



Office of the Senate President
Hon. José L. Dalmau-Santiago

June 15, 2021

Honorable Raúl Grijalva
Chairman
Committee on Natural Resources
United States House of Representatives
Washington DC

Dear Chairman Grijalva:

I am writing to you as President of the Senate of the Commonwealth of Puerto Rico and as President of the Popular Democratic Party, the party that controls the parliamentary majority in the Legislative Assembly and the majority of Puerto Rico's municipalities.

During the past few months, the congressional committee that you lead has been evaluating two legislative bills that have the purpose of addressing the issue of Puerto Rico's political status.

The first, H.R. 2070 (*The Puerto Rico Self-Determination Act of 2021*) authored by Congresswomen Nydia Velázquez and Alexandria Ocasio-Cortez, as well as H.R. 1522 (*The Puerto Rico Statehood Admission Act*) authored by Congressman Darren Soto.

Our institution has expressed its willingness to support any Congressional initiative that seeks to seriously and responsibly address an issue as important as Puerto Rico's political status.

Both initiatives, however, contain serious deficiencies that prevent the Popular Democratic Party -the parliamentary majority of the Puerto Rican government- from supporting their content at this time. The absence of fair procedural mechanisms, the deliberate exclusion of the alternative of Commonwealth development and the unrealistic offer to convert Puerto Rico into a state of the Union within 12 months, without providing details on the impact of federal contributions on the island, make these bills unacceptable.

Consistent with our position, the U.S. Department of Justice has reiterated that any political status consultation process intended to obtain the validity of the federal government must include the Commonwealth option. Moreover, in that opinion, the DOJ only recognizes three real alternatives, namely, commonwealth, statehood and independence.

It is for these reasons that the U.S. Congress cannot ignore the demand of almost half of the island's electorate and the legal opinion of the US Department of Justice.

As we have pointed out, the bill of Congresswomen Velázquez and Ocasio-Cortez has a laudable purpose, but in its wording, it does not meet the expectations outlined, since several sections - such as the election of delegates and the one that defines the various status formulas – are far from resolving the issue, complicate it and make the process an ineffective one.

On the other hand, it is inexplicable that the congressional committee that intends to legislate or even urge the legislative branch of Puerto Rico to address this issue through future legislation, has not had the deference to listen and address the claims of the Popular Democratic Party, the party that happens to be the parliamentary majority that would have the responsibility to legislate at the local level any status proposal on the island.

However, despite this regrettable omission, I, in discharging my responsibility, proceed to submit my comments on both bills summarized in the following points:

About H.R. 2070

1. H.R. 2070 (The Puerto Rico Self-Determination Act of 2021) authored by Congresswomen Nydia Velázquez and Alexandria Ocasio-Cortez does not include the option of Commonwealth development and rules out the participation of political parties in the delegate nomination process. For the Popular Democratic Party this is unacceptable.
2. Contrary to existing legislation adopted by President Barack Obama in 2014, H.R. 2070 eliminates the requirement that the US Department of Justice must pass judgment prior to any vote on the validity of each status formula. For the Popular Democratic Party, this should be a mandatory requirement in any congressional legislation.
3. The way in which H.R. 2070 establishes the delegate selection process and the design of status options is a way to mislead voters by leading them to vote blindly for delegates without knowing in advance their status preferences or the agenda they will advance if elected. This is so because the structure of the project places voters in the dilemma of electing delegates without knowing what ideological sector they belong to or what specific proposals on status formulas they will defend. This would be granting a blank check. For the Popular Democratic Party, this is unacceptable.
4. In compliance with the terms of Act No. 51-2020 that called for the vote on statehood in the past elections, the majority of the Legislature understands that the plebiscite mandate granted to that option expires on November 3, 2021; therefore, any Congressional bill that intends to act on that vote must be approved on or before that date.

5. We reiterate that if by that date Congress has not acted - ignoring the results - and does not pass any legislation in both legislative bodies aimed at specifically responding to that result, for purposes of the Legislative Assembly of Puerto Rico, it shall be understood that Congress has rejected that vote. Thereafter, the Puerto Rico Legislative Assembly shall route a new political status referendum invoking the existing legislation passed by Congress in 2014, which provided for an appropriation of \$2.5 million. (H.R. Rep. No. 113-171, at 54 (2014)).

6. Regarding the institutional position of the Popular Democratic Party on our vision for the empowerment of the Commonwealth option, it is our opinion that the same shall be part of a fair and balanced dialogue process between the people of Puerto Rico, the Congress and the White House, in accordance with the commitment made by President Joe Biden.

7. We require that any proposed congressional legislation must contain clear and detailed transition reports to be presented to the electorate prior to any vote. Specifically, voters must know answers on such important issues as: the impact of federal taxation under statehood on Puerto Rico's economy, the possibility of requiring Puerto Rico to become an incorporated territory as a preliminary to statehood, and the loss of U.S. citizenship at birth under independence options. Such answers are necessary to eliminate fanciful or misleading options.

8. For the foregoing reasons, the Popular Democratic Party recommends a substitute bill (chairman's mark) for H.R. 2070, eliminating sections 3 (selection of delegates) and 5 (design of status formulas) of the bills in their entirety and leaving the design of both matters in the hands of the Legislative Assembly of Puerto Rico.

About H.R. 1522

With regard to H.R. 1522 calling for the admission of Puerto Rico as a state, I wish to call your attention to a monumental flaw in the bill.

H.R. 1522 does not provide for assessing if Puerto Rico is prepared for statehood. It would admit Puerto Rico as a State in 12 months without first examining if the island has enough resources to meet the federal tax obligations it would be assuming and be able to raise enough state tax revenues to balance its budget, meet debt and pension obligations, and provide essential services.

In a recent brief filed before the U.S. Supreme Court, the Department of Justice pointed out that:

Puerto Rico has taken advantage of its exemption from federal income tax by imposing a territorial individual income tax of up to 33% for the highest bracket—well above the typical rate in the States. Puerto Rico Internal Revenue Code § 1021.01(a). Puerto Rico has likewise taken advantage of its exemption from the federal corporate tax by imposing a territorial corporate tax of up to 37.5%—again, well above the typical rate in the States. Id. § 1022.01(b), 1022.02(b)(2).

Pet. Brief, U.S. v. Vaello-Madero, 20-303 (June 2021), 17.

The reality is that Puerto Rico, even with its particular tax rates, has not balanced a budget in over a decade. It even found itself unable to pay its general obligations in 2014, prompting Congress to

legislate, two years later, the creation of a Fiscal Oversight Board, as it had previously done for Washington, D.C.

Five years after the Promesa Act, Puerto Rico still has not completed its debt restructuring and has not balanced its first of four required budgets in a row.

On this issue, in 2014, the General Accountability Office took the DOJ statement a step further and laid out what would logically occur if Puerto Rico were to become a state:

Puerto Rico's individual and corporate income tax rates are relatively high compared to those of the states. If the Puerto Rico government wanted to maintain pre-statehood tax burdens for individuals and corporations, it would need to lower its tax rates, which could reduce tax revenues." U.S. Government Accountability Office, GAO-14-315, Puerto Rico: Information on How Statehood Would Potentially Affect Selected Federal Programs and Revenue Sources 31-32 (March 2014).

With this clear warning of reduced tax revenues under statehood falling on a jurisdiction that has experienced chronic budget deficits and an inability to meet its general obligations, the Natural Resources Committee would be remiss to consider and pass H.R.1522 without adequate studies on the extent of the impact of statehood on Puerto Rico's tax revenues.

This is of particular importance given that debts are currently being restructured for the coming decades based on Puerto Rico's current tax revenues. If those tax revenues are reduced under statehood and debt service would remain unchanged, the impending hit of cuts would affect essential services and pensions the hardest, forcing a new default. The U.S. Congress cannot ignore this reality. For the above reasons, we call for the reject of this bill.

I hope you will give serious consideration to these remarks.

Cordially yours,

A handwritten signature in blue ink, appearing to read "José Luis Dalmau-Santiago". The signature is stylized and cursive.

José Luis Dalmau-Santiago