establishing a joint federal-Puerto Rico transition commission. The bill also specifies transition

[54] See U.S. Congress, House Committee on Natural Resources, *H.R. 1522, "Puerto Rico Statehood Admission Act" and H.R. 2070, "Puerto Rico Self-Determination Act of 2021,"* legislative hearing, 117th Cong., 1st sess., April 14, 2021, Serial No. 117-3 (Washington: GPO, 2021); and U.S. Congress, House Committee on Natural Resources, *H.R. 1522, "Puerto Rico Statehood Admission Act" and H.R. 2070, "Puerto Rico Self-Determination Act of 2021"—Part 2*, legislative hearing, 117th Cong., 1st sess., June 16, 2021, Serial No. 117-5 (Washington: GPO, 2021).

[55] See the amendment in the nature of a substitute (ANS) text and the text of submitted amendments in the U.S. House of Representatives Committee Repository, https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=115035.

provisions regarding federal programs and rights, such as those affecting citizenship, education, and employment. In the case of sovereign free association, the bill would establish a bilateral commission to negotiate articles of free association establishing the future relationship between Puerto Rico and the United States. Under the statehood option, the current Puerto Rico constitution would be deemed to serve as the state constitution. The bill provides that the President would make recommendations to Congress about any necessary changes to federal law, such as those affecting federal benefits. Under statehood, Puerto Rico would be entitled to House and Senate representation consistent with other states.

- The bill calls for a presidential proclamation recognizing the chosen status option. It does not appear to specify an additional approval role for Congress beyond authorizing the plebiscites. As noted previously, Congress could choose to admit or otherwise alter Puerto Rico's political status through a statutory change, as long as Puerto Rico remained a territory. Congress also could affect future United States relations with an independent or freely associated Puerto Rico through federal law governing such relationships (e.g., treaties or free association agreements). Because the independence and free association options would entail a new, independent Puerto Rico, the details of future relationships between the United States and Puerto Rico in those cases would be subject to future negotiation.

Three Senate bills have been introduced in the 117th Congress regarding Puerto Rico status. None has advanced substantially beyond introduction.

- S. 780 (Heinrich), the Puerto Rico Statehood Admission Act, would authorize a "ratification vote" in the form of a single ballot question asking voters whether Puerto Rico should be admitted as a state.[56] If a majority of voters answered affirmatively, the bill would direct the President to issue a proclamation admitting Puerto Rico as a state. The bill also specifies transition provisions.
- S. 865 (Menendez), the Puerto Rico Self-Determination Act of 2021, proposes a publicly financed campaign fund (matching funds) for those seeking election as delegates to a proposed "semipermanent" Puerto Rico status convention, which would be charged with developing status options.[57] The bill also proposes a bilateral negotiating commission, including Members of Congress, to advise convention delegates, and specifies status transition steps, if applicable. The bill provides that the island's status debate may include a referendum, which would form the basis for congressional action to ratify the status choice.
- Senator Wicker introduced S. 4560 on July 20, 2022, the same day as the H.R. 8393 House Natural Resources Committee markup discussed above.[58] In a press release, the Senator's office characterized the bill as "an alternative" to the

[56] See S. 780, §7.

[57] Campaign finance issues are beyond the scope of this report. For additional general discussion, see CRS Report R41542, *The State of Campaign Finance Policy: Recent Developments and Issues for Congress*, by R. Sam Garrett.

[58] This report relies on bill text at https://www.wicker.senate.gov/services/files/DA18BCEE-5193-42D6-B867-5C9CE6849B63, linked from Office of Sen. Wicker, "Wicker Opposes House Puerto Rico Status Proposal, Introduces Alternative," press release, July 20, 2022, https://www.wicker.senate.gov/2022/7/wicker-opposes-house-puerto-rico-status-proposal-introduces-alternative.

Representative Grijalva bill.[59] Also titled the Puerto Rico Status Act, S. 4560 adopts some elements of H.R. 8393. Most notably, S. 4560 also proposes a November 5, 2023, status plebiscite, to be followed by a March 3, 2024, runoff, if necessary. Unlike H.R. 8393, S. 4560 would include a "commonwealth" option on the ballot, in addition to independence, sovereignty in free association with the United States, and statehood choices. The bill proposes ballot language that characterizes the commonwealth option, among other provisions, as an opportunity for "a reaffirmation" of the current status while also preserving an opportunity for future renegotiation of the Puerto Rico-United States relationship.[60] As with the other status options presented, the bill proposes a bilateral negotiating commission if voters chose the commonwealth option. Unlike H.R. 8393, if voters chose statehood under S. 4560, the Senate bill would require a Government Accountability Office (GAO) study on Puerto Rico's "readiness for statehood," including, among other factors, whether a "stable majority" to support statehood exists and how statehood could affect economic and federal programs in Puerto Rico and on the mainland.[61] The bill proposes that the House and Senate would vote on statehood, followed by a presidential proclamation (if Congress approved statehood), after receiving the GAO study.[62] S. 4560 also includes generally similar language to H.R. 8393 regarding transition provisions (if necessary) and a voter education campaign.

PROMESA and Status

Much of the status debate emphasizes governance, political participation, and democratic principles rather than economic issues or other policy matters. Furthermore, the relationship between status and economics is subject to ongoing debate, with some arguing that the two issues are inextricably linked and others replying that the status debate distracts from long-standing economic problems. Most recently, Puerto Rico's financial situation has, however, shaped some aspects of attention to status, as discussed briefly below. As noted previously, economic issues are otherwise beyond the scope of this report.[63]

In June 2016, Congress enacted legislation responding to an ongoing economic crisis in Puerto Rico. The Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA; P.L. 114-187)[64] establishes a process for restructuring the island government's public debt. PROMESA also establishes a federal oversight board, formally known as the Financial Oversight and Management Board for Puerto Rico, with "broad powers of budgetary and financial control over" the island.[65]

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[59] Office of Sen. Wicker, "Wicker Opposes House Puerto Rico Status Proposal, Introduces Alternative," press release, July 20, 2022, https://www.wicker.senate.gov/2022/7/wicker-opposes-house-puerto-rico-status-proposal-introduces-alternative.

[60] See §101, S. 4560.

[61] See §402, S. 4560.

[62] See §402, S. 4560.

[63] This includes a discussion of Puerto Rico's tax status, which relates to its political status as a territory rather than a state. For additional discussion of tax policy in U.S. territories, see CRS Report R44651, *Tax Policy and U.S. Territories: Overview and Issues for Congress*, by Sean Lowry.

[64] 48 U.S.C. §2101 et seq.

[65] CRS Report R44532, *The Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA; H.R. 5278, S. 2328)*, coordinated by D. Andrew Austin, p. 1.

Status was not a central component of the congressional deliberation over PROMESA, although some Members addressed status in testimony or floor statements.[66] Some comments during hearings also addressed the topic.[67] Perhaps most consequentially for the status debate, some of those who opposed PROMESA, including some Members of Congress, characterized the broad powers provided to the oversight board as undemocratic. In particular, opponents objected to the board's powers to approve fiscal plans submitted by the Governor and to approve territorial budgets, among others.[68] Although not necessarily addressing the oversight board explicitly, proponents generally argued that, in the absence of bankruptcy protection for territories, PROMESA was necessary to help the island's government to restructure its debts in an orderly fashion. Critics, on the other hand, contended that the oversight board undermines the mutually agreed status relationship established in 1952.[69]

One brief section of PROMESA explicitly addresses status. Section 402[70] of the law states that "[n]othing in this Act shall be interpreted to restrict Puerto Rico's right to determine its future political status, including" through another plebiscite as authorized in the FY2014 omnibus appropriations law (P.L. 113-76). A December 2016 report released by a congressional task force established in PROMESA (devoted primarily to economic issues) recommended that if such a plebiscite is held, Congress "analyze the result ... with care and seriousness of purpose, and take any appropriate legislative action."[71]

[66] See, for example, discussion in U.S. Congress, Senate Committee on Finance, *Financial and Economic Challenges in Puerto Rico*, 114th Cong., 1st sess., September 29, 2015, S. Hrg. 114-307 (Washington: GPO, 2016); U.S. Congress, House Committee on Natural Resources, Subcommittee on Indian, Insular and Alaska Native Affairs, *Examining Procedures Regarding Puerto Rico's Political Status and Economic Outlook*, 114th Cong., 1st sess., June 24, 2015, Serial No. 114-13 (Washington: GPO, 2015); U.S. Congress, House Committee on Natural Resources, Subcommittee on Indian, Insular and Alaska Native Affairs, *The Need for the Establishment of a Puerto Rico Financial Stability and Economic Growth Authority*, 114th Cong., 2nd sess., February 2, 2016, Serial No. 114-30 (Washington: GPO, 2016).

[67] See, in particular, U.S. Congress, House Committee on Natural Resources, Subcommittee on Indian, Insular and Alaska Native Affairs, *Examining Procedures Regarding Puerto Rico's Political Status and Economic Outlook*, oversight hearing, 114th Cong., 1st sess., June 24, 2015, Serial No. 114-13 (Washington: GPO, 2015).

[68] On the board's powers, see, in particular, Titles II and III of PROMESA (P.L. 114-187); and CRS Report R44532, *The Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA; H.R. 5278, S. 2328)*, coordinated by D. Andrew Austin.

[69] For various congressional perspectives on PROMESA, in addition to the hearings cited above, see, for example, Senate debate throughout the day on June 28, 2016, *Congressional Record*, daily edition, vol. 162, part 104 (June 28, 2016). On opposition to the oversight board in particular, see, for example, the colloquy between Sens. Robert Menendez and Bernie Sanders, "PROMESA," remarks in the Senate, *Congressional Record*, daily edition, vol. 162, part 104 (June 28, 2016), p. S4610.

[70] 130 Stat. 586; 48 U.S.C. §2192.

[71] U.S. Congress, Congressional Task Force on Economic Growth in Puerto Rico, *Report to the House and Senate*, 114th Cong., 2nd sess., December 20, 2016, p. 84.

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