



June 14, 2021

The Honorable Raúl M. Grijalva
Chairman
U.S. House Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

The Honorable Bruce Westerman
Ranking Member
U.S. House Committee on Natural Resources
1329 Longworth House Office Building
Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman:

We write to express our support for the bipartisan proposal H.R. 1522, *Puerto Rico Statehood Admission Act*, introduced by Congressman Darren Soto (D-FL-09) and Resident Commissioner Jenniffer González-Colón (R-PR At Large), which respects the will of U.S. citizens residing in Puerto Rico about their future political status. On November 3, 2020, a majority of Puerto Ricans residing on the island determined their future status and voted for equality through statehood. Now that a majority of Puerto Ricans have definitively spoken, the most appropriate response for Congress is to act on their will and extend a formal offer of admission through the enactment of H.R. 1522.

With a participation rate of 54.72 percent, the results of the November plebiscite were 52.52 percent (655,505 votes) “Yes” and 47.48 percent (592,671 votes) “No,” on whether the island should be admitted as a state.¹ The plebiscite question presented by the local elected representatives of Puerto Rico to voters was “[s]hould Puerto Rico be admitted immediately into the Union as a State? Yes or No.”

Not surprisingly, many of the same opponents of statehood that actively campaigned for the “No” option and lost at the ballot box, now try to argue that Congress should ignore the plebiscite results. Yet, the various reasons they provide are all easily refutable.

Plebiscite Valid Despite Failure of DOJ to Approve \$2.5 million Appropriation

One common argument is that the U.S. Department of Justice (“DOJ”) decided not to disburse \$2.5 million in federal funds previously allocated by Congress for Puerto Rico to carry out a plebiscite to resolve its future political status when the Government of Puerto Rico requested such funds before the November 2020 vote. This argument ignores that DOJ itself disregarded

¹ Puerto Rico State Elections Commission, Plebiscite Results, https://elecciones2020.ceepur.org/Escrutinio_General_93/index.html#es/default/PLEBISCITO_Resumen.xml (Last visited June 9, 2021).

congressional guidelines to provide the Government of Puerto Rico examples of acceptable ballot formats and materials. The DOJ also failed to meet congressional deadlines and then used the excuse of insufficient time as justification for their failure to disburse funds prior to the plebiscite.

Congressional guidance was provided to the DOJ in House Report 116-101 (H. Rprt. 116-101) with the enactment of the Consolidated Appropriations Act, 2020 (P.L. 116-93), on December 20, 2019. DOJ was required within 45 days of enactment “to provide the Committee, as well as the Puerto Rico State Elections Commission, with a report regarding the acceptable versions of voter education materials, plebiscite ballot formats, and related materials that would allow the Department to obligate this funding for a future plebiscite” and to “expeditiously act upon any request for this funding.”² However, DOJ delayed the publication of the report until April 2020, and the report itself provided very limited guidance.³

DOJ also demanded that all the status options be included on the ballot, in violation of the directives in H. Rprt. 116-101 which directed that “[t]he current territorial/Commonwealth status should be excluded from any future plebiscite, since it fails to address key inequities.”⁴ DOJ’s indication that the current territory option was excluded failed to take into account that a “No” vote would effectively mean the continuation of the current territory status. Additionally, DOJ argued that the use of the word “immediately” in the question would somehow bias voters in favor of statehood without recognizing that the Government of Puerto Rico is fully within its right to ask island voters if their possible desire for statehood admission is something immediate or not.

Statehood “Yes” or “No” is a Valid Exercise of Self-Determination

Another line of argument by statehood opponents is that somehow the statehood “Yes” or “No” question posed in the 2020 plebiscite, which would be repeated as a ratification vote in H.R. 1522, was not a legitimate exercise of self-determination. However, they ignore that this controversy was resolved prior to the plebiscite by the Supreme Court of Puerto Rico (“PRSC”). On October 5, 2020, the PRSC upheld the constitutionality of the November 3, 2020 plebiscite, determining that it was a constitutionally valid exercise of self-determination and that those who contend the plebiscite is not neutral or is discriminatory fail to account for the results of the 2012 and 2017 plebiscites where the other valid status options were presented.⁵ Additionally, the PRSC held that there has never been a single or standard process for admission as a state, and the failure of DOJ to approve funding for the vote was inconsequential since the decision to hold the plebiscite only depends on the will of the territory, and did not require congressional authorization.⁶

² House Report 116-101, Commerce Justice, Science, and Related Agencies Appropriation Bill, 2020, <https://www.congress.gov/congressional-report/116th-congress/house-report/101/1?q=%7B%22search%22%3A%5B%22House+Report+116-101%22%5D%7D&s=1&r=1>

³ U.S. Department of Justice, Report Submitted to the House and Senate Committees on Appropriations and the Puerto Rico State Elections Commission as requested by House Report 116-101 accompanying the Consolidated Appropriations Act, 2020.

⁴ House Report 116-101, Commerce Justice, Science, and Related Agencies Appropriation Bill, 2020, <https://www.congress.gov/congressional-report/116th-congress/house-report/101/1?q=%7B%22search%22%3A%5B%22House+Report+116-101%22%5D%7D&s=1&r=1>

⁵ Aponte-Rosario, et al., v. President EEC, et al., 2020 PRSC 119 (P.R. 2020)

⁶ Id.

The U.S. citizens of Puerto Rico have been asked the question regarding the island's status three times in the last decade, with different language, and each time "statehood" has gained the majority of support. With more than half of eligible voters casting their ballots to determine their political status, the results from this latest plebiscite have unequivocally stated the preference of the U.S. citizens that reside in Puerto Rico for statehood. Not only did statehood win by a bigger margin than the results of the U.S. presidential race,⁷ but more votes were casted in favor of statehood than for the sitting Governor of Puerto Rico, Hon. Pedro Pierluisi.⁸ This confirms that the majority on the island want equality through statehood regardless of which local political party is in power.

H.R. 1522 respects the results of the plebiscite in November and provides a constitutionally valid and direct path to admission. The legislation calls for a final binding ratification vote on the statehood "Yes" or "No" question previously presented to Puerto Rican voters. If the island chooses to become a state again, H.R. 1522 establishes the terms of admission as a state to the Union and repeals all laws that are incompatible with the island's new status within 12 months. Therefore, the island's residents will have a final chance to vote "Yes" if they support statehood, or "No" if they support any of the alternative status options.

Statehood Opponents Are Engaging in Election Denial

Statehood opponents argue that their alternative to H.R. 1522 is an innocuous bill whose only objective is to be fair, neutral and democratic. Yet H.R. 2070, *Puerto Rico Self-Determination Act of 2021*, introduced by Congresswoman Nydia Velázquez (D-NY-07) is anything but fair and neutral because it is fundamentally based on a rejection of the voice of the people of Puerto Rico who have already voted for statehood as their future political status on three separate occasions in the past ten years. In fact, in an action that can only be understood as election interference, just weeks before the November 3, 2020 plebiscite, a similar version of this bill was filed in the 116th Congress with the implication to island voters that the forthcoming vote was meaningless in the eyes of the bill author and its sponsors. The purpose of its introduction then, similar to its purpose now, was not to respect the will of voters in Puerto Rico, but to subvert it by ignoring the significance of the locally led self-determination efforts that have been carried out to date. As opposed to being a more fair and inclusive alternative to H.R. 1522, as written H.R. 2070 basically engages in election denial pretending as if the status plebiscite votes had not happened or as if they do not matter. This is wrong, anti-democratic, unjust and Congress must reject it.

Statehood Opponents Call for A Binding Process & Then Do the Opposite

A key argument of statehood opponents is that the mechanism for Puerto Rico's self-determination must be "binding" on Congress so that the voters on the island are empowered to make the ultimate decision and Congress will accept their choice. However, H.R. 2070, would propose that the Legislature of Puerto Rico establish a "status convention" of newly elected delegates that would create a complicated process, without any certainty or guarantee that its proposed status option

⁷ National Archives, 2020 Electoral College Results, <https://www.archives.gov/electoral-college/2020> (Last visited June 9, 2021).

⁸ Puerto Rico State Elections Commission, Governor Results, http://elecciones2020.ceepur.org/Escrutinio_General_93/index.html#es/default/GOBERNADOR_Resumen.xml (Last visited June 9, 2021).

will be accepted by Congress. This proposal is non-binding since no convention can impose a status option upon Congress or mandate the automatic adoption of an unknown future resolution. So, by calling itself binding, but taking the power away from voters to choose directly on the option that the majority has already favored, statehood, the bill makes promises to voters it simply cannot keep. When this is combined with the fact that the bill also fails to establish clear timelines for defining self-determination options and when a referendum will take place, it becomes clear this is less about fairness and more about blunting the momentum of last November's majority vote for statehood.

The bill sponsors have also discussed the possibility that the convention would consider options that are unconstitutional which would spoil the legitimacy of their proposed process, since real self-determination needs to be a choice between the constitutionally valid alternatives and not a flight of fancy.

Statehood Opponents Seek to Privilege International Law Over the U.S. Constitution

Instead of recognizing the significance of the last three plebiscite votes, H.R. 2070 seeks to shift the footing of the debate away from the firm ground of the U.S. Constitution into the shifting sands of international law. In fact, the bill findings privilege international law over the locally-led self-determination efforts that have taken place over the last decade which were all directed to address this issue within the framework of the U.S. Constitution. A notable example of this dynamic is that the bill proposes the creation of a "Congressional Bilateral Negotiating Commission," under the assumption that Puerto Rico can only exercise true self-determination under the context of international law. The reality is that "bilateral negotiations" are only needed if Puerto Rico were to choose independence with or without free association, options that have been repeatedly discarded by island voters. Statehood admission does not require such an instrument because the terms of statehood are already defined by current federal laws and the U.S. Constitution.

Ironically, the bill sponsors for H.R. 2070, who decry the undemocratic impact of Puerto Rico's Financial Oversight and Management Board (FOMB), use a similar selection mechanism to appoint members to the proposed Negotiating Commission to tell the status convention delegates and the people of Puerto Rico how they should choose their destiny. The bill implies that Puerto Ricans are unable to independently interpret federal laws and choose their self-determination options without the prescriptions of federally appointed policymakers. In spite of the bill's premise regarding the people of Puerto Rico choosing their future, H.R. 2070 is merely an unconstitutional façade of self-determination with no specific end-date meant indefinitely delay a final resolution to Puerto Rico's status.

Statehood Opponents Are Telling Congress to Discard Plebiscite Vote Results

Prominent statehood opponents including former Rep. Luis Gutierrez and former Gov. Anibal Acevedo Vilá, have argued in a recent letter to Congress that the results of the 2020 statehood vote should be invalidated and discarded because of a subsequent special election. On May 16, 2021, Puerto Rico held a special election to choose the Puerto Rico Congressional Delegation ("Delegation"), entrusted with the duty to demand Congress honor the results of the November 3, 2020 plebiscite and admit Puerto Rico as a state. Opponents claim that because there was a low

voter turnout for this special election, the will of the voters in November should be disregarded. That is patently absurd. Everywhere in the United States we have general elections and special elections with varying levels of voter turnout, and yet we do not disregard the results of either. Elections are decided by ballots and votes cast, not by those who fail to participate and vote on any given issue or candidate. In a time when America must make extra effort to protect the right to vote and the integrity of our elections, Congress must not reverse the will of U.S. citizens legally voting to choose their future political status.

Conclusion – H.R. 1522 is the Appropriate & Constitutionally Viable Process for Solving Puerto Rico’s Ultimate Political Status

To put an end of the island’s current colonial and territorial status, and in accordance with Article 4, Section 3 of the United States Constitution, we urge the U.S. House Committee on Natural Resources to “Respect Puerto Rico’s Statehood Vote” and promptly pass H.R. 1522. Statehood will guarantee the U.S. citizens residing in Puerto Rico the same civil rights and congressional representation afforded to the U.S. citizens of the 50 states. No territory that has requested admission as a state has been denied before. Puerto Ricans have self-determined, and it is now Congress’ time to listen to voters on the island and ratify their will by establishing the means of admission as a state to the Union. Only H.R. 1522 meets the principles of equality and respects the will of voters instead of rejecting and silencing them.

We thank you in advance for your attention to this matter. If you require additional information or have any questions, please do not hesitate to contact the Martin E. Rivera, Esq., Executive Director of the National Puerto Rican Equality Coalition, at (407) 995-6851 or via email at MRivera@naprec.org, as well as George H. Laws Garcia, Executive Director of the Puerto Rico Statehood Council, at (301) 798-5051 or via email at GLaws@prstatehoodcouncil.org.

Sincerely,



Martin E. Rivera, Esq.
Executive Director
National Puerto Rican Equality Coalition



George H. Laws Garcia
Executive Director
Puerto Rico Statehood Council

cc: The Honorable Joe Manchin III, Chairman, U.S. Senate Committee on Energy and Natural Resources
The Honorable John Barrasso, Ranking Member, U.S. Senate Committee on Energy and Natural Resources