PUERTO RICO

PROCESO PLEBISCITARIO
1989-1991

VOLUMEN I

Correspondencia del liderato pólitico y
documentos legislativos

POLITICAL STATUS REFERENDUM
1989-1991

VOLUME I

Correspondence of the Political Leadership
and Legislative Documents

PUERTO RICO

FUNDACION BIBLIOTECA RAFAEL HERNANDEZ COLON

PROCESO PLEBISCITARIO 1989-1991

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POLITICAL STATUS REFERENDUM 1989-1991

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NOTA INTRODUCTORIA

Con la publicación de esta amplia compilación de documentos, pretendemos poner a la disposición del público en general tantos textos como ha sido posible recopilar relacionados con los proyectos de ley radicados en el Congreso de los Estados Unidos con el objeto de convocar un plebiscito sobre el futuro de las relaciones políticas entre Puerto Rico y los Estados Unidos de América. Dichos proyectos fueron ampliamente debatidos en ambos países durante treinta meses entre enero de 1989 y junio de 1991.

Para darle un marco de referencia a esta colección, se reproducen los originales de los proyectos de ley radicados en el Senado y la Cámara de Representantes del Congreso. Dichos proyectos hubiesen autorizado la convocatoria de un plebiscito en que los ciudadanos de Puerto Rico hubieran decidido entre las tres opciones que han sido objeto de discusión en Puerto Rico a lo largo de este siglo, pero acompañadas de una definición específica de cada una y de unas disposiciones que permitieran que el resultado fuera autoejecutable en el plazo que el Congreso de los Estados Unidos determinara más razonable. Con este proceso, marcadamente diferente al que se inició en la década de los sesenta, se intentaba vertebrar el ejercicio del derecho a la autodeterminación por parte de nuestros conciudadanos y evitar que el Congreso de los Estados Unidos no atendiera el reclamo que le llegaría desde Puerto Rico una vez celebrado el plebiscito.

La documentación que genera un proceso político-constitucional de esta envergadura es tan abundante como copiosa. Por dicha razón, no reproducimos las transcripciones de las vistas públicas celebradas por las comisiones competentes del Senado y la Cámara de Representantes del Congreso de los Estados Unidos de América. Esas están disponibles al público hace ya varios meses.

Por lo tanto, nuestro propósito ha sido el de publicar aquellos documentos generados durante esos treinta meses que no han sido publicados por las comisiones congresionales. Creemos cumplir con la misión de facilitar la difusión pública de documentos que difícilmente hubiera podido hacerse por otras instituciones.

Advertimos al lector que algunos de los documentos no son del todo legibles dado que son copias o facsímiles de los originales. Sin embargo, hemos optado por reproducirlos tal y como obran en nuestro poder para evidenciar su autenticidad.

Esta compilación se divide entres partes:

- Correspondencia entre los líderes políticos de Puerto Rico y los Estados Unidos de América y documentos legislativos que incluyen los proyectos de ley radicados en el Senado y la Cámara de Representantes del Congreso de los Estados Unidos de América y los informes de las comisiones permanentes a las que fueron referidos dichos proyectos.

- Informes, dictámenes y monografías encomendados por el Congreso a la Oficina de Presupuesto del Congreso ("Congressional Budget Office"), el Servicio de Investigación Congresional de la Biblioteca del Congreso ("Congressional Research Service"); y estudios ordenados a asesores privados por los partidos políticos puertorriqueños sobre aspectos específicos de las relaciones entre Puerto Rico y los Estados Unidos de América.

- Estudios llevados a cabo en la Contraloría General de los Estados Unidos ("U.S. General Accounting Office") sobre disposiciones específicas de dichos proyectos de ley y otros asuntos directamente relacionados.

Cada una de estas partes se ha publicado en un tomo distinto. Cada tomo contiene la cronología de los hitos principales ocurridos durante esos treinta meses y otros datos de interés en la evolución del proceso plebiscitario. La cronología incluye una referencia al documento mencionado identificando el tomo y la página donde se encuentra en la recopilación. Los documentos en cada tomo aparecen por orden de fecha.

Con el deseo de alcanzar la objetividad y la neutralidad en la presentación de estos documentos, hemos optado por no hacer interpretaciones de los eventos ocurridos durante estos treinta meses, ni referencias a los acaecidos fuera de estas fechas. Quedará en manos de los historiadores, los juristas, los estudiosos de este tema y los ciudadanos interesados en el futuro de Puerto Rico, la tarea de interpretar el significado y la importancia de cada documento contenido en estos tomos.

En el discurso inaugural de su tercer mandato como gobernador del Estado Libre Asociado de Puerto Rico, el 2 de enero de 1989, Rafael Hernández Colón inició el proceso que intentamos aquí documentar. Por ello, le cabe a este texto encabezar esta compilación.

A partir de esa fecha, los acontecimientos generaron una gran cantidad de correspondencia entre los líderes políticos de Puerto Rico y de los Estados Unidos de América. Muchas de estas cartas ayudaron a moldear el debate que se da en el Congreso luego de la radicación de las primeras iniciativas legislativas. Cabe resaltar las comunicaciones conjuntas de los presidentes de los tres partidos políticos que mostraron una rara coincidencia de pareceres en el liderato político puertorriqueño que tantas veces se ha dividido en el pasado al terciar en el interminable debate sobre el futuro de nuestras relaciones políticas con los Estados Unidos de América.

Esta recopilación se ha hecho de la forma más exhaustiva posible e incluye todos los documentos disponibles al cierre de esta edición en su idioma original. Sin embargo, el lector (particularmente, el experto en este tema) encontrará inevitablemente errores de omisión. Rogamos del amable lector su indulgencia en vista de la enorme dificultad en identificar y obtener cada una de los documentos vertidos durante este complejo proceso.

Quisiéramos pensar que con esta publicación ayudamos y animamos a los interesados en la suerte de Puerto Rico y de los puertorriqueños a estudiar con detenimiento lo que aconteció durante treinta meses de singular importancia en la historia de nuestra querida patria.

José Roberto Martínez Ramírez
Director y Asesor Especial del Gobernador
Administración de Asuntos Federales de Puerto Rico

Diciembre 1992
Washington, D.C.

INTRODUCTION

With the publication of this comprehensive collection of documents, we attempt to make available to the general public as many texts as it was possible to compile in connection with the bills introduced in the United States Congress, which sought to convoke a referendum concerning the future of the political relationship between Puerto Rico and the United States of America. These bills were the object of ample debate in both countries during the thirty-month period between January 1989 and June 1991.

To provide a frame of reference for the collection, the original texts of the bills introduced in the Senate and the House of Representatives of the Congress of the United States of America are included. The purpose of these bills was to authorize a referendum to allow the citizens of Puerto Rico to decide among the three status options that have been the object of discussion during this century. The bills contained a specific definition of each option, as well as provisions to permit the result to be self-executing within the time period determined by the U.S. Congress to be the most reasonable for each option. This process, markedly different from that initiated in 1960s, was intended to provide the framework for the exercise of the right of self-determination by the people of Puerto Rico. It also was designed to preclude the possibility that the U.S. Congress would fail to act on the choice arrived at by the electorate in the referendum.

The documentation generated by such a political-constitutional process is copious and abundant. For this reason, the transcripts of the public hearings held by the standing committees of the Senate and House of Representatives of the United States Congress are not included. These transcripts are readily available to the public.

Accordingly, our goal has been to make available the documentary record of those thirty months, not necessarily contained or compiled in Congressional committee publications. Thus, making available those documents which would have proven more difficult for other institutions to compile.

Not all the documents are completely legible since some are copies or facsimile reproductions of the originals. Nevertheless, we have chosen to reproduce them as we received them in order to evidence their authenticity.

This compilation is divided into three main parts:

- Correspondence between the political leaders of Puerto Rico and the United States of America; legislative documents: bills introduced in the U.S. Senate and U.S. House of Representatives, the reports of the standing committees to which the bills were referred, and sections of the Congressional Record of the United States Congress containing remarks that were made in connection with the bills.

- Opinions, and papers requested by the U.S. Congress to the Congressional Budget Office (CBO) and the Congressional Research Service (CRS), and studies conducted by private groups at the request of Puerto Rican political parties concerning specific aspects of the relationship between Puerto Rico and the United States of America.

- Studies produced by the U.S. General Accounting Office (GAO) on specific provisions contained in the bills.

Each part constitutes a separate volume. Each volume contains the chronology of the main events as well as other dates of interest in the evolution of the referendum process. The chronology identifies the documents by referring to the volume and page where they are found in the collection. The documents in each volume appear in chronological order.

In the interest of maintaining neutrality and objectivity in the presentation of these documents, no attempt at interpretation was made, nor are there references to events outside this period. The work of interpreting the significance and importance of each document is left to the historians, lawyers, other students of the subject, and, in general, any person interested in the future of Puerto Rico.

In the inaugural address of January 2, 1989, with which he began his third term as Governor of the Commonwealth of Puerto Rico, Rafael Hernández-Colón initiated the process documented in this collection. Hence, the text of his speech heads the list of the documents assembled.

After that date, the process generated a great deal of correspondence between the political leaders of Puerto Rico and of the United States. Many of these letters helped to shape the debate in Congress and in Puerto Rico once the initial legislative measures were filed. Particularly noteworthy are the joint letters of the chairmen of the three Puerto Rican political parties which show an uncommon agreement within the Puerto Rican political leadership so often divided in the endless debate on the future of our political relationship with the United States of America.

This collection has been compiled in the broadest possible manner and includes all of the documents available as of the date of publication, in the language in which they were originally written. Nonetheless, the reader (particularly the expert in the subject) will inevitably discover some omissions. We beg the indulgence of the reader in light of the difficulty in identifying and obtaining a copy of each and every one of the documents originated by this complex process.

We hope that this publication helps spark the interest of those concerned about the future of Puerto Rico in a way that will lead them to understand what occurred during these thirty months of singular importance in the history of our beloved homeland.

Jose Roberto Martínez Ramírez
Director and Special Counsel to the Governor
Puerto Rico Federal Affairs Administration

December 1992
Washington, D.C.

CRONOLOGÍA DEL PROCESO PLEBISCITARIO
SOBRE EL ESTATUS DE PUERTO RICO 1989-1991

1989

ENERO, 1989

2/enero - El gobernador Rafael Hernández Colón en su Mensaje Inaugural hace un llamado a una consulta sobre el estatus político de Puerto Rico señalando que "la inmensa mayoría de los puertorriqueños desea expresarse en torno al asunto de nuestro status político" e instando al Gobierno de los Estados Unidos a que manifieste su posición al respecto. [I, 1]

17/enero - Los presidentes de los principales partidos políticos de Puerto Rico, el gobernador Rafael Hernández Colón (PPD), Baltasar Corrada del Río (PNP) y Rubén Berríos Martínez (PIP), suscriben una carta conjunta al Presidente Bush y al liderato congresional para solicitar legislación para el referéndum "con la garantía de que la voluntad del pueblo, una vez expresada, será implantada mediante acción congresional". La carta fue enviada a los senadores George J. Mitchell, Bob Dole, J. Bennett Johnston y James McClure, y a los congresistas Jim Wright, Robert H. Michel, Morris K. Udall, Ron de Lugo y Robert Lagomarsino. [I, 17]

FEBRERO, 1989

9/febrero - El Presidente Bush insta al Congreso a tomar acción sobre el estatus político de Puerto Rico y declara su preferencia personal por la estadidad en su primer mensaje sobre el Estado de la Unión. [I,11]

14/febrero - El Gobernador Hernández Colón envía una carta al Presidente Bush en la que agradece su endoso al proceso de consulta y le insta a que se mantenga neutral y se abstenga de hacer campaña en favor de alguna fórmula en particular. [I, 15]

21/febrero - El Nuevo Día publica los siguientes resultados de la encuesta sobre status realizada por Yankelovich-Stanford Klapper and Associates: Estado Libre Asociado 45%; Estadidad 35%; Independencia 5%; indecisos 11%. La encuesta revela que el 78% del electorado favorece la celebración de un plebiscito.

26/febrero - El ex-gobernador Carlos Romero Barceló es electo presidente del Partido Nuevo Progresista (PNP) en asamblea en Guaynabo, luego de que el Alcalde de San Juan y candidato a la gobernación por el PNP en 1988, Baltasar Corrada del Río, renunciara a la posición a finales de enero.

27/febrero - El Senador J. Bennett Johnston, Presidente de la Comisión de Energía y Recursos Naturales del Senado, se reúne con los presidentes de los partidos políticos de Puerto Rico en San Juan para discutir la legislación federal para un referéndum sobre el estatus.

MARZO, 1989

9/marzo - Circula un memorando del Servicio de Investigaciones del Congreso (CRS) sobre la ciudadanía americana de los puertorriqueños redactado por John H. Killian, Especialista en Derecho Constitucional Americano de la Biblioteca del Congreso. Analiza cómo las garantías constitucionales de la ciudadanía americana posiblemente no aplicarían si Puerto Rico optase por la independencia. Desata una fuerte y prolongada disputa en Puerto Rico sobre si la ciudadanía americana está constitucionalmente garantizada bajo el Estado Libre Asociado. [II, 81]

16/marzo - El senador J. Bennett Johnston anuncia desde el hemiciclo del Senado que pronto radicará legislación plebiscitaria. [I, 121]

25/marzo - Los senadores Johnston y McClure envían una carta al Presidente Bush para solicitar la ayuda de la Administración para lograr legislación plebiscitaria. La carta señala que la legislación debe ser aprobada en el Centésimo Primer Congreso si el plebiscito fuera a celebrarse antes de las elecciones generales de 1992, y solicita la designación de una agencia que represente a la Administración y de funcionarios contacto para trabajar con el Congreso en este asunto. [I, 19]

ABRIL, 1989

5/abril - El Senador Johnston presenta tres anteproyectos de ley sobre el plebiscito con distintos grados de detalle en las definiciones de cada fórmula: S.710, S.711, S.712. El liderato político de Puerto Rico mayormente favorece el S.712 que es autoejecutable y no requeriría legislación Congresional posterior. Los tres partidos políticos habrán de proponer las definiciones de sus respectivas fórmulas de estatus para la consideración de la Comisión de Energía y Recursos Naturales del Senado para el 9 de mayo. [I, 129]

30/abril - La Junta de Gobierno del Partido Popular Democrático aprueba una definición del Estado Libre Asociado Mejorado que propone (1) mayor autonomía en asuntos locales; (2) una política federal afín a las singularidades de Puerto Rico y orientada a acelerar el desarrollo social y económico de la Isla; (3) salvaguardar la identidad y cultura propia del pueblo de Puerto Rico; (4) un mecanismo para que Puerto Rico entre en acuerdos internacionales y (5) trato igual con los estados en los programas federales de asistencia social a los necesitados. [I, 31]

MAYO, 1989

3/mayo - El Partido Independentista Puertorriqueño presenta su definición de la independencia. Propone (1) el retiro completo de las fuerzas ---militares de los Estado Unidos--- de Puerto Rico; (2) ciudadanía dual (Estados Unidos-Puerto Rico) por 25 años; (3) acceso libre de los productos de Puerto Rico a los Estados Unidos por 20 años; (4) la extensión de la Sección 936 por 25 años; (5) extensión de los programas federales de asistencia social y otros pagos federales en bloque al gobierno de Puerto Rico por 20 años; y (6) soberanía total como una república independiente.

9/mayo - Fecha límite para los partidos políticos puertorriqueños somete sus definiciones de estatus bajo el S.712 a la Comisión de Energía y Recursos Naturales del Senado. El Partido Nuevo Progresista presenta su definición de estadidad para Puerto Rico, que incluye: (1) el español y el inglés como idiomas oficiales; (2) la extensión inmediata de todos los programas federales de asistencia; (3) exención decreciente de contribuciones federales durante los primeros 25 años de estadidad; (4) la extensión de la Sección 936 durante 25 años; (5) el derecho a votar por el Presidente; y (6) representación congresional completa.

JUNIO, 1989

1,2/junio - Se celebran vistas de la Comisión de Energía y Recursos Naturales del Senado para discutir las definiciones propuestas de los tres estatus; los presidentes de los tres partidos políticos puertorriqueños testifican en Washington, DC.

13/junio - Andrew Card, funcionario de la Casa Blanca, declara a la prensa de Puerto Rico que la Administración no creará el grupo de trabajo plebiscitario solicitado por los senadores Johnston y McClure.

16-17-19/junio - Vistas de la Comisión de Energía y Recursos Naturales del Senado en San Juan, Puerto Rico. Entre los participantes figuran líderes cívicos puertorriqueños, educadores y organizaciones independientes. Los senadores Johnston, McClure y Daniel Patrick Moynihan asisten a las vistas.

17/junio - La prensa de Puerto Rico informa que el senador Johnston no considera que el Estado Libre Asociado es una colonia y que "la ciudadanía americana de los puertorriqueños es irrevocable". Johnston añade que el informe del CRS del 9 de marzo sobre la ciudadanía americana "fue mal interpretado" en Puerto Rico ya que se refería al caso de la independencia y no al del Estado Libre Asociado.

22/junio - Se crea, mediante Orden Ejecutiva del Gobernador de Puerto Rico, el Comité de Diálogo sobre el Estatus Político de Puerto Rico por acuerdo entre los presidentes de los partidos de Puerto Rico con el propósito de proveer un foro para la discusión y solución de asuntos plebiscitarios. Se asignan fondos del Gobierno de Puerto Rico a los tres partidos. Los miembros del Comité de Diálogo son los presidentes de los tres partidos y sus representantes: José M. Berrocal por el PPD, Benny Frankie Cerezo por el PNP y Fernando Martín por el PIP. [I, 35]

23/junio - Una carta dirigida al Presidente Bush firmada por los senadores Johnston y McClure, Rafael Hernández Colón, Carlos Romero Barceló y Rubén Berríos Martínez solicita la cooperación inmediata de la Administración para acelerar la legislación plebiscitaria. [I, 44]

JULIO, 1989

11-13-14/julio - Vistas de la Comisión de Energía y Recursos Naturales del Senado sobre el S.712. Entre los deponentes comparecen funcionarios de los departamentos federales de Justicia, Defensa, Tesoro y Estado.

AGOSTO, 1989

2/agosto - La Comisión de Energía y Recursos Naturales del Senado aprueba el S.712 mediante votación de 11-8, luego de considerar el proyecto durante cuatro días. El proyecto provee para un plebiscito autoejecutable, basado en definiciones detalladas de cada fórmula de estatus. El proyecto S.712 es referido simultáneamente a las Comisiones de Finanzas y de Agricultura del Senado. Las propuestas originales de cada partido son alteradas sustancialmente. Al ELA no se le concede paridad en los programas federales de asistencia social y las propuestas de mayor gobierno propio son limitadas significativamente. A la independencia se le impone como condición la permanencia de las bases militares norteamericanas en la Isla, se reduce el período de transición económica, y se le limita sustancialmente la asistencia federal. A la definición de la estadidad se le elimina la referencia a idiomas oficiales; y la exención de contribuciones federales y la extensión de la Sección 936 queda limitada a los cinco primeros años de estadidad.

4/agosto - El senador Moynihan hace declaraciones sobre el S.712 ante el Senado en pleno. Plantea su preocupación sobre la dependencia en programas federales de beneficencia bajo la estadidad. Concluye, a base de dos nuevos informes del CRS, que "según informado por la Comisión de Energía y Recursos Naturales del Senado, la estadidad ofrece a los puertorriqueños la expectativa de beneficios inmediatos de asistencia social, pero de pérdidas económicas a largo plazo... en contraste, el Estado Libre Asociado promete incremento económico a largo plazo".

SEPTIEMBRE, 1989

6/septiembre - La Oficina de Presupuesto Congresional (CBO, por sus siglas en inglés) revela sus estimados de costo para el S.712. La estadidad costaría a los Estados Unidos más que cualquiera otra opción; su implantación bajo el S.712 requeriría desembolsos de más de $9,000 millones para el 1995 (el triple de los $3,600 millones estimados por la Comisión de Energía y Recursos Naturales inicialmente).

OCTUBRE, 1989

2/octubre - El Nuevo Día publica los resultados de una encuesta sobre el estatus realizada por Yankelovich-Stanford Klapper and Associates: Estadidad 41%, Estado Libre Asociado 37%, Independencia 4%, Indecisos 18%. Esta es la primera vez que se refleja una ventaja a la estadidad.

23/octubre - El senador Johnston envía una carta a los congresistas Morris Udall, Presidente de la Comisión del Interior y Asuntos Insulares de la Cámara, y Ron de Lugo, Presidente de la Subcomisión de Asuntos Insulares e Internacionales de la Cámara, en la que les insta a iniciar el proceso legislativo sobre el plebiscito en la Cámara sin esperar a la aprobación del proyecto del Senado. Johnston sugiere que para ahorrar tiempo, se radique S.712 en la Cámara y se celebren vistas en Puerto Rico en diciembre o enero. [

26/octubre - El congresista Robert Lagomarsino, líder de la minoría en la Subcomisión de Asuntos Insulares e Internacionales de la Cámara, radica un proyecto plebiscitario en la Cámara (HR 3536); esencialmente igual S.712 pero sin las disposiciones sobre contribuciones y gastos federales que incluye el del Senado. De Lugo rehúsa tomar acción sobre el proyecto debido a la falta de apoyo de los tres partidos políticos de Puerto Rico. [I, 242]

NOVIEMBRE, 1989

2/noviembre - La Oficina de Presupuesto Congresional (CBO) revela su revisión de los estimados de costo para el S.712 del 6 de septiembre. [I, 243]

6/noviembre - El congresista Udall responde a la carta del senador Johnston del 23 de octubre y expresa la oposición del liderato de la Cámara a la cláusula de autoejecución incluida en el S.712, citando específicamente las objeciones del Presidente de la Cámara al mecanismo del S.712. **puertorriqueños.**

8/noviembre - En una reunión-almuerzo en Washington del líder senatorial de la mayoría George Mitchell, el Presidente de la Comisión de Finanzas del Senado, Lloyd Bentsen, el senador Johnston y el senador Moynihan, con el Presidente del PPD, Rafael Hernández Colón, el Presidente del PNP, Carlos Romero Barceló, y el Presidente del PIP, Rubén Berríos Martínez. El liderato del Senado se compromete a llevar el proyecto de referéndum a votación en el hemiciclo en 1990.

9/noviembre - Se celebran las vistas de la Comisión de Agricultura del Senado sobre S.712. El gobernador Hernández Colón critica fuertemente el desbalance a favor de la estadidad en el S.712. Solicita paridad en los programas federales de asistencia social bajo el ELA.

14-15/noviembre - Se celebran vistas de la Comisión de Finanzas del Senado sobre las disposiciones de ingresos y egresos bajo el S.712. Entre los testigos comparecen los presidentes de los partidos políticos de Puerto Rico; Kenneth Gideon, Secretario Auxiliar del Tesoro para Política Contributiva; Shirley D. Peterson, Secretaria Auxiliar de Justicia de Estados Unidos - División de Contribuciones; Laurence Tribe, Profesor de Derecho Constitucional de la Universidad de Harvard, y representantes del GAO, CRS y CBO.

16/noviembre - La Comisión de Finanzas del Senado solicita al CBO y al Comité Económico Conjunto (Joint Economic Committee) un estudio sobre el impacto económico de las tres fórmulas de estatus contenidas en el S.712.

1990

ENERO, 1990

30/enero - Linda G. Morra del GAO y Clay H. Welbourn del CRS informan a los miembros de la Comisión del Interior y Asuntos Insulares de la Cámara sobre el estatus político de Puerto Rico, seguido por presentaciones de los representantes de los tres partidos políticos de Puerto Rico ante el Comité de Diálogo sobre el Estatus.

FEBRERO, 1990

13/febrero - El Nuevo Día publica los resultados de la última encuesta sobre estatus realizada por Kaagan Research/Stanford Klapper Associates: Estadidad, 43%; Estado Libre Asociado, 36%; Independencia, 5%; indecisos, 16%.

26/febrero - El New York Times publica en su página op.ed. un artículo del gobernador Hernández Colón que hace énfasis en el impacto negativo, tanto cultural como económico, de la estadidad para la Isla.

MARZO, 1990

2/marzo - La Subcomisión de Asuntos Insulares de la Cámara celebra vistas en Washington sobre la posible legislación plebiscitaria. Los tres presidentes de los partidos políticos de Puerto Rico testifican.

8/marzo - El grupo KMPG Peat Marwick Policy Economics publica el estudio titulado "Impacto Económico y Fiscal de la Estadidad para Puerto Rico" (Economical and Fiscal Impact of Statehood for Puerto Rico) que concluye que la estadidad trastornaría dramáticamente la economía de Puerto Rico, aumentando el desempleo a un 40% (pérdida de 80,000-145,000 empleos) y produciéndole un déficit neto cumulativo al Gobierno Federal de $22,000 a $25,000 millones para el año 2000. [II, 305]

9-10-12/marzo - La Subcomisión de Asuntos Insulares de la Cámara celebra vistas en San Juan, Ponce y Mayagüez. A estas vistas, presididas por Ron de Lugo, asistieron los congresistas Robert Lagomarsino, James McClure Clarke, Richard Lehman, Ben Blaz, Eni Falaeomavaega y Jaime Fuster. Testificaron más de 80 deponentes entre educadores, políticos, comerciantes y líderes cívicos del país.

ABRIL, 1990

5/abril - El CBO publica el informe "Impactos económicos potenciales de cambios en el estatus de Puerto Rico bajo el S.712". Concluye que bajo la estadidad Puerto Rico sufriría una reducción en su producto nacional bruto de 10% a 15% para el año 2000, acompañada por una pérdida de entre 50,000 a 100,000 empleos en el sector privado. [II, 1]

24/abril - El Washington Post critica editorialmente el desbalance a favor de la estadidad en el S.712 y advierte que no hay tiempo suficiente para aprobar el proyecto.

26/abril - Se celebran las vistas de la Comisión de Finanzas del Senado sobre el S.712 en torno al informe del CBO. Testifican el director del CBO, Robert D. Reischauer; el Asesor sobre

Contribuciones Internacionales del Tesoro, Philip Morrison; el Secretario Auxiliar del Departamento de Salud y Recursos Humanos, Martin Gerry; y el subdirector del CBO, Fred Ribe.

30/abril - El congresista de Lugo anuncia que radicará un proyecto plebiscitario en la Cámara dentro de "la próxima semana a diez días". Señala que el S.712 tiene "serios problemas" y anticipa que su proyecto no será autoejecutable.

MAYO, 1990

1/mayo - El gobernador Hernández Colón anuncia en San Juan que cualquier proyecto plebiscitario que no comprometa al Congreso con sus resultados es inaceptable.

9/mayo - El congresista de Lugo radica el HR 4765, un proyecto con definiciones generales de cada fórmula que establece un proceso en dos etapas con el requisito de una segunda ronda de legislación para implantar la fórmula ganadora. [I, 261]

14-17/mayo - Los señores Andrew Card, Subjefe de Operaciones de la Oficina del Presidente, y Chase Untermayer, Director de Personal del Presidente y Oficial Contacto para Asuntos de Puerto Rico, visitan la Isla y endosan la estadidad. Durante su reseñada estadía, participaron en actividades públicas en favor de la estadidad y aseguraron que, con el endoso del Presidente, la estadidad triunfaría. El señor Untermayer señaló "es tiempo de que la democracia llegue a Puerto Rico".

16/mayo - El gobernador Hernández Colón escribe al Presidente Bush para expresar su decepción ante el activismo pro-estadista de sus subalternos. Insta a la Administración Bush a permanecer neutral y evitar desbalancear el proceso plebiscitario, para que se pueda conducir "libre de interferencia y distorsión externa". [I, 48]

17/mayo - El delegado estadista al Comité de Diálogo Benny Frankie Cerezo hace público el memorando de Hex, Inc. "La Estadidad en Puerto Rico: una condición para un sólido desarrollo económico". Dicho memorando contradice los hallazgos del informe del CBO sobre el impacto adverso de la estadidad en la economía de Puerto Rico. [II, 437]

23/mayo - El presidente Bush responde a la carta del gobernador Hernández Colón del 16 de mayo expresando que él no considera que sus acciones o las de su personal sean "interferencia externa" y que su personal no se abstendrá de expresar sus opiniones. [I, 51]

31/mayo - Se publica el documento del CRS titulado "Impacto de la Estadidad en Puerto Rico sobre los instrumentos financieros puertorriqueños". El informe sostiene que la imposición de contribuciones federales y la derogación de la Sección 936 resultarían en mayores costos de financiamiento en Puerto Rico. También señala los problemas financieros que el gobierno estatal confrontaría con la aplicación de un nivel adicional de contribuciones bajo la estadidad, implicando que habría que reducir los servicios y empleos estatales. [II, 203]

JUNIO, 1990

25/junio - Se celebran vistas del Subcomité de Asuntos Insulares e Internacionales de la Cámara sobre el HR 4765 en Nueva York. Las vistas giran en torno a la enmienda presentada por el congresista José Serrano para extender el derecho a votar en el plebiscito a los puertorriqueños que residan en los estados de los Estados Unidos. El congresista Bill Richardson preside las vistas. Los congresistas Serrano, Bill Green, Charles Rangel y Jaime Fuster asisten a estas vistas, donde unos 40 testigos exigen el voto para los puertorriqueños ausentes.

28/junio - Se celebran vistas de la Subcomisión de Asuntos Insulares de la Cámara sobre el HR 4765 en Washington presididas por el Congresista Clarke. Los presidentes de los partidos políticos de Puerto Rico explican sus definiciones de estatus. Además testifica el Secretario Auxiliar de Justicia de los Estados Unidos, Stuart Gerson.

JULIO, 1990

10/julio - Miembros de la Subcomisión de Asuntos Insulares de la Cámara envían una carta al congresista de Lugo, presidente de la Subcomisión, para expresar apoyo a sus esfuerzos en favor del HR 4765 e indicar que están listos para aprobar el proyecto a base de las definiciones sometidas por los tres partidos. Dicha carta la firman los congresistas Fuster, Darden, Lewis, Blaz y Falaeomavaega. [I, 53]

25/julio - Día de la Constitución del ELA en Puerto Rico. Mensaje especial del gobernador Rafael Hernández Colón en la celebración del 38 aniversario de Estado Libre Asociado.

27/julio - Celebración del natalicio de José Celso Barbosa. El Secretario del Interior de los Estado Unidos, Manuel Luján, habla en un mitin pro-estadista en Bayamón y reafirma el compromiso de la administración Bush con la estadidad.

AGOSTO, 1990

1/agosto - La Comisión de Finanzas del Senado enmienda unánimemente el S.712 para balancear las disposiciones económicas de cada fórmula y hacerlas neutrales en términos de costos por un período de cinco años. La implantación de la estadidad se retrasa hasta 1996. Se concede trato igual en Programas de Asistencia Social al Estado Libre Asociado, sujeto a una contribución proporcional por parte del gobierno del ELA. La Comisión se abstiene de favorecer la aprobación del proyecto.

1/agosto - El gobernador Hernández Colón envía una carta al congresista Ron de Lugo para establecer la posición oficial del gobierno de Puerto Rico en favor del voto de los puertorriqueños no residentes en el plebiscito. El ex-gobernador Carlos Romero Barceló y Fernando Martín envían cartas para exponer la posición del PNP y PIP, respectivamente, sobre el asunto. [I, 55-56-58]

3/agosto - La Subcomisión de Asuntos Internacionales e Insulares de la Cámara aprueba el HR 4765 en votación de 10-0. El proyecto no incluye definiciones de las fórmulas, provee para un proceso en dos etapas que requiere legislación adicional posterior al referéndum. Las definiciones del estatus se anejan en el informe de la Comisión ("Informe 101-790, Parte 1"). [I, 452]

SEPTIEMBRE, 1990

19/sept. - La Comisión de Asuntos Insulares y de lo Interior de la Cámara aprueba el HR 4765 por votación de 37-1. El congresista Ron Marleene emite el único voto disidente. El proyecto autoriza el voto de puertorriqueños no residentes en la isla, sujeto a la aprobación de dos de los tres partidos de Puerto Rico.

OCTUBRE, 1990

2/octubre - La Comisión de Reglas de la Cámara recomienda unánimemente la consideración del HR 4765 por la Cámara en pleno. [I, 472]

4/octubre - Circula una carta firmada por 29 congresistas en la que solicitan a sus colega apoyo para el HR 4765 cuando se considere ante la Cámara en pleno. Entre los firmantes figuran los congresistas de Lugo, Lagomarsino, Udall, Fuster, Miller, Moakley, Rangel, Serrano y Green. [I, 61]

5/octubre - En una carta del presidente Bush al congresista de Lugo, éste felicita a su Subcomisión por aprobar legislación plebiscitaria e insta al "Congreso a tomar acción afirmativa y rápida sobre cualquier medida responsable que se plantee ante su consideración para lograr un plebiscito sobre el status político de Puerto Rico. Estoy listo para firmar tal legislación tan pronto llegue a mi escritorio." [I, 62]

10/octubre - La Cámara de Representantes aprueba el HR 4765, "Ley para la Autodeterminación de Puerto Rico", bajo el mecanismo parlamentario de suspensión de las reglas. [I, 479]

El senador Johnston anuncia desde el hemiciclo del Senado que el HR 4765 es inaceptable y señala que pospondrá los esfuerzos en el Senado hasta el próximo Congreso. [I, 477-478]

11/octubre - Los presidentes de los partidos políticos de Puerto Rico suscriben una carta conjunta al senador Johnston: "le instamos respetuosamente a que acepte el proyecto de la Cámara (HR 4765), con enmiendas". [I, 65]

15/octubre - El congresista Udall, en una carta al senador Johnston, resume el proceso que llevó al impasse a finales del 101o Congreso, reafirma la negativa de la Cámara a aceptar un proyecto autoejecutable, insiste en favorecer las definiciones generales sobre las detalladas, y advierte que la posposición hasta el próximo Congreso muy probablemente llevaría a un impasse similar. [I, 66]

18/octubre - Se emite una declaración conjunta de los líderes de los partidos de Puerto Rico para instar al Congreso y al Presidente a aprobar legislación plebiscitaria antes del cierre de la sesión, y solicitar reuniones inmediatas con el presidente Bush, con los congresistas Foley y de Lugo, y con los senadores Mitchell y Johnston. [I, 70]

22/octubre - El senador Johnston responde a la carta del congresista Udall del 15 de octubre. Lamenta que no se haya aprobado legislación durante el 101o Congreso y hace énfasis en su compromiso firme con este proceso señalando que su meta es trabajar rápidamente en el próximo Congreso para lograr un plebiscito en el 1991 o a comienzos de 1992. [I, 74]

25/octubre - Miembros de la Comisión de Agricultura del Senado envían una carta al senador Johnston en la que señala que lamentan la falta de tiempo para considerar el S.712 y anuncian la política pública de otorgar beneficios completos de asistencia nutricional federal bajo el Estado Libre Asociado. La carta está firmada por los senadores Patrick Leahy, Richard Lugar, David Pryor, Bob Dole, Tom Harkin, Thad Cochran, Max Baucus, Boschwitz, Christopher Bond y Mitch McConnell. [I-75]

25/octubre - Aparece el editorial del Washigton Post titulado "El Asunto de Puerto Rico" ("The Puerto Rico Question"). Insta al Senado a aceptar el proceso legislativo propuesto por la Cámara: "Un referéndum de menor alcance como el primer paso en un largo proceso ...(en el cual) el Congreso no se compromete, sino para mantener vivo un proceso que se acogería con entusiasmo si se estuviese dando en Europa Occidental o en las Bálticas. El senador Johnston debe reconsiderar."

25/octubre - Los líderes de los partidos políticos de Puerto Rico se reúnen con el senador Johnston en Washington para discutir el futuro de la legislación plebiscitaria. En conferencia de prensa conjunta, el senador Johnston expresa su compromiso de trabajar por que se apruebe legislación antes del 4 de julio. El gobernador Hernández Colón condiciona su aceptación de este itinerario de trabajo a recibir el endoso formal del PPD como partido de gobierno.

26/octubre - En una carta de miembros de la Cámara al senador Johnston le solicitan que reconsidere su decisión de posponer la legislación del referéndum hasta el 102o Congreso y que traiga el HR 4765 al Senado en pleno antes del final de la sesión. La firman los congresistas Ted Weiss, José Serrano, Charles Rangel, Bill Green, Gary Ackerman, Thomas Manton, Frank Horton, Benjamin Gilman, Robert Mrazek, James Scheuer, Major Owens, Eliot Engel, Amo Houghton. [I, 77]

NOVIEMBRE, 1990

6/nov. - Un editorial del New York Times titulado "Promesas Pálidas para Puerto Rico" reflexiona sobre el fracaso del Congreso en aprobar legislación plebiscitaria debido al impasse entre la Cámara y el Senado Federal. Señala que "Los puertorriqueños han aprendido a no perder el sueño ante las promesas de acción del Congreso".

13/nov. - En un mensaje televisado al pueblo de Puerto Rico, el gobernador Hernández Colón señala que para poder retomar el proceso legislativo sobre el estatus y lograr un plebiscito en 1992, el liderato congresional debe resolver las diferencias que derrotaron la legislación en el 101o Congreso tan pronto comience la sesión del 102o Congreso.

17/nov. - El Consejo General del PPD, reunido en Ponce, adopta una resolución para endosar la continuación de los esfuerzos plebiscitarios en 1991, si para el 19 de febrero de 1991 el liderato bipartita del Congreso acuerda un enfoque legislativo de consenso respecto al nivel de detalle de las definiciones de estatus y al mecanismo para la implantación de los resultados del plebiscito. De no satisfacerse estas condiciones, establece que el plebiscito debe celebrarse posterior a las elecciones generales de 1992. Solicita que las definiciones de las fórmulas de estatus sean de "igual dignidad política, no subordinadas al poder plenario del Congreso bajo la cláusula territorial de la Constitución".
[I, 79]

29/nov. - Los presidentes de los partidos políticos de Puerto Rico suscriben una carta conjunta al liderato congresional para exigir un acuerdo entre Cámara y Senado sobre un proyecto de consenso al comienzo de la sesión del 102o Congreso, de modo que el proyecto se pueda aprobar para el verano de 1991 y el plebiscito pueda celebrarse en otoño. [I, 86]

DICIEMBRE, 1990

3-6/dic. - Los senadores de la Comisión de Energía y Recursos Naturales Johnston, Wallop y Nickles visitan Puerto Rico. El senador Johnston discute el borrador de su nuevo proyecto plebiscitario con los presidentes de los partidos en Puerto Rico. El proyecto incluye tres definiciones detalladas (una versión enmendada del S.712, que incluye las enmiendas de la Comisión de Finanzas), pero no es autoejecutable.

30/dic. - Miembros del Partido Republicano en Puerto Rico, dirigidos por Luis A. Ferré, anuncian una campaña para recoger 300,000 firmas y probar la fortaleza del partido en Puerto Rico.

1991

ENERO, 1991

2/enero - El senador Johnston anuncia que radicará legislación plebiscitaria el 23 de enero y que celebrará vistas el 30 de enero.
3/enero - El congresista de Lugo radica su proyecto plebiscitario en la Cámara (HR 316) que es exactamente igual al HR 4765. El liderato republicano en la Cámara rehúsa auspiciar el proyecto a pesar de haberlo apoyado el año anterior. [I, 526]

30/enero - Se celebran vistas de la Comisión de Energía y Recursos Naturales del Senado sobre el S.244 en Washington con los presidentes de los tres partidos de Puerto Rico.

FEBRERO, 1991

7/febrero - Continúan las vistas de la Comisión de Energía y Recursos Naturales del Senado sobre el S.244 en Washington con los representantes de la Administración Bush.

20/febrero - La Comisión de Energía y Recursos Naturales del Senado se reúne formalmente para discutir el S.244. Se evidencia una fuerte oposición a la estadidad en los comentarios de varios senadores.

20/febrero - El Nuevo Día publica los resultados de la encuesta de Kaagan Research/Stanford Klapper Associates: Estado Libre Asociado 41%, Estadidad 39%, Independencia 5%.

26/febrero - Se recibe una carta en la cual el Presidente Bush insta al senador J. Bennett Johnston, Presidente de la Comisión de Energía y Recursos Naturales del Senado, a "tomar acción en favor de la celebración de ... un plebiscito".

27/febrero - El proyecto S.244 es derrotado en la Comisión de Energía y Recursos Naturales del Senado por un impasse de 10 a 10. Siete republicanos y tres demócratas votan en contra del proyecto aduciendo objeciones a la opción de la estadidad. Una enmienda alterna presentada por el senador Wallop en la cual se reconocería el derecho de Puerto Rico a la libre determinación mediante un plebiscito local también es derrotada.

MARZO, 1991

8/marzo - De Lugo declara ante la prensa norteamericana que a menos que el Senado actúe sobre el S.244, la Cámara no considerará el HR 316.

17/marzo - En una entrevista con la prensa puertorriqueña, el senador Johnston afirma que la legislación sobre el plebiscito está muerta en el 102o Congreso.

20/marzo - EL gobernador Hernández Colón concuerda con el senador Johnston en que no existen oportunidades de aprobar legislación plebiscitaria para celebrar una consulta en 1991.

CBO- Congressional Budget Office - Oficina de Presupuesto del Congreso
CRS- Congressional Research Service - Servicio de Investigación Congresional
GAO- U.S. General Accounting Office - Oficina de Contraloría General del Gobierno Federal
PIP- Puerto Rican Independence Party, (Partido Independentista Puertorriqueño, PIP)
NPP- New Progressive Party, (Partido Nuevo Progresista, PNP) pro-statehood party
PDP- Popular Democratic Party (Partido Popular Democrático, PPD), pro-commonwealth party

A CHRONOLOGY OF THE PROCESS FOR A REFERENDUM ON THE STATUS OF PUERTO RICO 1989-1991

1989

JANUARY 1989

1/2 - In his Inaugural Address, Governor Rafael Hernández Colón calls for a political status referendum stating that "The vast majority of Puerto Ricans wish to express their view on our political status. The people wish to be consulted", and urging the Federal Government to make public its position regarding the issue. [I, 1]

1/17 - The presidents of Puerto Rico's principal political parties, Governor Hernández-Colón (PDP), Baltasar Corrada del Río (NPP), and Rubén Berríos-Martínez (PIP), sign a joint letter to President Bush and the Congressional leadership requesting referendum legislation "with the guarantee that the will of the people once expressed shall be implemented through an act of Congress." The letter is send to Senators George J. Mitchell, Bob Dole, J. Bennett Johnston and James McClure, and to Congressmen Jim Wright, Robert H. Michel, Morris Udall, Ron de Lugo, and Robert Lagomarsino. [I, 12]

FEBRUARY 1989

2/9 - President Bush urges Congress to act on Puerto Rico's political status and states his personal preference for statehood in his first State of the Union Address [I,11].

2/14 - In a letter to President Bush, Governor Hernández-Colón welcomes his endorsement of the referendum process and requests that he remains neutral and abstains from campaigning on behalf of any particular formula. [I, 15]

2/21 - *El Nuevo Día,* a Puerto Rico daily newspaper, publishes a Yankelovich-Stanford Klapper Associates status poll. Results: Commonwealth, 45%; Statehood, 35%; Independence, 5%; Undecided, 11%. The poll reveals that 78% of the electorate favors holding a plebiscite.

2/26 - Former Governor Carlos Romero-Barceló is elected President of the New Progressive Party (NPP) at an assembly in Guaynabo, after the former Mayor of San Juan and 1988 NPP gubernatorial candidate Baltasar Corrada del Río resigns from the post in late January.

2/27 - Senator J. Bennett Johnston, Chairman of the Senate Energy and Natural Resources Committee, meets with Puerto Rican party presidents in San Juan to discuss federal legislation for a status referendum.

MARCH 1989

3/9 - Release of a CRS memorandum on U.S. citizenship of Puerto Ricans subscribed by John H. Killian, senior specialist of American constitutional law of the Library of Congress. Report reviews juridical precedents on citizenship, and discusses how constitutional guarantees of citizenship would likely not apply should Puerto Rico opt for independence. Sparks bitter prolonged controversy in P.R. on whether U.S. citizenship is constitutionally guaranteed under Commonwealth. (The full Spanish translation of this report was published on *El Nuevo Día* and *El Mundo* on June 8, 1989.)
[II, 81]

3/16 - Senator J. Bennett Johnston announces that he would soon introduce referendum legislation in a statement delivered in the U.S. Senate floor. [I, 121]

3/25 - Senator Johnston and Senator McClure send a letter to President Bush requesting the administration's assistance for legislation on Puerto Rico's political status. The letter states that legislation must be approved in the 101st Congress if a plebiscite is to be held before the 1992 general elections and requests the designation of a lead agency and contact persons for Congress to work with on this matter. [I, 19]

APRIL 1989

4/5 - Senator Johnston introduces three different referendum bills, S.710, S.711 and S.712, with varying degrees of specificity in the definitions of each formula. Puerto Rico's political leadership generally favors S.712, which is self-implementing and would not require further Congressional legislation. The three political parties are to submit proposed definitions of their respective status for consideration by the Senate Committee on Energy and Natural Resources by May 9th. [I, 129]

4/30 - The Governing Board of the Popular Democratic Party approves a definition of enhanced Commonwealth establishing: (1) broader self-government in local matters; (2) that Federal policies would take into account local conditions and seek to accelerate the Island's economic and social development; (3) safeguards for the distinct identity and culture of the Puerto Rican people; (4) a mechanism for Puerto Rico to enter in international agreements; and, (5) parity in federal assistance programs. [I, 30]

MAY 1989

5/3 - The Puerto Rican Independence Party presents its definition for independence. It establishes: (1) complete withdrawal of U.S. military forces from Puerto Rico; (2) dual (U.S.-Puerto Rican) citizenship for 25 years; (3) a 20-year transition period of open access for Puerto Rican products to the USA; (4) extension of Section 936 provisions for 25 years; (5) extension of federal social programs and transfers for 20 years as a block grant to the Puerto Rican government; and, (6) full sovereignty as an independent republic.

5/9 - The New Progressive Party subscribes its definition for Puerto Rican statehood including: (1) Spanish and English as official languages; (2) immediate and full extension of all federal social programs; (3) federal income tax exemption during the first 25 years of statehood; (4) extension of Section 936 for 25 years; (5) the right to vote for the President; and (6) full Congressional representation.

JUNE 1989

6/1-2 - Senate Energy and Natural Resources Committee hearings to discuss the proposed definitions of the three statuses; the three Puerto Rico party presidents testify in Washington.

6/13 - White House official Andrew Card states in Puerto Rican press that the Administration will not create the referendum working group requested by Senator Johnston and Senator McClure.

6/16-17-19 - Senate Energy and Natural Resources Committee field hearings in San Juan, Puerto Rico. Participants include Puerto Rican political and civic leaders, scholars, independent organizations. Senators Johnston, McClure and Moynihan attend the hearings.

6/17 - Puerto Rican press reports that Johnston does not consider Commonwealth a colony and that "the American citizenship of Puerto Ricans is irrevocable". Johnston adds that CRS report of March 9 on U.S. citizenship "was interpreted wrongly," as it only refers to independence, not to Commonwealth.

6/22 - The Dialogue Committee on Political Status is instituted by Executive Order of the Governor of Puerto Rico upon agreement by Puerto Rico party presidents. It is intended to provide a forum for the discussion and solution of referendum-related issues. The Government of Puerto Rico funds are allocated to the three parties. The membership consists of party presidents and their representatives: José M. Berrocal (PDP), Benny Frankie Cerezo (NPP), and Fernando Martín (PIP). [I, 35]

6/23 - A letter to President Bush is signed by Senators Johnston and McClure, Rafael Hernández-Colón, Carlos Romero-Barceló, and Rubén Berríos-Martínez requesting immediate cooperation from the Administration to advance THE referendum legislation. [I, 44]

JULY 1989

7/11,13,14 - Senate Energy and Natural Resources Committee hearings on S.712; witnesses include officials from the Justice, Defense, Treasury, and State Departments.

AUGUST 1989

8/2 - Senate Committee on Energy and Natural Resources favorably reports S.712, by a 11-8 vote after considering bill during four days of meetings. Bill provides for a self-executing referendum based on detailed definitions of each status formula. S.712 is jointly referred to the Senate committees on Finance and on Agriculture, Nutrition and Forestry. The original party proposals are substantially altered. Commonwealth is denied parity in federal assistance programs, and proposals for broader self-government are significantly curtailed. Independence is conditioned upon the permanence of U.S. military installations, the economic transition is shortened, and federal aid is substantially limited. Statehood definition is silent on official languages, and federal tax exemption and Section 936 is limited to first 5 years of statehood.

8/4 - Senator Moynihan in a statement on the Senate floor discusses S.712. He expresses concern with welfare dependence under statehood. On the basis of two new CRS reports, he concludes that "statehood [as reported by the Senate Energy Committee] offers Puerto Ricans the prospect of immediate social welfare benefits but long-term economic losses... By contrast, the Commonwealth promises long-term economic gains."

SEPTEMBER 1989

9/6 - The CBO reveals cost estimates for S.712: statehood would cost the U.S. more than any other option, its implementation under S.712 requiring outlays in excess of $9,000 million by 1995 (triple the original $3.6 billion estimated by Senate Energy and Natural Resources Committee).

OCTOBER 1989

10/2 - *El Nuevo Día,* , publishes Yankelovich-Stanford Klapper Associates status poll results: Statehood 41%, Commonwealth 37%, Independence 4%, Undecided 18%. It is the first report ever of a statehood lead in Puerto Rico.

10/23 - Senator Johnston writes a letter to Congressman Morris Udall, Chairman of the House Interior and Insular Affairs Committee, and Congressman Ron de Lugo, Chairman of the House Insular and International Affairs Subcommittee, urging them to initiate the referendum legislative process in the

House and not wait for passage of Senate bill. To save time, Senator Johnston suggests that S.712 be introduced in the House and hearings be held in P.R. in December or January.

10/26 - Congressman Robert Lagomarsino, Ranking Minority Member of the House Insular and International Affairs Subcommittee introduces status referendum bill in the House; essentially S.712 without the Senate Energy and Natural Resource Committee tax and spending provisions. Chairman de Lugo refuses to act on the bill due to lack of support by all three Puerto Rican political parties. [I, 242]

NOVEMBER 1989

11/2 - CBO reveals a revision of the cost estimates for S.712 disclosed on September 6, 1989. [I, 243]

11/6 - Udall letter to Johnston (response to 10/23/89 letter) expressing House objections to self-implementing legislation, and specifically citing Speaker' opposition to S. 712 mechanism. **He states that self-implementation may prompt moves to couple the issue of DC statehood to the Puerto Rico bill. He also alleges the lack of support to S.712 by three parties in Puerto Rico.**

11/8 - In a luncheon meeting in Washington between Senate Majority Leader George Mitchell, Chairman of the Finance Committee Lloyd Bentsen, Senator Johnston, Senator Moynihan, PDP President Hernández-Colón, NPP President Romero-Barceló, and PIP President Berríos-Martínez, the Senate leadership pledges a Senate vote on the referendum bill in 1990.

11/9 - Senate Agriculture Committee held hearings on S.712: Governor Hernández-Colón firmly criticizes S.712's front-loading of statehood. Requests parity in social programs under Commonwealth.

11/14-15 - Senate Finance Committee held hearings on revenue and spending provisions of S.712. Witnesses include: P.R. party presidents; Kenneth Gideon, Assistant Secretary of the Treasury for Tax Policy; Shirley D. Peterson, Assistant U.S. Attorney General, Tax Division; Constitutional Law Professor Laurence Tribe of Harvard, GAO, CRS and CBO.

11/16 - The Senate Finance Committee requests from the CBO and the Joint Economic Committee a study on the economic impact of the three status options in S.712.

1990

JANUARY 1990

1/30 - Linda G. Morra of GAO and Clay H. Welbourn of CRS conduct a briefing on Puerto Rico's political status for the members of the House Interior and Insular Affairs Committee, followed by presentations by the three Puerto Rican party representatives to the Dialogue Committee on Status.

FEBRUARY 1990

2/13 - *El Nuevo Día,* publishes Kaagan Research/Stanford Klapper Associates status poll. Results: Statehood, 43%; Commonwealth, 36%; Independence, 5%; Undecided, 16%.

2/26 - The New York Times op.ed. page features an article of Governor Hernández-Colón stressing statehood's negative economic and cultural impact on the Island.

MARCH 1990

3/2 - House Insular Affairs Subcommittee holds hearings in Washington on how to structure status referendum legislation. The three Puerto Rico party presidents testify.

3/8 - KMPG Peat Marwick Policy Economics Group releases a study on "Economic and Fiscal Impacts of Puerto Rican Statehood" which concludes that statehood would dramatically dislocate Puerto Rico's economy, hiking unemployment to 40% (a loss of 80,000 to 145,000 jobs) and resulting in a net cumulative deficit to the Federal Government of $22 billion to $25 billion by 2000. [II, 305]

3/9-10-12 - House Insular and International Affairs Subcommittee holds field hearings in San Juan, Ponce and Mayagüez. Chaired by Congressman Ron de Lugo and attended by Congressmen Robert Lagomarsino, James McClure Clarke, Richard Lehman, Ben Blaz, Eni Falaeomavaega, and Jaime Fuster. Over 80 witnesses, including scholars, and political, business, and civic leaders, testified.

APRIL 1990

4/5 - CBO releases a report on the "Potential Economic Impacts of Changes in Puerto Rico's Status under S.712" concluding that under statehood Puerto Rico would suffer a drop in GNP of 10-15% by the year 2000, accompanied by a loss of 50,000 to 100,000 jobs in the private sector. [II, 1]

4/24 - A Washington Post editorial criticizes S.712's front-loading of statehood and warns that the bill will not be approved because of the time limitation.

4/26 - Senate Finance Committee hearings on S.712, center on CBO report. CBO director Robert D. Reischauer, Treasury's international tax counsel Philip Morrison, Health and Human Resources Department Assistant Secretary Martin Gerry, and CBO economist Fred Ribe testify.

4/30 - Congressman de Lugo announces that he will file a referendum bill in the House within "the next week to ten days." He states that S.712 is in "deep trouble" and anticipates that his bill will not be self-implementing.

MAY 1990

5/1 - Governor Hernández-Colón announces in San Juan that any referendum bill that does not commit Congress to its results is unacceptable.

5/9 - Congressman de Lugo introduces H.R. 4765, a bill with general definitions and a two-step process requiring a second round of legislation to implement winning formula. [I, 261]

5/14-17 - In a visit to Puerto Rico, the Deputy Chief of Staff of the White House, Andrew Card, and the Director of Presidential Personnel and Liaison for Puerto Rico, Chase Untermeyer, support statehood. During their high-profile stay, they endorse public pro-statehood activities, and assured that, with the President's strong endorsement, statehood will win. Mr. Untermeyer states that "its about time that democracy reach here in Puerto Rico."

5/16 - Governor Hernández Colón writes a letter to President Bush expressing disappointment for the latter's pro-statehood activism. He urges the Bush administration to remain neutral and avoid tilting the referendum process, so that it can be conducted "free of outside interference and distortion." [I, 48]

5/17 - Statehood delegate to the Dialogue Committee Benny Frankie Cerezo makes public the Hex, Inc. memorandum on "Puerto Rican Statehood: A Condition for Solid Economic Development", which

contradicts the findings of the CBO report about the adverse impact of statehood on the economy of Puerto Rico. [II, 437]

5/23 - President Bush replies to Governor Hernández-Colón's May 16 letter expressing that he does not consider his -nor his staff's- actions "outside interference," and that his staff will not refrain from expressing its views. [I, 51]

5/31 - A CRS Brief on the "Impact of Puerto Rican Statehood on Puerto Rican Financial Instruments" is released. The brief sustains that the imposition of federal taxes and the repeal of Section 936 would probably result in higher borrowing costs for Puerto Rico. The study also points to the financial problems that the local government will face with the extension of an additional layer of taxation under statehood, implying a need for a reduction of government services and employment. [II, 203]

JUNE 1990

6/5 - A meeting of Congressmen de Lugo and Lagomarsino with the presidents of Puerto Rico's political parties is held in Washington, to receive the proposed definitions for their respective status formulae.

6/25 - The House Insular and International Affairs Subcommittee holds field hearings in New York on HR 4765. The hearings center on Congressman José Serrano's amendment to extend participation in the referendum to Puerto Ricans that reside in the United States. Congressman Bill Richardson chairs the Hearing. Congressmen José Serrano, Bill Green, Charles Rangel, and Jaime Fuster were present. Some 40 witnesses forcefully demand the so called "offshore vote."

6/28 - House Insular and International Affairs Subcommittee hearings on HR 4765 are held in Washington and chaired by James Clarke. The Puerto Rican party presidents explain their proposed status definitions. Assistant U.S. Attorney General Stuart Gerson also testifies.

JULY 1990

7/10 - A letter signed by Congressmen Fuster, Darden, Lewis, Blaz and Faleomavaega, all members of the House Insular and International Affairs Subcommittee to Chairman de Lugo supports his efforts on H.R. 4765 and states that the Subcommittee is ready to report out the bill with the definitions submitted by the three parties. [1, 53]

7/25 - Constitution Day in Puerto Rico. Special address by Governor Rafael Hernández-Colón on the celebration of the 38th anniversary of the Commonwealth.

7/27 - U.S. Interior Secretary Manuel Luján addresses a pro-statehood rally in Bayamón, Puerto Rico, reassuring statehood advocates of the Bush administration's commitment to their cause.

AUGUST 1990

8/1 - The Senate Finance Committee unanimously amends S.712 to establish a level playing field on the economic provisions of each formula and make them revenue-neutral over a 5-year period. Statehood delayed until 1996. Commonwealth granted parity on federal social programs, subject to an appropriate contribution by the commonwealth government. The Committee makes no recommendation on whether the bill as amended should be approved.

8/1 - Governor Hernández-Colón sends a letter to Congressman de Lugo responding to his inquiry on the Puerto Rico government official position regarding vote for non-resident Puerto Ricans. The Governor states that the Commonwealth government favors the inclusion of a provision in HR 4765 for such a vote.

8/3 - The House Insular and International Affairs Subcommittee approves HR 4765 by a 10-0 vote. The bill does not include definitions, provides for two-step process, requiring further legislation after the referendum. The status definitions are included in the House Interior and Insular Committee Report 101-790, Part 1. [I, 452]

SEPTEMBER 1990

9/19 - The House Interior and Insular Affairs Committee approves HR 4765 by a 37-1 vote. Republican Ron Marleene of Montana casts the sole dissenting vote. The bill authorizes "offshore vote" contingent upon agreement by two of P.R.'s three parties on its implementation.

OCTOBER 1990

10/2 - The House Rules Committee unanimously recommends HR 4765 for House floor consideration. [1, 472]

10/4 - A "Dear colleague" letter asking for floor support to HR 4765 is sent. Among the 29 signatures are those of Congressmen de Lugo, Lagomarsino, Udall, Fuster, Miller, Moakley, Rangel, Serrano, and Green. [I, 61]

10/5 - President Bush sends a letter to de Lugo commending his subcommittee for its efforts on producing legislation that will soon reach the House floor and urging "the entire Congress to act affirmatively and rapidly on whatever responsible measure comes before them to call for a referendum on Puerto Rico's political status. And I stand ready to sign such legislation when it reaches my desk." [I, 62]

10/10 - The House of Representatives approves HR 4765, "The Puerto Rico Self-determination Act," under suspension of the rules. Senator Johnston announces on the Senate floor that HR 4765 is unacceptable and that he will defer the Senate referendum effort until the next Congress. [I, 477-478]

10/11 - Puerto Rican party presidents subscribe joint letter to Senator Johnston: "To facilitate the legislative process and assure legislation, we respectfully urge you to accept the House bill (HR 4765), with amendments." [I, 65]

10/15 - A letter from Congressman Udall to Senator Johnston reviews the process leading to the impasse at the end of the 101st Congress. He reinstates House unwillingness to accept a self-executing bill; insists on general definitions over detailed ones such as those in S.712; and warns that postponement to the next Congress will most surely lead to a similar impasse. [I, 66]

10/18 - A joint statement from Puerto Rico party leaders urging Congress and the President to pass referendum legislation before adjournment, and requesting urgent meetings with President Bush and with Congressmen Foley and de Lugo, and Senators Mitchell and Johnston. [I, 70]

10/22 - Senator Johnston responds to Congressman Udall's October 15 letter. He regrets failure to pass referendum legislation in 101st Congress and stresses "solid" commitment to the process; expresses goal of working promptly in the next Congress for a 1991 or early 1992 referendum. [I, 74]

10/25 - The Senate Agriculture, Nutrition and Forestry Committee sends a letter to Johnston regretting lack of time to mark-up S.712 and expressing a policy of full federal nutrition assistance benefits under Commonwealth. Signed by Senators Leahy, Lugar, Pryor, Dole, Harkin, Cochran, Baucus, Boschwitz, Bond, McConnell. [I, 75]

10/25 - The Washington Post publishes the editorial on "The Puerto Rico Question". It urges the Senate to accept the House legislative approach: "a less ambitious referendum as the first step in a longer process...[in which] Congress would not be committing itself, only keeping alive a process that in Eastern Europe or the Baltics it would be heartily endorsing. Sen. Johnston should reconsider."

10/25 - Puerto Rico party leaders meet in Senator Johnston's office to discuss future efforts to approve referendum legislation. In a joint conference, Senator Johnston expresses commitment to push for legislation by July 4th. Governor Hernández-Colón conditions the acceptance of timetable to PDP's endorsement as governing party.

10/26 - House members send a letter to Senator Johnston urging him to reconsider decision to postpone referendum legislation to the 102nd Congress, and to bring HR 4765 to the Senate floor before adjournment. The letter is signed by Congressmen Ted Weiss, José Serrano, Charles Rangel, Bill Green, Gary Ackerman, Thomas Manton, Frank Horton, Benjamin Gilman, Robert Mrazek, James Scheuer, Gerald Solomon, Major Owens, Eliot Engel, Amo Houghton. [I, 77]

NOVEMBER 1990

11/6 - The NY Times "Pallid Promises to Puerto Rico" editorial reflects on Congress' failure to approve referendum legislation because of the House/Senate impasse. It states that "Puerto Ricans have learned not to hold their breath when members of Congress promise action."

11/13 - Governor Hernández-Colón in a televised address to the people of Puerto Rico states that in order to restart the legislative process for a referendum before the 1992 elections, the Congressional leadership must resolve early on in the 102nd Congress the differences that derailed the legislation in the 101st Congress.

11/17 - The island-wide leadership of the PDP, assembled in Ponce, adopts a resolution endorsing the continuation of the referendum legislative efforts. It pledges to work toward a 1991 referendum if by February 19 the bipartisan leadership of House and Senate agree on a consensus legislative approach regarding the specificity of the status definitions and the mechanism of implementation of the referendum results. Otherwise, the referendum would be held after the 1992 general elections. It requests that the definitions of status formulae be "of equal political dignity and not subordinate to the plenary powers of Congress under the Territorial Clause."
[I, 79]

11/29 - The Puerto Rican party presidents sent a joint letter to Congressional leaders demanding House/Senate agreement on a consensus bill early during the 102nd Congress so that a bill be approved in the summer of 1991 and a referendum be held in the fall. It echoes the PDP referendum timetable adopted in Ponce. The letter is sent to Senators Mitchell, Dole, Bentsen, Johnston, Packwood, Wallop, and Congressmen Foley, Michel, de Lugo, Lagomarsino, Udall and Young. [I, 86]

DECEMBER 1990

12/3-6 - Senate Energy Committee Senators Johnston, Wallop and Nickles visit Puerto Rico. Senator Johnston discusses his new referendum draft bill with the three Puerto Rico party presidents. The draft

bill includes detailed definitions (slightly amended version of S.712, including Senate Finance Committee amendments) but is not self-executing.

12/30 - Members of the Republican Party of Puerto Rico, led by former Governor Luis A. Ferré, announce a 300,000 affiliates registration drive to persuade U.S. Senators of the strength of the local GOP.

1991

JANUARY 1991

1/2 - Senator Johnston announces that he will introduce referendum legislation on January 23. Hearings will be held on January 30.

1/3 - De Lugo introduces a referendum bill in the House (HR 316). The bill is exactly the same as HR 4765. The House Republican leadership refuses to cosponsor bill, although it had done so in the previous Congress. [I, 526]

1/30 - Senate Energy and Natural Resources Committee hearings on S.244 were held. The three Puerto Rican party presidents testify.

FEBRUARY 1991

2/7 - The Senate Energy and Natural Resource Committee hearings on S. 244 continue with witnesses from the Administration testifying.

2/20 - The Senate Energy and Natural Resource Committee meets formally to discuss S. 244. Strong opposition against statehood is evident in the comments of various members.

2/20 - *El Nuevo Día,* publishes Kaagan Research/Stanford Klapper Associates status poll results: Commonwealth: 41%, Statehood: 39%, Independence: 5%.

2/26 - A letter by President Bush to Senator Bennett Johnston, Chairman of the Energy and Natural Resource Committee urging him "to act favorably on calling for... a referendum."
2/27 - The Senate Energy and Natural Resources Committee fails to pass S.244, a bill to provide for a referendum on the status of Puerto Rico by a 10 to 10 impasse. Seven Republicans and three Democrats voted against the bill, citing objections to the statehood option. A substitute presented by Senator Wallop that would have recognized Puerto Rico's right to self-determination through a local plebiscite is also defeated.

MARCH 1991

3/8 - Congressman de Lugo states to the Puerto Rican press that unless the Senate moves on S. 244 the house will not consider H.R. 316.

3/17 - In an interview with the Puerto Rican press, Senator Johnston states that the status referendum legislation is dead for the 102nd Congress.

3/20 - Governor Rafael Hernández Colón joins Senator Johnston in acknowledging that there are no chances for passage of referendum legislation so that a vote may be held in 1991.

UNA CUMBRE LUMINOSA

Mensaje Inaugural del Gobernador
del Estado Libre Asociado
de Puerto Rico
HON. RAFAEL HERNANDEZ COLON

2 de enero de 1989

Puertorriqueños:

Vengo ante ustedes orgulloso de haber sido electo por nuestro pueblo y humilde al mirar hacia lo alto de la cumbre luminosa a la cual queremos ascender. Desde los días en que este pueblo comenzó su lucha jalda arriba, hemos alcanzado alturas impensadas por generaciones anteriores.

Hemos confrontado adversidades y reveses, pero hemos sido capaces de forjar el cambio necesario para repechar la jalda del progreso.

Y hoy, con profunda emoción en mi corazón, me enfrento, junto a ustedes y con ustedes mis queridos compatriotas, al enorme, pero excitante reto, de ascender a una nueva cumbre en la historia de las grandes conquistas del pueblo puertorriqueño.

Entramos hoy en un período de brío, de entusiasmo creador, que nos impulsará hacia esa elevada cumbre.

Entramos hoy en una nueva etapa donde los puertorriqueños sentimos una vigorosa urgencia de ascender y superarnos.

Entramos hoy en una nueva etapa que nos permite tomar iniciativas con audacia, confianza y seguridad. Una nueva etapa que es la expresión de madurez cívica tras una lucha larga y sostenida.

Somos vencedores de prolongadas adversidades. Hemos luchado contra las limitaciones de la naturaleza, contra siglos de pobreza y enfermedades, contra la falta de educación. Hemos luchado por defender nuestra identidad. Hemos luchado contra la politización que paraliza la dinámica creativa y productiva del país.

Y ahora llegó el tiempo en que la experiencia ganada en esas prolongadas batallas, sirva de sustento al cambio cualitativo. A la transformación de una sociedad que lucha por llegar, en una sociedad que se empeña en alcanzar la grandeza propia de un país como el nuestro; pequeño en el concierto de naciones, pero con la capacidad de alcanzar la calidad de vida material y espiritual que dignifique y enorgullezca a cada puertorriqueño.

UN GOBIERNO SENSIBLE Y EFECTIVO

Avanzar hacia esa cumbre, requiere reorganizar los procesos del gobierno mediante la modernización y capacitación de sus recursos, para incrementar la eficiencia de sus servicios.

Avanzar hacia esa cumbre requiere un gobierno que no sea una pared impenetrable para el desarrollo económico, sino un agente de progreso que facilite la iniciativa privada.

Avanzar hacia esa cumbre requiere un gobierno accesible, humano y rápido en su respuesta a los ciudadanos, intachable en la gestión limpia y honrada de sus funciones. Me propongo darle esa clase de gobierno al país.

Me propongo descentralizar los departamentos y agencias, deshacernos de leyes y programas arcaicos.

Me propongo redirigir los recursos del erario al salón de clases, a los hospitales, a los sectores estratégicos para alcanzar la cumbre.

Perseguiré estos objetivos manteniendo el clima de tranquilidad y sosiego que caracterizó los pasados cuatro años, el diálogo sereno, el respeto a la opinión ajena, y el cultivo de la sana convivencia.

SEGURIDAD

En la lucha por nuestra seguridad, combatiremos la droga y la delincuencia, enfatizando la prevención y la rehabilitación tanto como la represión del tráfico. Para alcanzar el salto cualitativo en esta área, sin embargo, somos conscientes de que se requieren políticas a nivel internacional que fomentaremos en los foros apropiados.

EL DESPEGUE ECONOMICO

El despegue económico de este cuatrienio -17%- tiene que mantenerse para escalar la cumbre. Este crecimiento ha sido mayor que el de Estados Unidos, Alemania e Inglaterra.

En esta nueva etapa, amparados en nuestra autonomía fiscal apoyada por la 936, la economía debe crecer sostenidamente, sin retrocesos, y con una consigna básica en las mentes de todos: confianza. Confianza en un porvenir hecho por el esfuerzo y el tesón de este pueblo noble y trabajador.

En enero de 1985, cuando comenzamos nuestra jornada, más de un 21.6% de la fuerza laboral estaba desempleada. Hoy trabajan 927,000 puertorriqueños. En cuatro años creamos 181,000 nuevos empleos. Como resultado, el desempleo descendió a 14.2%, el nivel más bajo en 14 años. En 1992, cuando terminemos el período que hoy se inicia, el desempleo se habrá rebajado a por lo menos un 10%, la cifra más baja en nuestra historia.

LA JUSTICIA SOCIAL

Crear riquezas con eficiencia y distribuirlas con justicia, es la prueba de fuego de todo gobierno.

La nueva etapa que comienza el país exige un compromiso profundo con los puertorriqueños más necesitados, con los pobres de las grandes ciudades, de los pueblos y de los campos, con los que carecen de techo, con los que viven en nuestros residenciales

públicos, con los que tienen impedimentos, con los ancianos marginados. Para llegar a la nueva cumbre, el sol tiene que salir para todos los puertorriqueños.

LA EDUCACION

Para ascender a esa cumbre, es también menester preparar a nuestros hijos para que puedan competir en un mundo en el que la grandeza y la riqueza de los pueblos se logran por la calidad y aplicación de los saberes que se atesoran.

Puerto Rico dispone de una cuarta parte de su presupuesto en la educación pública, $1,400 millones anuales. Proporcionalmente, nuestra inversión en educación es de las más altas del mundo.

En estos cuatro años hemos creado la base para que esa inversión propicie un gran despegue educativo. Ahora ha llegado el momento de alzar vuelo y conseguir la excelencia en la formación de las nuevas generaciones de puertorriqueños.

EL COMPROMISO CON NUESTROS HERMANOS

No podemos aspirar a alcanzar una nueva cumbre para nuestro pueblo, si no incluimos a los 2.4 millones de puertorriqueños que viven en los Estados Unidos.

Nuestro gobierno ha encauzado una acción política vigorosa para hacer respetar y valer los derechos de nuestros hermanos en el continente. Nuestra campaña ATREVETE logró inscribir en Nueva York, 95,000 nuevos electores e incrementó en un 63% la participación electoral de los puertorriqueños en elecciones presidenciales.

Durante este cuatrienio no sólo incrementaremos esos esfuerzos, sino que también reorganizaremos nuestras oficinas continentales para crear una agencia que se constituya en fuerte defensora de los puertorriqueños en los Estados Unidos y promotora de su justicia y bienestar.

La realidad es que esos 2.4 millones de puertorriqueños son tan parte de este pueblo como lo son los 3.3 millones que están en la isla. En virtud de la ciudadanía

americana, el espacio vital de nuestro pueblo se ha ensanchado; ya no es sólo la isla de Puerto Rico, sino también el vasto territorio de los Estados Unidos. El flujo y reflujo de puertorriqueños en ambas direcciones constituye una característica especial de nuestro pueblo y el cimiento humano y geográfico de una realidad ya históricamente determinada que es la unión permanente entre Puerto Rico y los Estados Unidos de América. No obstante esa realidad, dentro de nuestro pueblo subsiste el divisivo debate sobre nuestro status político.

STATUS

En este período en que propongo a nuestro pueblo el paso histórico de escalar una nueva cumbre, resulta necesario enfrentar ese continuo debate sobre nuestra relación con los Estados Unidos de América. Este es un debate que los puertorriqueños quieren terminar. La inmensa mayoría de los puertorriqueños desea expresarse en torno al issue de nuestro status político. El pueblo desea ser consultado.

Yo comparto ese deseo. Creo que ha llegado la hora de que el pueblo exprese nuevamente su preferencia sobre las tres alternativas de status político y creo que es igualmente necesario que el gobierno de los Estados Unidos de América manifieste su posición al efecto.

Y en ese espíritu, anuncio que nos proponemos plantear al país, el desarrollo del Estado Libre Asociado al máximo de gobierno propio compatible con la unión permanente de Puerto Rico con los Estados Unidos. En ese proceso, mi gobierno expresa, desde ahora, su inalterable apoyo a la unión permanente bajo el Estado Libre Asociado y el rechazo más categórico al concepto de República Asociada y al concepto de la previa "transferencia de poderes".

En consecuencia, iniciaremos en breve conversaciones con el gobierno de Estados Unidos y con los líderes que en Puerto Rico representan otras fórmulas de status, sobre la manera de plantear la consulta a nuestro pueblo, de modo que las tres fórmulas de

status político tengan igual oportunidad de ser sometidas en la consulta para que nuestro pueblo escoja libremente entre ellas.

APERTURA AL MUNDO

Vivo orgulloso de esta tierra, de su voluntad de lucha, de sus logros, de su historia, de la riqueza de nuestras tradiciones y de nuestra cultura. Soy un puertorriqueño orgulloso del tesón de nuestros trabajadores y del corazón ancho y generoso de nuestro pueblo.

La grandeza de nuestro pueblo no puede transitar en todo su esplendor a través de las estrechas perspectivas insularistas. El porvenir de nuestra tierra habrá de transitar por los caminos anchos de su potencial sin límites.

Me propongo potenciar nuestro liderato en la región caribeña. Los pasos ya dados en la complementación de las economías regionales - transportación aérea desde Puerto Rico y 11 países, plantas gemelas entre Puerto Rico y 11 países, y $165 millones de inversión en ellas, servicios financieros, oportunidades educativas, promoción turística conjunta - todos estos pasos serán seguidos por otros encaminados a fortalecer las economías de la región y a apoyar las democracias del área, apuntalando su desarrollo económico. El Presidente Bush y el Congreso contarán con el apoyo vigoroso y decidido del Gobierno del Estado Libre Asociado para una política de desarrollo económico, afianzamiento democrático, y de paz en la región.

Nuestra apertura al mundo va más allá de la región que habitamos. Intensificaremos las gestiones para diversificar nuestras fuentes de inversión, mercados y turismo. Se perfilan nuevas posibilidades con la consolidación de la Comunidad Europea en 1992, los desarrollos en los países asiáticos y el nuevo tratado comercial de Estados Unidos y Canadá. No vamos a ser espectadores ante esos excitantes desarrollos en una economía globalizada e interdependiente. Seremos actores participantes en la evolución global hacia el final del siglo.

Estamos de lleno en el proceso que conduce a la celebración del V Centenario del Descubrimiento de América. Puerto Rico aporta a esa efemérides su condición especial de eje entre las dos culturas predominantes en este hemisferio. Esta celebración marca nuestro entronque cultural e histórico con la vasta comunidad espiritual que es la hispanidad.

Nos hemos propuesto conquistar la sede olímpica para el año 2,004. Tomamos ese reto como una idea-fuerza para un impulso de superación mucho más amplio que nos elevará hacia la cumbre que queremos alcanzar.

PUERTO RICO EN EL SIGLO XXI

Ese impulso lo hemos denominado el proyecto PUERTO RICO 2,004. La primera etapa de ese proyecto que comienza este año, recabará la participación de todos los interesados en las distintas regiones del país, para elaborar los planes del Puerto Rico que queremos construir para entrar en el Siglo XXI.

Estos planes incluyen el uso cuidadoso de la tierra, protegiendo las zonas verdes y nuestros recursos naturales. Contemplan el desarrollo ordenado de la infraestructura, carreteras, puertos y aeropuertos, hoteles, paradores, hospitales, escuelas, viviendas y las instalaciones recreativas. Abarcan el ordenamiento de los componentes urbanos protegiendo el patrimonio arquitectónico y urbanístico y rescatando los sectores deteriorados de nuestros pueblos y ciudades. Igualmente, incluyen la planificación de las actividades económicas y el desarrollo de las nuevas generaciones de puertorriqueños.

La meta, que va mucho más allá que cualificar para celebrar los juegos, es tomar esa coyuntura simbólicamente para el desarrollo de un proyecto que aglutine la voluntad de todos los sectores del país y nos sitúe entre los países más adelantados por su calidad de vida en el mundo.

De modo que hoy comenzamos una etapa nueva de nuestras vidas. Hoy, que nos sentimos mucho más capacitados que nunca antes, nos estamos proponiendo metas que antes no hemos soñado. Metas de liderazgo, de vanguardia que trascienden las perspectivas insularistas.

En sus manos, mis queridos compatriotas, más que en la mías, está el éxito de esta iniciativa. En manos de nuestros trabajadores que hoy se reconocen entre los más productivos del mundo, de nuestros excelentes profesionales, de nuestros empresarios, de nuestros deportistas y artistas, de nuestros servidores públicos. Yo apuesto a ese talento. Y voy a este pueblo, porque este pueblo ya aprendió que puede. Y quien puede, como dijo Don Luis Muñoz Marín, debe.

El gran potencial que tenemos no nos fue dado para dilapidarlo en una voracidad de consumo ostentoso y vacío, no para disiparlo en emociones mezquinas, sino para emplearlo en la construcción de un país vibrante, justo, ancho en sus perspectivas, vigorizante en su propósito colectivo de dignificar y enaltecer la vida de cada puertorriqueño.

No les hablo de ilusiones, sino de trabajo esforzado. Sé que les estoy convocando a un esfuerzo difícil, intenso, largo y sostenido. Pero creo en ustedes; les convoco a levantar miras sobre las emociones pequeñas, a enlazar aspiraciones sobre las trivialidades y arideces que llenan nuestra vida pública y elevar el espíritu noble y tesonero de este pueblo para alcanzar las conquistas que están claramente dentro de sus posibilidades.

Cuando este pueblo se ha encaminado hacia lo alto, ha probado su capacidad una y otra vez. Vamos de nuevo hacia una cumbre más elevada, que transformará nuestras vidas como lo hicieron las jaldas y las cumbres que repecharon otras generaciones de puertorriqueños.

Vamos a saldar la deuda moral que tenemos con esas generaciones que nos legaron con su esfuerzo, visión y sacrificio, el Puerto Rico que hoy tenemos, construyendo un Puerto Rico aún mejor como legado a las futuras generaciones.

Compatriotas:

Dentro de mí hay una esperanza eterna. Los sueños que los años estremecen se reemplazan por nuevos entusiasmos, nuevos bríos y nuevos comienzos.

Busco la esencia de las cosas para construir nuevas realidades más nobles al espíritu humano. Invoco la ayuda de Dios Todopoderoso. Les llamo a unir voluntades, para alcanzar la cumbre donde el sol brille luminoso para todos los puertorriqueños.

Excerpt of the reference made to the issue of the status of Puerto Rico by President George Bush on his first message to Congress:

REMARKS BY THE PRESIDENT
TO THE JOINT SESSION OF CONGRESS

Delivered at the Hall of the
U.S. House of Representatives
The Capitol
Washington, D.C.
February 9, 1989

"...There's another issue that I've decided to mention here tonight. I've long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I strongly favor statehood. But I urge the Congress to take the necessary steps to allow the people to decide in a referendum...."

January 17, 1989

The Honorable George Bush
President
United States of America
The White House
Washington, D.C.

Dear Mr. President:

In the past election held on November 8, 1988, all three political parties, which represent the three alternatives for the ultimate political status of the People of Puerto Rico, included the need for the resolution of the status issue in the platforms they presented to the electorate.

In accordance with the platform of the Popular Democratic Party, the Governor of Puerto Rico announced in his Inauguration the intention of the Government of Puerto Rico to pursue the resolution of the status question with the Government of the United States of America and convened a meeting of the leadership of the three political parties that represent the three formulas.

As a result of this meeting we, the Presidents --of the Popular Democratic Party, representing Commonwealth, the New Progressive Party, representing Statehood, and the Independence Party, representing Independence-- have agreed to express to the President and to the Congress of the United States of America, that the People of Puerto Rico wish to be consulted as to their preference with regards to their ultimate political status and the consultation should have the guarantee that the will of the People once expressed shall be implemented through an act of Congress which would establish the appropriate mechanisms and procedures to that effect.

Towards the formulation of such an act of Congress and related policies, we request to meet with you at your earliest convenience.

Conscious that since Puerto Rico came under the sovereignty of the United States of America through the Treaty of Paris in 1898, the People of Puerto Rico have not been formally consulted by the United States of America as to their choice of their ultimate political status, and in the understanding that we are taking a momentous decision in Puerto Rican history and confident of the commitment of the United States of America and of the People of Puerto Rico to the principles of self-determination and government by the consent of the governed, we remain,

Cordially yours,

BALTASAR CORRADA DEL RIO
President
New Progressive Party

RAFAEL HERNANDEZ COLON
President
Popular Democratic Party

RUBEN BERRIOS MARTINEZ
President
Puerto Rican Independence Party

* THIS SAME LETTER WAS SENT TO THE CONGRESSIONAL LEADERSHIP.

DECLARACION CONJUNTA

Los firmantes hemos llegado, en reunión celebrada hoy 17 de enero de 1989, a los siguientes Acuerdos:

(1) Es necesario lograr a la mayor brevedad posible, una solución al problema de la condición política del pueblo de Puerto Rico.

A tales fines, es imprescindible que el Gobierno de los Estados Unidos se comprometa a respetar la voluntad del pueblo puertorriqueño.

(2) Como primer paso de caracter histórico, en el día de hoy se está enviando una carta firmada por los Presidentes de los tres partidos políticos de Puerto Rico al Presidente de los Estados Unidos y a los líderes de los respectivos comités congresionales, copia de la cual se acompaña a este documento.

(3) Para darle continuidad a estos Acuerdos y tratar otros asuntos relacionados, el Gobernador de Puerto Rico promulgará una Orden Ejecutiva mediante la cual se constituirá un COMITE DE DIALOGO Y CONSULTA SOBRE EL STATUS POLITICO integrado por los Presidentes del Partido Popular Democrático, del Partido Nuevo Progresista y del Partido Independentista Puertorriqueño.

BALTASAR CORRADA DEL RIO

RAFAEL HERNANDEZ COLON

RUBEN BERRIOS MARTINEZ

COMMONWEALTH OF PUERTO RICO

OFFICE OF THE GOVERNOR
SAN JUAN, PUERTO RICO 00901

February 14, 1989

The Honorable George Bush
President
The White House
Washington, D.C.

Dear Mr. President:

On January 17, 1989, the Presidents of Puerto Rico's three political parties -- the Popular Democratic Party, representing Commonwealth, the New Progressive Party, representing Statehood, and the Independence Party, representing Independence -- reached a historic agreement to jointly express to the President and the Congress of the United States that the People of Puerto Rico wish to be consulted as to their ultimate political status, and that the consultation should include the guarantee that the will of the People once expressed shall be implemented through an act of Congress.

We reached this momentous decision in Puerto Rican history confident of the commitment of the United States and the People of Puerto Rico to the principles of self-determination and government by the consent of the governed. In our January 17, 1989, letter to you, we sought a meeting at your earliest convenience to work towards the formulation of an act of Congress and related policies.

As Governor of the Commonwealth of Puerto Rico I was gratified that you included the matter of Puerto Rico's political status in your Budget Message to a Joint Session of Congress, and ratified the United State's long-standing policy of respecting the the people of Puerto Rico's "right to determine their own political future." More significantly, while you expressed your personal preference for Statehood, you nevertheless urged the Congress "to take the necessary steps to let the people decide in a referendum."

In my public reaction to the Puerto Rican People, I expressed "the warmest welcome to your remarks." I expressed

confidence that with your Presidential leadership behind Puerto Rico's three-party initiative, as well as bi-partisan support in the Congress, we will be able to go forward with the proposed consultation.

I must share with you a concern I expressed publicly regarding your personal support for Statehood. I fully recognize and respect this sincere and long-standing preference. I am confident you recognize, however, that in order fully to implement the right of the people to determine their own future, it is necessary that you should abstain from supporting any particular formula in the plebiscite campaign.

I look forward to meeting with you on this matter, so that we may jointly advance this historic step of self-determination.

Cordially,

Rafael Hernández Colón

COMMONWEALTH OF PUERTO RICO

OFFICE OF THE GOVERNOR
SAN JUAN, PUERTO RICO 00901

February 15, 1989

The Honorable mNn
United States Congress
United States Senate
Washington, D.C. 20510

Dear Senator mSn:

On January 17, 1989, the Presidents of Puerto Rico's three political parties -- the Popular Democratic Party, representing Commonwealth, the New Progressive Party, representing Statehood, and the Independence Party, representing Independence -- reached a historic agreement to jointly express to the President and the Congress of the United States that the People of Puerto Rico wish to be consulted as to their ultimate political status, and that the consultation should include the guarantee that the will of the People once expressed shall be implemented through an act of Congress.

We reached this momentous decision in Puerto Rican history confident of the commitment of the United States and the People of Puerto Rico to the principles of self-determination and government by the consent of the governed. We communicated this agreement to leaders in the Congress and to the President in a jointly subscribed letter, a copy of which I enclose. In that letter we requested a tripartite meeting with President Bush and with the leadership of the Congress in order to advance consideration of the appropriate act of Congress.

President Bush, in his Budget Speech to a Joint Session of Congress last week, brought to national attention his endorsement of the right of the people of Puerto Rico freely to decide their own political status. Although the President expressed his long-standing personal preference for Statehood, he nevertheless ratified the United State's established policy of respecting the people of Puerto Rico's "right to determine their own political future," and urged the Congress "to take the necessary steps to let the people decide in a referendum."

Letter sent by Governor Rafael Hernández-Colón to all Members of the U.S. Senate (101th Congress).

Our preliminary meetings with the Senate and House leadership have been fruitful and positive. I am confident that with bi-partisan support in the Congress behind Puerto Rico's three-party initiative, we will be able to go forward with legislation implementing the proposed consultation.

The people of Puerto Rico and I hope to count on your support in this matter. By assisting the People of Puerto Rico in their unified quest for a final solution to their political status situation, you will be acting in the best traditions of American participatory democracy and its dedication to the principles of self-determination.

I look forward to meeting with you on this matter, so that we may jointly advance this historic step of self-determination.

Cordially,

Rafael Hernández-Colón
Governor

Enclosure

HOWARD M. METZENBAUM, OHIO
BILL BRADLEY, NEW JERSEY
JEFF BINGAMAN, NEW MEXICO
TIMOTHY E. WIRTH, COLORADO
KENT CONRAD, NORTH DAKOTA
HOWELL T. HEFLIN, ALABAMA
JOHN D. ROCKEFELLER IV, WEST VIRGINIA

PETE V. DOMENICI, NEW MEXICO
MALCOLM W[illegible], WYOMING
FRANK H. M[illegible]SKI, ALASKA
DON NICKLES, [illegible]LAHOMA
CONRAD BURNS, MONTANA
JAKE GARN, UTAH
MITCH McCONNELL, KENTUCKY

DARYL OWEN, STAFF DIRECTOR
D. MICHAEL HARVEY, CHIEF COUNSEL
FRANK M. CUSHING, STAFF DIRECTOR FOR THE MINORITY
GARY G. ELLSWORTH, CHIEF COUNSEL FOR THE MINORITY

United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
WASHINGTON, DC 20510-6150

March 25, 1989

President George Bush
The White House
1600 Pennsylvania Ave.
Washington D.C. 20500

Dear Mr. President:

We are writing to request your assistance in developing legislation regarding the political status of Puerto Rico.

We share your desire to give the people of Puerto Rico an opportunity to express their preference, in a referendum, on the future political status of Puerto Rico. However, for such a referendum to be meaningful, the Congress must exercise its responsibility by defining the terms of the three status options available to Puerto Rico: Statehood, Independence or Commonwealth.

In addition, such a referendum must be held well before Puerto Rico's 1992 elections in order to minimize confusing the results of the referendum with other political issues. To meet this time constraint, legislation authorizing a referendum, and providing meaningful definitions of the status options, must be enacted in the 101st Congress. To initiate this process, we plan to introduce three legislative proposals. Each of the bills authorizes a referendum, but they differ in the level of specificity of the definitions.

The first bill would authorize a referendum on the three status options as defined by just one, or a few, words, such as "Statehood", "Independence" and "Commonwealth". The second bill would define the options with somewhat greater specificity. The third bill would actually set forth enabling legislation in addition to definitions of the three options.

Under each of the measures, a run-off referendum would be held, if necessary, to obtain a majority vote on one of the status options. Under the first two options, representatives of the option which finally received a majority would then negotiate the details of that option with Congress. Following enactment of the negotiated details of that option, there would be a second referendum in Puerto Rico to either accept or reject implementation of the option as fully defined by Congress. In the case of the third bill, a second referendum would be unnecessary because each of the definitions would be complete and "self-executing". That is, the option receiving the majority vote in the first referendum would be implemented in accordance with the terms of the enabling legislation.

When these three bills are introduced, the actual definitions will be left blank. The three principal Puerto Rican political parties will present their initial definitions to fill in these blanks in early May. We expect to begin hearings on these initial definitions in June and to receive comments from the Administration in July.

To maintain this ambitious schedule, and enact legislation in the 101st Congress, there will need to be stringent procedures for the consideration of issues, and a high degree of coordination between Congress and the Administration. Accordingly, we request that you establish an Administration Task Force on Puerto Rico to coordinate and facilitate communications within the Administration, and with Congress.

The development of the status option definitions will necessarily involve nearly all agencies which have program operations in Puerto Rico. Therefore, we also request that you designate "Puerto Rico" contacts within each of these agencies and in OMB, and designate a lead agency for these issues in order to facilitate communications with Congress. We would appreciate receiving the names of these individuals and the lead agency as soon as possible so that we can coordinate our process and involve the Administration as fully as possible.

We share your interest in giving the people of Puerto Rico an opportunity to indicate their preference regarding the island's political future. We are commited to expeditious Congressional action on this legislation and we anticipate close communication and coordination with the Administration.

We look forward to working with you.

Sincerely,

James A. McClure
Ranking Minority Member

J. Bennett Johnston
Chairman

JBJ/aa

Carlos Romero Barceló

Former Governor of Puerto Rico
San Juan, Puerto Rico

March 28,1989

Honorable J. Bennett Johnston
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington,D.C. 20510

Dear Senator Johnston:

As agreed during your visit to Puerto Rico last February, it is my pleasure to submit our comments to the three drafts prepared by you.

Recommendations pertaining to all three drafts :

1-The referendum or plebiscite should be called by the Congress. The participation of the Governor of Puerto Rico implementing the call should not, in any way, imply that the power to decide this issue does not rest in Congress. The Governor could probably call for a plebiscite, as per

Congress' instructions and at the urging of the Dialogue Committee (Comité del Diálogo) that will be formed in Puerto Rico with the purpose of guaranteeing that through this institution there will be an equitable, harmonious and fair process in which no formula will have advantages over the other, economic or otherwise. In said committee there is going to be equal footing participation for all parties concerned.

2-The purpose of the plebiscite is to offer the people of Puerto Rico the choice to select and negotiate with Congress the implementation of one of the final status options. It should be recognized that only Statehood and Independence are final status options. An option which would maintain U.S. citizenship for all U.S. citizens residing in Puerto Rico, but which at the same time permanently disenfranchises all 3.5 million U.S. citizens in Puerto Rico, is undemocratic and should be unacceptable to the U.S. Congress and would never be acceptable to the people of Puerto Rico.

3-The formulas should not have adjectives or embellishing names added. Statehood should be Statehood. Independence should be Independence. Commonwealth should never be Enhanced

Commonwealth In Permanent Union, since it is known and accepted by all that permanent union is only feasible within the framework of Statehood. We strongly feel that the use of such words is misleading to the people of Puerto Rico.

If such an embellishment were unfortunately used in any of the bills, particularly on the first one, we request that Statehood be designated as Statehood with Full Powers in the Union and Full and Equal Participation in all Federal Programs . Independence followers also deserve the same treatment. We are sure that they could also come up with similar wording to balance the undue advantage created in favor of Commonwealth by the use of imagery and semantics.

4-Violations to the Electoral Laws of Puerto Rico should be made violations of federal laws for the purpose of the plebiscite and adequate federal funds should also be made available for campaign on behalf of all status options.

5-Those corporations obtaining local and federal tax benefits which deprive the poor , the elderly and the handicapped , among others, from receiving equal benefits under federal programs such as the so called 936

companies, which thrive on the status quo in Puerto Rico, and their PAC'S and related companies, should abstain from funding or assisting any one of the formulas.
The Status of Puerto Rico should be decided without such undue and formidable economic pressure. Therefore, it is only proper that provision be made prohibiting those activities.

6-The plebiscite or referendum should be held in July, 1991, or some other date during the summer of 1991.

7-Any run-off election that Congress might deem to be necesary should include a "Statehood : Yes or No" option in case that Statehood should come in third, and it should also include an "Independence : Yes or No" option in case that Independence comes in third. The reason is that Commonwealth, as it exists, or any other colonial status should never have the power to quash the right of over 3.5 million U.S. citizens to express, vote and petition for full paticipation in the affairs of the nation whose citizenship they posses.
As to the Independence followers, they should never be forced to vote for alternatives they do not want. Or to eliminate, in a run-off , an alternative for which they could vote. A "Statehood and Commonwealth" run-off would

deprive Independence advocates of a place to vote on the ballot . It would be foolish to portray before the International community of nations that they are deprived of an opportunity to vote for Independence. Besides, it would be contrary to elemental principles of International Law.

8-A final referendum should be held not later than 90 days after enactment of the Federal Law Implemeting the final status options.

Specific Recommendations pertaining to the second draft:
The second draft specifies that the definitions submitted by the parties are not binding upon either side . While we understand Congress' reluctance to dispense of its powers under the Territorial Clause, or to committ itself to these definitions, at least at this stage, we strongly feel that the political parties in Puerto Rico should be bound by the definitions they bring before Congress and before the people of Puerto Rico.
The definitions should also address themselves to the permanent features or characteristics of the final status option they propose. The transitory conditions or stages that any of the status options will need should be addressed at its proper time.
Specific Recommendations pertaining to the third draft :
The so called "Commonwealth" option is, due to its nature,

non-permanent and disenfranchising. Therefore, if is offered as an option and were it to win, it should be made clear to everyone, and particularly to the people of Puerto Rico, that such a status option would not and could not come into effect unless the Congress is willing to renounce its Territorial powers and recognizes the said status under International Law as an Associated Republic, whose newborn citizens from the date of implementation will not be U.S. citizens by birth, but rather citizens of the new Associated Republic.

Enclosed you will find a copy of each of the drafts already reflecting the changes we have mentioned. Our staff will keep in touch with yours in order to clarify any particular you might deem advisable.

Sincerely,

Carlos Romero-Barceló

March 29, 1989

The Honorable J. Bennett Johnston
Chairman
Committee on Energy and Natural Resources
Hart Office Building
Washington, D.C. 20510

Dear Senator Johnston:

We have jointly reviewed your revised draft bills, and, as suggested, sought to find areas of consensus on needed amendments. Our review has been guided by the understanding that the three draft bills reflect your authorship, and may not be properly characterized as bills responding to, or reflecting the views of any particular political party.

Although we have been unable to reach consensus on issues raised by one or the other of the parties, and have preferred to express our views separately, we are looking forward to meeting with you and your staff on Monday, April 3rd, to go over the draft bills, and those areas as to which we believe we have substantial agreement.

Cordially,

José M. Borrocal

Benny Franklin Cerezo

Fernando Martín

MEMORANDUM

TO: The Honorable Rafael Hernandez Colon
The Honorable Carlos Romero Barcelo
The Honorable Ruben Berrios Martinez
FROM: Senator J. Bennett Johnston
DATE: April 10, 1989
SUBJECT: Update on legislative schedule

1. Initial Washington hearings --June 1 and 2

On further reflection and to assure equal participation, we suggest that we begin our hearings on Thursday, June 1 with a 30 minute overview presentation by each party's designated representative (sequentially) during the morning session. We believe we will have good committee attendance at this opening session, and that media interest will be the keenest during this time. Therefore, we suggest each party representative should have time to summarize and explain its definition during this opening session.

Following these initial presentations, we will schedule one half day for each party to further explain its definitions and for the committee to engage in further question and answer exchanges. To avoid week-end interruption of these more detailed sessions, staff has suggested that we request consent of the Senate to utilize afternoon sessions on June 1 and June 2.

I suggest that we go in reverse order for these sessions, and directed staff to "draw straws" to determine the order of presentations. The results are as follows:

Thursday, June 1

Morning Session --Initial Presentations

9:30- NPP presentation

10:00 - PIP presentation

10:30 - PPD presentation

Afternoon Session - (2:00 - 4:00)
Detailed Presentation, PPD

Friday, June 1

Morning Session (9:30 - 11:30) - PIP Detailed Presentation

Afternoon Session (2:00 - 4:00) - NPP Detailed Presentation

Enclosed, for your information, is a copy of the notice I will be filing today outlining the committee's schedule for the June 1 and June 2 hearings.

2. San Juan hearings --Friday, June 16 and Monday, June 19

We are still planning to hold committee hearings in San Juan on these dates, but have not yet received confirmation of the Senate's floor schedule in June.

3. Administration comments --early July, in Washington

Enclosed for your information is a copy of a letter which Senator McClure and I sent to the President requesting that he establish a Task Force on Puerto Rico and designate a lead agency for the purposes of coordinating Administration comments on the legislation we introduced last week. We believe this mechanism will facilitate Executive Branch participation in the hearing process, and tentatively plan to hold hearings in Washington in July to receive comments from the Administration.

We will no doubt need to schedule additional hearings beyond the ones described above to receive testimony from outside witnesses. How many sessions and when will be determined in part by the progress we make in June. As soon as we have a better idea of who has requested to testify and how to handle these requests, we will be in touch.

Let me thank each of you for your cooperation and your staff's extraordinary efforts to adhere to the schedule we agreed to in February for the introduction of this legislation. It is critically important that we continue to do so, and I urge each of you to do your best to meet the May 9 deadline for submission of your party's definitions. As soon as possible after this deadline, these definitions will be introduced and copies mailed to each of you.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. Johnston. Mr. President, I would like to announce for the public that hearings have been scheduled before the Committee on Energy and Natural Resources.

The hearings will take place on June 1st and 2nd, 1989, in Room SD-106 of the Senate Dirksen Office Building in Washington, D.C. There will be a 9:30 a.m. session and a 2:00 p.m. session on each day.

The purpose of the hearing is to receive testimony concerning S. 710, S. 711, and S. 712, legislation to provide for a referendum on the political status of Puerto Rico.

For further information, please contact Pat Temple at (202) 224-4756. For press inquiries, contact Claire Miller at (202) 224-0091.

COMMONWEALTH OF PUERTO RICO

OFFICE OF THE GOVERNOR
SAN JUAN, PUERTO RICO 00901

May 9, 1989

Senator J. Bennett Johnston
136 Senate House Office Building
Washington, D. C. 20510-1801

Dear Senator Johnston:

It is with deep appreciation for your personal leadership and profound hope for the future of the Commonwealth relationship in permanent union between the United States and the people of Puerto Rico that I transmit herewith our Popular Democratic Party's proposals for defining the political status choice of enhancing Commonwealth. We have inserted our proposals in marked-up revisions of S.711 and S.712.

After considerable reflection, our strong preference is the enactment of a satisfactory version of S.712. Only if this most desirable approach proved impossible of achievement would we support enactment of a satisfactory version of S.711. We do not believe we could support enactment of any version of S.710. Any such legislation that authorized a referendum on the political status of Puerto Rico, but did not attach meaningful consequences to the outcome of such a referendum, would not serve the interests of our people and would create expectations not likely to be fulfilled.

In brief, our proposal for defining enhanced Commonwealth in permanent union takes the following form:

1. First, we set forth in subpart 1 a general statement of those purposes that guided the United States and the people of Puerto Rico in the establishment of the Commonwealth as a unique compact and which continue to frame the context in which enhancement is both contemplated and mandated.

2. Subpart 2 provides in both English and in Spanish the precise referendum proposition that we believe should be offered to the people of Puerto Rico.

3. Subpart 3 prescribes how the principles of Commonwealth enhancement, in our judgment, must become the official policy of the United States upon the certification to the President and the Congress of the United States that a majority of the votes cast in the contemplated referendum favor the proposition of enhanced Commonwealth in permanent union with the United States. We believe that real consequences must attach to the outcome of the referendum. For this reason, S.712 which holds out the promise of a self-executing referendum choice, is the approach that we greatly prefer. Likewise, even though S.711 is premised on the concept of using the results of the referendum to guide subsequent negotiations between the representatives of the winning referendum choice and the committees of Congress, we are strongly of the view that the people of Puerto Rico are entitled to no less than at least the certainty that their majority vote in such a referendum will result immediately in the adoption of an appropriate corresponding federal policy.

4. Subpart 4 sets forth the way in which the new federal policy explicitly favoring enhancement of the Commonwealth is generically implemented through amendment of Section 9 of the Puerto Rican Federal Relations Act. Briefly, this subpart identifies six general ways in which the new policy has effect:

A) This subpart fleshes out the "locally inapplicable" language of Section 9 to provide that federal laws are locally inapplicable in Puerto Rico unless they are consistent with the policy established as a consequence of the referendum outcome. There are four important exceptions to this characterization of locally inapplicable:

(i) Laws in which Congress specifically finds that there is an overriding national interest that they apply to the Commonwealth;

(ii) Laws establishing grants and or services to citizens of the United States as individuals;

(iii) Laws relating to citizenship; and,

(iv) Laws pertaining to foreign relations, defense or national security that require uniform applicability throughout the United State, including Puerto Rico, to achieve their intended purposes.

(B) This subpart also provides a means for determining that certain federal laws are no longer applicable in Puerto Rico. Briefly, the Governor may certify to Congress and the

President that a statutory enactment of the Commonwealth is inconsistent with a federal statute of general applicability and unless Congress acts within a specified period of time thereafter to enact a law that find that there is an overriding national interest in the continued applicability to Puerto Rico of the inconsistent federal statute, the President issues a proclamation that such inconsistent federal law is no longer applicable in Puerto Rico.

(C) This subpart grants general consent to the Commonwealth for the Governor to take any official action to promote the international interests of Puerto Rico that requires the consent of the United States and is not expressly prohibited by law so long as such action is consistent with the new federal policy, and provided that the the President, after appropriate notification, does not conclude that the contemplated official action would imperil the foreign relations or national defense of the United States.

(D) This subpart directs all departments and agencies of the U. S. to be guided by the new policy in carrying our their duties and to separately evaluate the consistency with the new policy of any major federal action applicable in our affecting the Commonwealth.

(E) This subpart also affords the Commonwealth an opportunity to oblige a federal agency to take certain action in those cases in which the Governor finds that a final rule is incompatible with the new federal policy. In those instances, the agency must make a specific determination that its final rule is consistent with the new federal policy and that there exists an overriding national interest that the rule be applicable in the Commonwealth.

(F) Finally, the subpart makes it clear that those laws of the U. S. applicable to Puerto Rico at the time the new policy is established continue to remain applicable, except to the extent repealed or modified by the compact or incompatible with it.

5. Subpart 5 of our proposed S.711 describes briefly a number of specific substantive proposals for enhancement of the Commonwealth that would be subject to negotiation. These proposals are grouped under sixteen subject matter areas: aviation, development of tourism, international trade, maritime, intellectual property, federal funds and programs, protection of workers, historic sites and conservation lands, community values, Puerto Rican participation in federal appointments, representation in the Senate, passports, law enforcement, federal judiciary, transfer of federal functions, and maritime resources. Correspondingly, subpart 5 and those subparts that follow of our proposed S.712 contain the actual statutory language we would hope to

Vol. I — Page 3

negotiate with Congress now, before any legislation is enacted.

I wish to draw your attention to the fact that we have suggested adding the phrase "and the implementation of the results of such referendum" to the end of the introductory description of the United States commitment to a process of consultation and negotiation with the people of Puerto Rico at the outset of the two draft bills you introduced. Likewise we also simplified the proposed negotiating process, and added to the "TIME LIMIT" portion of Section 3 of S.711 to set a suggested time limit of one year on the negotiations contemplated in that bill and to prescribe a suggested 60-day time limit for the Congressional Committees to report out implementing legislation. Since the committees would be directly involved in the contemplated negotiations for the better part of a year, it seemed to us that a 60-day period for their subsequent review would be sufficient. Finally, we also substituted the word "eligible" for the word "qualified" in Section 2 of both of your bills clarified the reference to Puerto Rican Electoral law in both bills.

I very much look forward to working closely with you and your colleagues on this important task of modernizing and enhancing the Commonwealth relationship.

Sincerely yours,

Rafael Hernández Colón
Governor

ESTADO LIBRE ASOCIADO DE PUERTO RICO
OFICINA DEL GOBERNADOR
LA FORTALEZA, SAN JUAN, PUERTO RICO

Boletín Administrativo
Núm. 5397A

ORDEN EJECUTIVA

PARA FOMENTAR EL DIALOGO Y CONSULTA SOBRE EL STATUS POLITICO, CREAR EL COMITE DE DIALOGO SOBRE EL STATUS POLITICO, CONSTITUIR SU SECRETARIADO, Y ASIGNARLE FUNCIONES, DEBERES Y RESPONSABILIDADES.

POR CUANTO: Los programas de gobierno de los tres partidos políticos principales presentados al pueblo en las elecciones de 1988 contenían diversas propuestas encaminadas a consultar al pueblo sobre su status político - el Partido Nuevo Progresista proponía la celebración de un referéndum sobre la estadidad, el Partido Independentista Puertorriqueño la convocatoria de una Asamblea Nacional del Pueblo sobre el status político, y el Partido Popular Democrático la celebración de una consulta sobre el status político.

POR CUANTO: El Gobernador de Puerto Rico anunció en su Mensaje Inaugural del 2 de enero de 1989 la intención del Gobierno de Puerto Rico de procurar la participación del Gobierno de los Estados Unidos de América en el proceso de consulta sobre el status.

POR CUANTO: Existe un consenso entre los partidos políticos principales del país y el pueblo en general sobre la deseabilidad de consultar al pueblo de Puerto Rico sobre su status político.

POR CUANTO: Los senadores J. Bennett Johnston y James McClure, Presidente de la Comisión de Energía y Recursos Naturales del Senado de los Estados Unidos, y el líder de la minoría de dicho Comité respectivamente, han presentado legislación en el Congreso federal encaminada a viabilizar una consulta sobre el status político, y dicho proceso requiere que los representantes de las tres fórmulas sobre el status político exploren posibles áreas de consenso.

POR CUANTO: Los Presidentes de los tres partidos políticos principales concuerdan en la conveniencia de que el Gobernador de Puerto Rico promulgue una Orden Ejecutiva para constituir un Comité de Diálogo sobre el Status Político, constituido por los Presidentes de dichos partidos políticos.

POR CUANTO: Es deseable establecer un mecanismo de diálogo que permita a los representantes de los tres partidos políticos principales actuar en

consenso con respecto a la iniciativa y los trámites sobre el status político.

POR CUANTO: Es conveniente institucionalizar el proceso de diálogo para viabilizar el trámite congresional y el proceso plebiscitario, y suplementar, en igualdad de condiciones, los recursos provistos a los partidos políticos principales del país por el gobierno federal, de forma tal que en las gestiones particulares de cada fórmula cuenten con recursos adecuados.

POR CUANTO: En virtud del mandato electoral, el Gobernador establece y ejecuta la política programática de gobierno, y establece las estructuras gubernamentales más idóneas y eficientes para implementar el programa de gobierno.

POR TANTO: Yo, Rafael Hernández Colón, Gobernador del Estado Libre Asociado de Puerto Rico, en virtud de la facultad que me confiere la Ley Núm. 104 de 28 de junio de 1956, por la presente dispongo:

PRIMERO: Crear el Comité de Diálogo y Consulta sobre el Status Político, compuesto por el Gobernador de Puerto Rico y Presidente del Partido Popular Democrático, Lcdo. Rafael Hernández Colón, el Presidente del Partido Nuevo

Progresista, Lcdo. Carlos Romero Barceló, y el Presidente del Partido Independentista Puertorriqueño, Lcdo. Rubén Berríos Martínez. Cada Presidente podrá nombrar un Delegado Presidencial quien le podrá representar ante el Comité de Diálogo y ante el Secretariado.

La función del Comité de Diálogo será, entre otras, explorar áreas de consenso entre los tres partidos políticos principales, formalizar acuerdos en aquellas áreas de consenso, y comunicar los mismos al gobierno de los Estados Unidos y al gobierno de Puerto Rico, y al pueblo de Puerto Rico.

SEGUNDO: Constituir el Secretariado del Comité de Diálogo sobre el Status Político (en adelante denominado "el Secretariado"), adscrito para propósitos administrativos a la Oficina de Presupuesto y Gerencia, con la misma autonomía de presupuesto y procedimientos que se otorga a los partidos políticos principales.

TERCERO: El Secretariado estará dirigido por tres miembros representantes de las tres fórmulas políticas, denominados Delegados Presidenciales, nombrados por el Gobernador, a recomendación de los Presidentes de los tres partidos políticos principales.

CUARTO: Los Delegados Presidenciales, así como otros funcionarios que puedan nombrarse, recibirán aquella compensación que le fijen los Presidentes o los Delegados Presidenciales, de aquellos recursos que le asigne la Asamblea Legislativa de Puerto Rico, por igual a los tres partidos políticos principales, y ejercerán las siguientes funciones, deberes y responsabilidades:

- auxiliar y asesorar a los miembros del Comité de Diálogo sobre Status Político que representen;

- trabajar en conjunto con los otros Delegados Presidenciales para buscar áreas de consenso entre los tres partidos sobre la celebración de una consulta al pueblo sobre su preferencia en cuanto a status político y la instrumentación de esa voluntad de pueblo a través de una ley del Congreso de los Estados Unidos que establezca los mecanismos y procedimientos adecuados a esos efectos.

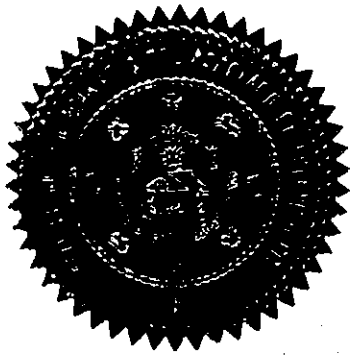
- auxiliar y asesorar a los miembros del Comité que representen en sus conversaciones con funcionarios del gobierno federal.

- coordinar la realización de aquellos estudios legales y constitucionales e investigaciones para la realización de su encomienda.

QUINTO: Los Delegados Presidenciales podrán designar un Delegado Administrativo del Secretariado, quien se desempeñará como empleado de confianza de los Delegados Presidenciales del Comité, para facilitar sus encomiendas, y ejercer aquellas otras funciones que éstos les asignen.

En el desempeño de sus funciones, el Delegado Administrativo tendrá autoridad para reclutar y contratar personal, obtener destaques de las agencias e instrumentalidades públicas, y contratar o adquirir facilidades físicas, bienes y servicios, y podrá administrar aquellos recursos que le asigne la Asamblea Legislativa para estos propósitos, todo ello consistente con el principio de igualdad de condiciones y recursos.

SEXTO: El Departamento de Estado proveerá al Secretariado las facilidades físicas y mobiliario apropiado para el desempeño de su encomienda.



EN TESTIMONIO DE LO CUAL, expido la presente bajo mi firma y gran sello del Estado Libre Asociado de Puerto Rico, hoy 21 de junio de 1989.

Rafael Hernández Colón.

Promulgada de acuerdo con ley, hoy 22 de junio de 1989.

Sila M. Calderón
Secretario de Estado

ESTADO LIBRE ASOCIADO DE PUERTO RICO
OFICINA DEL GOBERNADOR
LA FORTALEZA, SAN JUAN, PUERTO RICO

Boletín Administrativo
Núm. 5427C

ORDEN EJECUTIVA

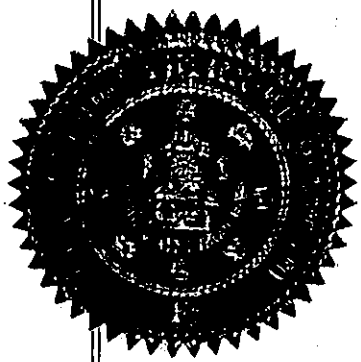
PARA ACLARAR LA FECHA DE EFECTIVIDAD DE LA ORDEN EJECUTIVA PARA FOMENTAR EL DIALOGO Y CONSULTA SOBRE EL STATUS POLITICO, CREAR EL COMITE DE DIALOGO SOBRE EL STATUS POLITICO, CONSTITUIR SU SECRETARIADO, Y ASIGNARLE FUNCIONES, DEBERES Y RESPONSABILIDADES

POR CUANTO: A través de la Orden Ejecutiva firmada el 22 de junio de 1989, Boletín Administrativo 5397A, se constituyó el Comité de Diálogo sobre el status político.

POR CUANTO: La fecha de efectividad de la referida Orden Ejecutiva debió haberse dispuesto en forma retroactiva al 1ro. de marzo de 1989.

POR TANTO: YO, Rafael Hernández Colón, Gobernador del Estado Libre Asociado de Puerto Rico, en virtud de la facultad que me confiere la Ley Núm. 104 del 28 de junio de 1956, por la presente dispongo y aclaro que la fecha de efectividad de la Orden Ejecutiva firmada el 22 de junio de 1989, Boletín Administrativo 5397A, debió haber sido y será, el 1ro. de marzo de 1989.

EN TESTIMONIO DE LO CUAL, expido la presente bajo mi firma y gran sello del Estado Libre Asociado de Puerto Rico, hoy 17 de agosto de 1989.



Rafael Hernández Colón

Promulgada de acuerdo con la ley, hoy 17 de agosto de 1989.

José M. Alonso García
Secretario de Estado Interino

DALE BUMPERS, ARKANSAS
WENDELL H. FORD, KENTUCKY
HOWARD M. METZENBAUM, OHIO
BILL BRADLEY, NEW JERSEY
JEFF BINGAMAN, NEW MEXICO
TIMOTHY E. WIRTH, COLORADO
KENT CONRAD, NORTH DAKOTA
HOWELL T. HEFLIN, ALABAMA
JOHN D. ROCKEFELLER IV, WEST VIRGINIA

JAMES A. McCLURE, IDAHO
MARK O. HATFIELD, OREGON
PETE V. DOMENICI, NEW MEXICO
MALCOLM WALLOP, WYOMING
FRANK H. MURKOWSKI, ALASKA
DON NICKLES, OKLAHOMA
CONRAD BURNS, MONTANA
JAKE GARN, UTAH
MITCH McCONNELL, KENTUCKY

DARYL OWEN, STAFF DIRECTOR
D. MICHAEL HARVEY, CHIEF COUNSEL
FRANK M. CUSHING, STAFF DIRECTOR FOR THE MINORITY
GARY G. ELLSWORTH, CHIEF COUNSEL FOR THE MINORITY

United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510-6150

June 23, 1989

The President
The White House
1600 Pennsylvania Ave.
Washington, D.C. 20500

Dear Mr. President:

We are writing to urge your immediate assistance in developing legislation to provide for a referendum on the future political status of Puerto Rico.

On January 17, 1989, the leadership of the three principal political parties of Puerto Rico wrote to you, and to Congress, urging that the people of Puerto Rico be consulted as to their choice regarding the ultimate political status of the island. In your February 9, 1989, address to Congress you stated, "I have long believed that the people of Puerto Rico should have the right to determine their own political future," and you urged Congress "to take the necessary steps to allow the people to decide in a referendum".

Since that time, each of the three principal political parties has submitted proposals to the Senate Committee on Energy and Natural Resources defining the three status options available to the people. These definitions were included in S. 712, and the Committee has held five days of hearings on this legislation. The Committee expects to receive Administration comments on the bill during hearings scheduled for July 11, 13 and 14, and to report the legislation prior to the August recess. The reason that the Committee is moving so quickly on this legislation is because it must be enacted in the 101st Congress if a referendum is to be held in 1991. A referendum must be held in 1991 in order to avoid confusing the referendum with the local elections currently scheduled for 1992.

The interest shown in this issue by yourself, Congress, and the three political parties of Puerto Rico has raised enormous expectations among the people of Puerto Rico. It is incumbent upon us to formulate and enact legislation so that the people of Puerto Rico will have the opportunity to vote in 1991 as anticipated. To facilitate this process, we urge you to designate policy contacts in each Federal agency immediately. Administration input is important as we refine this legislation because without technical assistance and policy comments from agencies, the development of specific legislative language will be more difficult and time consuming.

We urge your commitment to this ambitious schedule, and your vigorous support and cooperation in the development and enactment of S.

712. We look forward to working with you, and to meeting the objective you declared on February 9 -- self-determination for the people of Puerto Rico.

Sincerely,

James A. McClure
Ranking Minority Member

J. Bennett Johnston
Chairman

Carlos Romero-Barcelo
President
New Progressive Party

Rafael Hernandez Colon
President
Popular Democratic Party

Ruben Berrios Martinez
President
Puerto Rican Independence Party

Fernando Martín
Vice-President

JBJ/as

Esta página se dejó en blanco para significar la ausencia del texto de una carta del representante Morris K. Udall (D-Arizona) al senador J. Bennett Johnston (D-Louisiana) en la cual expresaba su opinión respecto al mecanismo de autoejecución dispuesto por el proyecto del Senado 712.

El representante Udall renunció a su escaño el 4 de mayo de 1991 por razones de salud. Lamentablemente al cierre de esta edición todos nuestros esfuerzos por obtener el texto de la carta fueron infructuosos.

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This page was left in blank to emphasize the absence of the text of a letter form Representative Morris K. Udall, (D-Arizona) to Senator J. Bennett Johnston (D-Louisiana) in which the Congressman expressed his opinion on the self-executing mechanism provided for in S.712.

Congressman Udall resigned his House seat on May 4, 1991 on account of health problems. Unfortunately, at the close of this publication, all our efforts to locate the text of this letter have been fruitless.

El Gobernador de Puerto Rico

May 16, 1990

The Honorable George Bush
President of the United States
The White House
Washington, D. C.

Dear Mr. President:

In my inaugural speech of January 2, 1989, I took the initiative of proposing to the United States a referendum so that the people of Puerto Rico would have an opportunity to exercise the fundamental right of self-determination as to the political status to govern the Island's future.

It was and is my deep conviction that this is an appropriate moment in history to resolve the so-called status question, so that this Island and its people can move forward, building on the constructive achievements of the Commonwealth which have made possible substantial mutual economic and strategic benefits for the U. S. and Puerto Rico, while at the same time preserving a treasured cultural heritage.

My initiative was implemented --following consultations with the representatives of the other parties in Puerto Rico, Members of the Congress, and your Administration-- with the understanding that the status options to be developed must be of equal dignity, fair and balanced, and that the exercise of self-determination by the people of Puerto Rico, to be valid, must be conducted in an atmosphere free from outside interference and distortion.

It is in this spirit that we have conscientiously participated, for over a year, in

the congressional process and are still firmly pledged to the realization of my original goal for our people. During this time, I have repeatedly ignored what I believe to have been serious breaches of these mutual understandings, but in good conscience I can no longer do so. It is with considerable regret that I now feel compelled to express my deepest disappointment in the treatment of the plebiscite process by your Administration.

In your 1989 State of the Union message, you immediately linked endorsement of a status plebiscite for Puerto Rico with a strong expression of your support for statehood rather than the other options of enhanced commonwealth or independence. Since that time the Administration has made every conceivable effort to:

* maximize the alleged attractiveness of statehood;

* minimize or ignore its serious fiscal and cultural problems;

* oppose all measures providing greater autonomy under commonwealth; and

* endorse discriminatory treatment in programs for the needy under commonwealth.

In your May 9 letter to U. S. Representative Robert Lagomarsino, you asked: "How can we applaud the exciting and momentous movements toward freedom in Eastern Europe, Latin America and elsewhere while refusing to grant to our own citizens the right of self-determination?". This is a most noble sentiment, which I wholeheartedly endorse. Mr. President, it is therefore ironic that your own Administration, by dictating to the people of Puerto Rico the course the U. S. Government wants them to choose, is in effect dealing with Puerto Rico in a manner tragically resonant of the approach now being taken by President Gorbachev toward the Baltic Republics. Indeed, as Moscow

agents occupy various government buildings in Vilnius, Lithuania to press their version of their future relationship, White House representatives this week are appearing in the political halls of San Juan, Puerto Rico to promote statehood.

Mr. President, the people of Puerto Rico must be permitted to make their choice free from the awesome pressure that can be brought to bear by the Office of the President of the United States and his Administration. For this reason, I respectfully urge you to direct the Administration to henceforth adopt a position of strict neutrality on the choices to be presented in the status plebiscite. History is full of examples of the use of plebiscites and referenda to give apparent legitimacy to gross violations of democratic and legal principles.

Mr. President, we must ensure that the proposed plebiscite for Puerto Rico does in fact prove to be an inspiring example, to Eastern Europe and to the world of the way a true democracy provides for genuine self-determination.

I remain fully committed in my desire to work with all concerned toward the fulfillment of the historic opportunity. I am hopeful that we can yet ensure a dignified and fair process that affords the people of Puerto Rico an unfettered right of choice to determine their own destiny.

Cordially yours,

Rafael Hernández-Colón

THE WHITE HOUSE

WASHINGTON

May 23, 1990

Dear Rafael:

I have received your letter of May 16 regarding the proposed plebiscite process in Puerto Rico, which we both support.

Your strong support for maintaining Puerto Rico as a commonwealth is something I recognize, just as you recognize my support for statehood, which goes back many years. In their recent visit to the island, my assistants reflected that support when called upon to do so by the press and by a broad cross-section of the people of Puerto Rico, including members of your administration and your allies elsewhere in island politics.

There was never an "understanding" that the White House refrain from expressing my views on the plebiscite process. As President of the United States, I take very seriously the fact that I have certain responsibilities for all the territory under the American flag. It is therefore scarcely "outside interference" for me or those who work for me to express my opinions on an issue of such importance to the United States as the political future of over three million fellow citizens on Puerto Rico. And I will continue to encourage my Administration to speak out for what we believe.

I have urged the Congress to pass legislation for a plebiscite, but shall only sign a bill that is fair to all who live on the island and that fairly represents the options that may be chosen.

My guiding aim is the same as the one you expressed in your inaugural address: to reaffirm the right of the people of Puerto Rico to self-determination through the plebiscite process. This I shall continue to do and welcome your cooperation from beginning to end.

Sincerely,

Ey Bush

The Honorable Rafael Hernandez-Colon
Governor of Puerto Rico
San Juan, Puerto Rico 00901

Congress of the United States
House of Representatives
Washington, DC 20515

July 10, 1990

The Honorable Ron De Lugo
Chairman
Subcommittee on Insular
and International Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Chairman De Lugo:

We are writing to express our support for your efforts on H.R. 4765, the Puerto Rico Self-determination Act. After having held extensive public hearings and deliberations we feel that the subcommittee is prepared favorably to report out the bill and should do so as soon as possible.

Mr. Chairman, your careful and sensitive handling of this legislation is in line with the aspirations of the people of Puerto Rico and the international standing of the United States as the standard-bearer of democracy. You have demonstrated extraordinary skill in guiding this subcommittee through this process, even while in the hospital. For this you have our admiration and respect.

The approach that you have followed on this complex piece of legislation is fair, expedient and realistic. We agree with your view and that of Ranking Republican Lagomarsino, that the present version of H.R. 4765 and the definitions submitted by the three political parties provide an adequate basis for approval of the legislation by the subcommittee. Moreover, we strongly believe that meaningful self-determination calls for respecting the formulations of the different status formulas presented by Puerto Rico's three political parties, as consistent with constitutional requirements. To do otherwise would misconstrue this solemn democratic process and jeopardize its legitimacy as an exercise in free determination. History is full of plebiscites where the true mandate of the people has been distorted and misconstrued.

It is significant that the main controversy surrounding H.R. 4765 has to do with the Commonwealth definition, and has been raised by an Administration committed to statehood. In our view, the

definition of enhanced Commonwealth submitted by the Governor of Puerto Rico is both realistic and fair, and it is clearly based on long-standing international and legal precedents. We owe it to the people of Puerto Rico to respect the aspirations of their largest political movement, and that which is presently in power. The objections raised by the Administration's witnesses do not provide enough ground for substantive amendments to the proposed definition, and thus the subcommittee should approve it as submitted by the Commonwealth government.

Mr. Chairman, the ongoing process is of great importance, for it involves the political destiny of a people, and the discussion of crucial issues of government. You have our support for your efforts to assure that the people of Puerto Rico have a fair chance at selecting their political destiny.

Sincerely,

Jaime B. Fuster
Member Subcommittee on Insular and International Affairs

George (Buddy) Darden
Member Subcommitte on Insular and International Affairs

August 1, 1990

The Honorable Ron de Lugo
Chairman
Subcommittee on Insular
and International Affairs
House Interior Committee
2238 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman de Lugo:

You have inquired as to the position of the Government of the Commonwealth of Puerto Rico regarding the inclusion of a provision to facilitate the voting by non-resident Puerto Ricans in the proposed status referendum legislation, H.R. 4765.

The Government of the Commonwealth of Puerto Rico favors, and indeed finds imperative, the incorporation in the referendum bill of the provisions necessary to facilitate and authorize extending the vote to Puerto Ricans residing outside Puerto Rico. Without such authorization, it will not be possible to enfranchise Puerto Ricans residing outside Puerto Rico.

Given that authorization, the Legislative Assembly of Puerto Rico will then exert its own authority over the Commonwealth's electoral proceedings in order to make this possible.

We do not favor incorporating into the legislation provisions that would mandate participation since we have consistently maintained that the referendum must be governed under Puerto Rican law.

I hope that this information clarifies our position regarding this issue.

Cordially,

Rafael Hernández-Colón

Carlos Romero Barceló

Former Governor of Puerto Rico
San Juan, Puerto Rico

August 1, 1990

The Honorable Ron De Lugo
U.S. House of Representatives
2238 RHOB
Washington, DC 20515

Dear Ron:

We have discussed the interest of Puerto Ricans who reside in the several States of the Union to vote in the forthcoming status referendum. The many legal and practical difficulties which have been underscored by the persons who understand the electoral laws and our electoral system in Puerto Rico have neither been answered nor overcome. If there is a way to overcome the difficulties, it must be found and agreed to unanimously by all three parties which represent the three status options.

Therefore, we vigorously object to having Congress mandate that Puerto Ricans residing in the fifty States of the Union be allowed to vote in the referendum. We would nevertheless endorse a statement by Congress to the effect that it authorizes Puerto Rico's Legislature to allow Puerto Ricans who reside in the fifty States of the Union to vote in the referendum; provided that the three political parties represented in the Legislature of Puerto Rico endorse such participation unanimously.

In other words, if the traditional and historic requirements now in effect to vote in Puerto Rico are to be changed, they should be changed only if all three political parties representing the three status options agree.

To impose or mandate a change of rules at this point, without the unanimous consent of the interested political parties, would delay and postpone the referendum and subject whatever law was passed to multiple legal challenges.

G.P.O. Box 4109 San Juan, Puerto Rico 00936

C.R.B.

Puerto Rico is the oldest colony in the world. We have been a colony since 1493. We have been disenfranchised U.S. citizens since 1917. Never has such a large group (3,300,000) of citizens been disenfranchised for as long as the U.S. citizens of Puerto Rico.

We have worked too long and too hard to get an opportunity to exercise our right to free determination. It would be a great frustration for our people to have this opportunity derailed.

We appreciate your interest and support in our endeavors.

Sincerely,

Carlos Romero Barcelo

Carlos Romero Barcelo

August 1, 1990

The Honorable Ron de Lugo
Chairman
Subcommittee on Insular and
International Affairs
1626 Longworth House Office Building
Washington, D.C. 20515

Dear Sir:

On behalf of the Puerto Rican Independence Party I would like to reaffirm the position assumed before your subcommittee in the public hearing of June 28th by our party president, Mr. Ruben Berrios, relating to the vote of non-resident Puerto Ricans in the plebiscite envisioned by H.R. 4765.

We therefore oppose the inclusion of any language in this bill which would impose upon the Legislature of Puerto Rico the obligation to enlarge the electorate in Puerto Rico to include non-resident Puerto Ricans. We have, as you know, favored a separate vote for those Puerto Ricans which would take into account both the fact that they are members of the Puerto Rican nation, and the fact that residents and non-residents will be affected in very different ways by any status change. We proposed to your subcommittee that Congress make such a separate vote possible in the different states independently of the plebiscite vote in Puerto Rico and independently of the electoral laws of Puerto Rico.

Any decision to enlarge the absentee vote in Puerto Rico however, must be up to the political parties in Puerto Rico, by consensus, to make.

Sincerely,

Senator Fernando Martin
Vice-President
Puerto Rican Independence Party

DON YOUNG
CONGRESSMAN FOR ALL ALASKA

WASHINGTON OFFICE
2331 RAYBURN BUILDING
TELEPHONE 202/225-5765

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INTERIOR AND INSULAR AFFAIRS
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SUITE 260
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BOX 177
KODIAK, ALASKA 99615

P.O. BOX 1860
NOME, ALASKA 99762

Congress of the United States
House of Representatives
Washington, D.C. 20515

September 17, 1990

Honorable Robert J. Lagomarsino
Ranking Republican Member
Subcommittee on Insular and International Affairs
Committee on Interior and Insular Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Bob:

Thank-you for telling me about the compromise you reached with our colleagues Ron de Lugo, Bill Green, Jose Serrano and Charles Rangel on the issue of whether Puerto Ricans who do not reside in Puerto Rico should be able to vote in the status referendum which would be authorized by H.R. 4765.

I could agree to an amendment to add the compromise to the bill reported by the Subcommittee because it would give all three parties in Puerto Rico a say in how non-residents would be able to participate in the referendum. I definitely cannot, however, agree to the proposal of the Governor of Puerto Rico to amend the compromise to effectively give one party exclusive control over that decision.

It flies in the face of the tripartisan approach in Puerto Rico on procedural issues related to the referendum that has made serious Congressional consideration of the three parties' proposal for the referendum possible.

It is also unprecedented. During similar votes in my State of Alaska's Statehood issue, it was clearly a matter for Alaskans -- who resided in Alaska -- to decide.

My opposition to the Governor's proposal is so strong that I would rather have legislation to authorize a status referendum not pass at all rather than to pass with it. This is because the proposal would allow one party to stack the deck in the referendum

and a referendum should only be authorized by the Congress if it is to be fair to all parties and the statuses that they advocate.

I do, though, favor the referendum being authorized. For this reason, I suggest that we should oppose inclusion of any authorization for non-resident Puerto Ricans to vote in the referendum if the Governor's proposal is seriously offered.

With warm personal regards,

Sincerely,

DON YOUNG
Congressman for All Alaska

cc: Honorable Ron DeLugo

Congress of the United States
House of Representatives
Washington, DC 20515

October 4, 1990

Dear Colleague:

This is to urge you to support H.R. 4765, the Puerto Rico Self-Determination Act, when the bill comes to the floor Tuesday.

This bipartisan bill would authorize a referendum on Puerto Rico's future political status and provide for a process for the development and consideration of another bill on the results of the referendum. It has been favorably reported by the Committees on Interior and Insular Affairs and Rules.

The legislation responds to a proposal from the presidents of Puerto Rico's three status-based political parties and President Bush, in his State of the Union address last year. It enjoys their support as well as that of Speaker Foley and Republican Leader Michel.

The United States has been committed to further self-determination for Puerto Rico ever since the current commonwealth was established four decades ago. Our Nation now needs to explain to its 3.6 million citizens in Puerto Rico how their relationship with the United States can be developed.

The bill, H.R. 4765, would set forth the necessary process at a time when the process of self-determination is accelerating throughout the world.

A copy of a *Washington Post* editorial endorsing this bill's approach to this issue is reprinted on the reverse side of this letter. Please have your staff call the staff of the Insular and International Affairs Subcommittee Majority (5-9297) or Minority (6-7397) if you have any questions about this matter.

Sincerely,

Ron de Lugo
Don Young
George Miller
Charlie Rangel
Buddy Darden
Eni Faleomavaega
Ed Markey
Tom Coleman
Bruce Vento
Nick Rahall
Bob Lagomarsino
Jaime Fuster
Gerry Solomon
Jose Serrano
Jamie Clarke
Ben Blaz
Wayne Owens
Bob Dornan
Rick Lehman
Mo Udall
Joe Moakley
Jimmy Quillen
Bill Green
John Lewis
Elton Gallegly
Steve Solarz
John Miller
Bill Richardson
Austin Murphy

THE WHITE HOUSE

WASHINGTON

October 5, 1990

Dear Ron:

I applaud everything you have done to give the people of Puerto Rico the chance to declare what they want their political future to be. Your subcommittee performed truly historic labor, and now your bill is about to come to the House floor.

As you know from my first address to Congress, this issue is important to me, and not just because of my long-standing interest in Puerto Rico. As President in a time of democratic growth and vibrancy throughout the world, I strongly believe it is past time that we guarantee the residents of the Island a voice in resolving the political status of Puerto Rico, American territory for 92 years. We owe this to them, and we owe it to a world that watches to see whether the United States of America believes as much in the consent of the governed now as it did in 1776.

I would urge the entire Congress to act affirmatively and rapidly on whatever responsible measure comes before them to call for a referendum on Puerto Rico's political status. And I stand ready to sign such legislation when it reaches my desk.

Sincerely,

George Bush

The Honorable Ron de Lugo
House of Representatives
Washington, D.C. 20515

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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

October 10, 1990

The Honorable J. Bennett Johnston
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Bennett:

The Judiciary Committee has reviewed S.712, the Puerto Rico Status Referendum Act, as reported by the Committee on Energy and Natural Resources. After consulting with your staff, the committee drafted proposed amendments that would revise provisions of S.712 regarding subjects within the committee's jurisdiction.

I have enclosed a copy of the Judiciary Committee's proposed amendments for your review. If these amendments are adopted, the committee's concerns regarding immigration issues and the use of local law during review of the referendum results will be resolved.

Thank you for your consideration.

Sincerely,

Joseph R. Biden, Jr.
Chairman

Judiciary Committee Proposed Amendments to S.712

Section 101(e)(1)(E)

The first sentence is deleted. Insert the following new sentence: "The Court shall accord local law the benefit of local interpretation."

Section 311(b)

At the end of the first sentence, delete "by place of birth."

Section 311(c)

The subsection is revised to state: "Notwithstanding any other provision of law, no person born outside the United States after the certification of the referendum under Section 101(c) of this Act shall be a citizen of the United States at birth if a parent or the parents of such person acquired United States citizenship solely by virtue of birth in Puerto Rico pursuant to the provisions of the Jones Act and the Immigration and Nationality Act and whose principal residence, as defined under Section 101(a)(33), Immigration and Nationality Act, continued to be Puerto Rico on or after the Proclamation of Independence, unless the parent or parents at the time of the birth of such person is a citizen of the United States employed by the Government of the United States.

Section 311(d)

In the first sentence, delete everything up to the phrase "Provided further," and replace with the following: "Entry into the United States and lawfully engaging in occupations or establishing residence as immigrants in the United States for any person who is not a citizen of the United States and becomes a citizen of the Republic of Puerto Rico upon proclamation of independence, or who becomes a citizen of the Republic by birth after the Proclamation of Independence, or who is a naturalized citizen of the Republic who has been an actual resident of Puerto Rico for not less than five years, shall be permitted only as may be provided by law and regulation of the United States: Provided, that persons identified under subsection (c) above, may enter the United States and its territories and possessions as nonimmigrants for a period of twenty-five years after such proclamation without regard to paragraphs (14), (20), and (26)(B) of Section 212(a) of the Immigration and Nationality Act, 8 U.S.C. Section 1182(a)(14), (20) and (26)(B):"

October 11, 1990

Senator J. Bennett Johnston
U.S. Senate
Washington, D.C.

Dear Senator Johnston:

A year and a half ago, at our request, you took the lead in moving a status referendum bill for Puerto Rico through Congress. We appreciate the time and energy you have devoted to advance S. 712.

We are now close to realizing the goal of a congressionally authorized consultation. The House of Representatives has passed H.R. 4765, the "Puerto Rico Self-Determination Act." To facilitate the legislative process and assure legislation, we respectfully urge you to accept the House bill, with amendments.

The House bill has obvious limitations. As you know, there is simply no inclination on the part of Congress to pass a bill like S. 712.

To the people of Puerto Rico, time is of the essence.

Without your leadership, the referendum legislation would never have been initiated. You have heretofore been responsive to the leadership of Puerto Rico's three principal political parties and the people we represent. We hope and anticipate that, at this critical moment, you will once again respond affirmatively to our petition.

Sincerely,

Carlos Romero Barceló
President
New Progressive Party

Rafael Hernández Colón
President
Popular Democratic Party

Rubén Berríos Martínez
President
Puerto Rican Independence Party

ONE HUNDRED FIRST CONGRESS

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U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

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STAFF DIRECTOR AND COUNSEL

ROY JONES
ASSOCIATE STAFF DIRECTOR AND COUNSEL

LEE McELVAIN
GENERAL COUNSEL

RICHARD AGNEW
CHIEF MINORITY COUNSEL

October 15, 1990

Honorable J. Bennett Johnston
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Bennett:

Although you have held out little hope that the Senate will act on Puerto Rico status legislation this year, I think it is important to set out my thoughts on how we came to be where we are and why, in all honesty, I do not believe we will ever be in as good a position to enact status legislation as we are today.

As you know, the House-passed Puerto Rico status bill, H.R. 4765, is based on one of your original bills, S. 711. H.R. 4765 proposes a different approach than the reported Senate bill, S. 712, because the House (and, possibly, the Senate) cannot accept a self-executing bill.

The descriptions of the statuses incorporated into H.R. 4765 are more general than those you have proposed because H.R. 4765's supporters believe that making the descriptions specific in every detail (if they are to have real meaning) would be tantamount to writing a self-executing bill. And, as the House leadership and I have clearly indicated, that would be a futile effort.

As I am sure you realize, substituting detailed descriptions for those already incorporated into H.R. 4765 wouldn't give the descriptions more weight so long as the bill remained non-self-executing. It wouldn't, therefore, really provide Puerto Ricans with more reliable guidance about the statuses and it might actually be more likely to mislead them. Also, doing this would probably be unfair to the people of Puerto Rico since the details would be written by Washington alone, primarily considering its own interests when Puerto Rico is divided, without having to contend with the unity of purpose Puerto Rico will only have when its people decide on a status.

In any case, the people of Puerto Rico already know the really important aspects of the three statuses anyway. Now, they simply want what they asked us for in the first place and still ask for: An opportunity to choose and assurance that the Congress will act on their choice. We owe them this opportunity and assurance.

What I have said does not, of course, suggest that you shouldn't try to have the specific measures that you intend to seek related to the statuses set forth in the Senate if you want to make sure that Puerto Ricans know what the Senate believes it would do in the future for whichever status wins the referendum.

Bennett, you and I both have seen how the political winds can shift from year to year and threaten a truly historic opportunity. The consensus that made it possible to address this issue now may not survive next year.

In any case, waiting until next year will not change the reality of the situation. Waiting will probably only lead us, after a good deal more work is done here and in Puerto Rico, to the same juncture sometime later in the next Congress.

There is no reason to believe that the approach that the House unanimously embraced with the support of Puerto Rico's three parties and the President after long negotiations will change in the future. So, there would be no point to creating unrealistic expectations in Puerto Rico that proposals that would change this approach and cannot be reconciled with it in the time remaining in this Congress can be accepted by the Congress as a whole next year.

All the best,



MORRIS K. UDALL
Chairman

cc: Honorable Thomas S. Foley
Honorable Robert H. Michel
Honorable James McClure
Honorable Ron de Lugo
Honorable Robert J. Lagomarsino
Honorable Jaime B. Fuster
Honorable Don Young
Honorable John Joseph Moakley
Honorable James H. Quillen

J. BENNETT JOHNSTON, LOUISIANA, CHAIRMAN

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GARY G. ELLSWORTH, CHIEF COUNSEL FOR THE MINORITY

United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510-6150

October 15, 1990

Honorable Rafael Hernandez Colon
President
Popular Democratic Party
La Fortaleza
San Juan, Puerto Rico 00902

Dear Mr. President:

I am writing in response to your letter of October 11 urging my acceptance of H.R. 4765, the Puerto Rico Self-Determination Act, with amendments. Let me begin by reaffirming my commitment to the referendum and stating my intention to complete legislative action as soon as possible.

I am pleased that your letter recognizes the limitations of the House bill and the need for amendments. The House bill does not meet my often stated threshold of acceptability due to its lack of definitions. It is my intention to urge my Senate colleagues to continue the development of such definitions so that the House bill can be amended to correct these and other less serious deficiencies. It is my sincere opinion, however, that such amendments cannot be developed, approved by the U.S. Senate, and reconciled with the House in the few days remaining in this session of Congress. I agree with your conclusion that Congress will not pass a bill such as S. 712 in its present form. It is self-implementing and far more complex than H.R. 4765. Nevertheless, I believe that a non-self-implementing bill with meaningful definitions can be enacted next year -- well before the 1992 local elections.

I fear that many in Puerto Rico may confuse my commitment to Puerto Rican self-determination with my message that action on this legislation cannot be completed within the next few days. My commitment to a meaningful referendum for the people of Puerto Rico remains solid. Unfortunately, my commitment to this process cannot overcome the realities of time, and an overburdened Congressional schedule.

I share your disappointment with this delay in the process. However, we cannot forget that the opportunity to authorize a meaningful referendum remains within our grasp. I urge you to reaffirm your commitment to this goal.

Sincerely,

J. Bennett Johnston
Chairman

ESTADO LIBRE ASOCIADO DE PUERTO RICO

OFICINA DEL GOBERNADOR
LA FORTALEZA
SAN JUAN, PUERTO RICO 00901

October 18, 1990

The Honorable George Bush
The President
The White House
Washington, D.C. 20500

Dear Mr. President:

I am enclosing you a joint statement subscribed today by the presidents of Puerto Rico's three principal political parties. In it we urge prompt approval during this Congress of the necessary legislation to enable the people of Puerto Rico to exercise their right to self-determination by means of a referendum on their political status preference, with adequate mechanisms to assure implementation of the results.

On January 17, 1989, along with the presidents of the other two political parties of Puerto Rico I wrote to you expressing "that the People of Puerto Rico wish to be consulted as to their preference with regards to their ultimate political status and the consultation should have the guarantee that the will of the People once expressed shall be implemented through an act of Congress..."

Towards those ends we have worked intensely with the Congress in order for the status referendum to be held in 1991.

We are requesting to meet with you at your earliest convenience to discuss the current situation in order to obtain approval of legislation during this session of Congress.

Sincerely,

Rafael Hernández Colón

Enclosure

October 18, 1990

THE GOVERNOR OF PUERTO RICO AND PRESIDENT OF THE POPULAR DEMOCRATIC PARTY, RAFAEL HERNANDEZ COLON, THE PRESIDENT OF THE NEW PROGRESSIVE PARTY, CARLOS ROMERO BARCELO, AND THE PRESIDENT OF THE PUERTO RICAN INDEPENDENCE PARTY, RUBEN BERRIOS MARTINEZ, AGREED TO SUBSCRIBE THE FOLLOWING STATEMENT:

To reaffirm their commitment to hold a consultation on the political status of Puerto Rico and their determination to make possible such consultation through such efforts as may be necessary.

To urge Congress and the President of the United States promptly to approve legislation this year making possible a plebiscite next year and the implementation of its results.

To reiterate the urgency that at this crititical stage in the legislative process both legislative bodies, the House of Representatives and the Senate of the United States, continue working actively to harmonize their approaches and to reconcile their differences as to the nature of the definitions and the mechanisms to implement the will of the People, before the current session of Congress adjourns.

To subscribe English translations of this statement to the President of the United States, the Speaker of the House of Representatives, the Majority Leader of the Senate, Senator J. Bennett Johnston and Congressman Ron de Lugo.

To request an urgent meeting with the President of the United States at his earliest convenience during the next few days to address the concerns hereby expressed.

To further request urgent meetings with the Speaker of the House of Representatives, the Senate Majority Leader, Senator J. Bennett Johnston and Congressman Ron de Lugo toward the same end.

EL GOBERNADOR DE PUERTO RICO, Y PRESIDENTE DEL PARTIDO POPULAR DEMOCRATICO, RAFAEL HERNANDEZ COLON, EL PRESIDENTE DEL PARTIDO NUEVO PROGRESISTA, CARLOS ROMERO BARCELO, Y EL PRESIDENTE DEL PARTIDO INDEPENDENTISTA PUERTORRIQUEÑO, RUBEN BERRIOS MARTINEZ, TRAS UNA REUNION-ALMUERZO EN LA FORTALEZA, ACORDARON EMITIR LA SIGUIENTE DECLARACION:

Reafirmar su compromiso con la celebración de una consulta en torno al status político de Puerto Rico y la determinación de viabilizar dicha consulta mediante las gestiones que sean necesarias.

Urgir al Congreso y al Presidente de los Estados Unidos la más pronta aprobación este año de legislación que viabilice la consulta plebiscitaria el año entrante, y la implantación de su resultado.

Reiterar la urgencia de que en esta etapa crítica del proceso legislativo ambos cuerpos legislativos, la Cámara de Representantes y Senado federal, continúen trabajando activamente para armonizar sus enfoques y reconciliar sus diferencias en cuanto a la naturaleza de las definiciones y los mecanismos de implantación de la voluntad del pueblo, antes de que finalice la presente sesión del Congreso de los Estados Unidos.

Enviar copia de estas declaraciones en el idioma inglés, al Presidente de los Estados Unidos, al Líder de la Mayoría del Senado, al Presidente de la Cámara de Representantes de los Estados Unidos, al Senador Bennett Johnston y al Congresista Ron de Lugo.

Solicitar del Presidente de los Estados Unidos una reunión urgente durante el transcurso de los próximos días para atender los reclamos aquí expresados.

Solicitar al Líder de la Mayoría del Senado, al Presidente de la Cámara de Representantes, al Senador Bennett Johnston y al Congresista Ron de Lugo reuniones urgentes con el mismo propósito.

J. BENNETT JOHNSTON, LOUISIANA, Chairman
DALE BUMPERS, ARKANSAS
WENDELL H. FORD, KENTUCKY
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JEFF BINGAMAN, NEW MEXICO
TIMOTHY E. WIRTH, COLORADO
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FRANK M. GLORIOSO, STAFF DIRECTOR FOR THE MINORITY
GARY G. ELLSWORTH, CHIEF COUNSEL FOR THE MINORITY

United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
WASHINGTON, DC 20510-6150

October 22, 1990

The Honorable Morris K. Udall
Chairman
Committee on Interior and Insular Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mo:

Thank you very much for your letter regarding the Puerto Rico referendum legislation. I share everyone's disappointment that Congress will be unable to complete action on this important measure this year. I want to emphasize that this observation should not be interpreted as a lessening of my commitment to Puerto Rican self-determination. My commitment remains solid. However, it cannot overcome the time limitations now facing Congress.

It is clear from your letter that we have honest disagreements regarding the proper approach to this issue. Nevertheless, I am confident that if we work together in our usual spirit of cooperation, then these disagreements can, and will, be resolved. I hope that you share my desire to move this legislation promptly next year so that the people of Puerto Rico can hold a status referendum in 1991, or early 1992 -- well before the late 1992 gubernatorial elections.

I urge your continued commitment to the goal of Puerto Rican self-determination, and look forward to working with you in the coming months.

Sincerely,

J. Bennett Johnston
Chairman

DAVID L. BOREN, OKLAHOMA
HOWELL HEFLIN, ALABAMA
TOM HARKIN, IOWA
KENT CONRAD, NORTH DAKOTA
WYCHE FOWLER, JR., GEORGIA
THOMAS A. DASCHLE, SOUTH DAKOTA
MAX BAUCUS, MONTANA
J. ROBERT KERREY, NEBRASKA

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ROBERT DOLE, KANSAS
JESSE HELMS, NORTH CAROLINA
THAD COCHRAN, MISSISSIPPI
RUDY BOSCHWITZ, MINNESOTA
MITCH MCCONNELL, KENTUCKY
CHRISTOPHER S. "KIT" BOND, MISSOURI
PETE WILSON, CALIFORNIA
SLADE GORTON, WASHINGTON

United States Senate

COMMITTEE ON
AGRICULTURE, NUTRITION, AND FORESTRY
WASHINGTON, DC 20510-6000

October 25, 1990

The Honorable J. Bennett Johnston
Chairman
Committee on Energy and Natural Resources
364 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Mr. Chairman:

Thank you very much for your recent letter regarding consideration by this Committee of S. 712, which would provide for a status referendum in Puerto Rico. Much credit is due to you and to the Members of your committee for your leadership on this historic legislation which meaningfully defines the three status options.

It was certainly our intention that the Committee on Agriculture, Nutrition and Forestry would mark up this bill in this session shortly after the Finance Committee action. However, it has been necessary to devote our full time and energies to the Food, Agriculture, Conservation and Trade Act of 1990 and deficit reduction issues related to the Reconciliation legislation. We do not believe it is possible, in the very short time remaining, to responsibly give to S. 712 the very careful consideration it deserves by our Committee.

Please be advised, however, that it is the Committee's intention to move forward with recommendations for the nutrition provisions of this bill and to carefully consider proposals based on the structure of Federal benefit programs outlined by the Committee on Finance, assuring equal treatment between the statehood and Commonwealth options consistent with revenue neutrality.

It is our intent that the Nutrition Assistance Program include in the future a balanced package of increased benefits phased in over time. We also intend to carefully examine the advisability of switching from a cash to a food stamp coupon system at the end of any phase-in.

FROM 202-224-2035 10-25-90 10:32 AM P02

It is our policy that citizens of the United States who reside in the Commonwealth of Puerto Rico should be safeguarded against hunger and treated on an equitable and fair basis with other citizens under Federal nutrition programs.

Sincerely,

Patrick J. Leahy

Richard G. Lugar

David Pryor

Robert Dole

Tom Harkin

Thad Cochran

Max Baucus

Rudy Boschwitz

Christopher S. "Kit" Bond

Milton McConnell

Congress of the United States

Washington, DC 20515

October 26, 1990

Honorable J. Bennett Johnston
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Johnston:

Recognizing your long-standing commitment to the Puerto Rican people and your arduous work for the cause of self-determination, we urge you to reconsider your decision to postpone legislation on the political status of Puerto Rico until the next Congress. We realize the time constraints posed by these final days of the legislative session make it impossible to complete committee consideration of S. 712. Therefore, we feel it is imperative to have the House-passed measure, H.R. 4765, brought to the Senate floor before adjournment. In that regard, the prospects for the Puerto Rican people to realize self-determination next year lie squarely on your shoulders.

Through the decades of struggle for self-determination, the people of Puerto Rico have demonstrated relentless perseverance coupled with admirable patience. The time has come though for them to receive what they so rightly deserve: the opportunity to determine their own political and economic future.

Postponing this pivotal legislation for the next Congress may delay the referendum until 1992. As you are aware, all the island's political offices, from governor to the municipal level, will be up for election that very year. This island-wide election can critically hinder thoughtful debate on the referendum.

In addition, as the Manufacturers Association has pointed out, further delays in the realization of the referendum may halt essential business development. Any such industrial stagnation, would have severe detrimental effects on the island's economy.

After exhaustive committee consideration on this issue in both Chambers, decisive passage of H.R. 4765 in the House, and support from the Administration, it would be lamentable to quit the race just as we near the finish line. We again urge you to do all you can to ensure that the Puerto Rico Self-Determination Act reach the Senate floor before the 101st Congress concludes its business. Thank you for your consideration.

Sincerely,

TED WEISS, M.C.

JOSE SERRANO, M.C.

CHARLES RANGEL, M.C.

BILL GREEN, M.C.

GARY ACKERMAN, M.C.

THOMAS MANTON, M.C.

FRANK HORTON, M.C.

BENJAMIN GILMAN, M.C.

BOB MRAZEK, M.C.

JAMES SCHEUER, M.C.

GERALD SOLOMON, M.C.

MAJOR OWENS, M.C.

ELIOT ENGEL, M.C.

AMO HOUGHTON, M.C.

COMMONWEALTH OF PUERTO RICO

FFICE OF THE GOVERNOR
SAN JUAN, PUERTO RICO 00901

November 20, 1990

The Honorable J. Bennett Johnston
Chairman
Committee on Energy and Natural Resources
Senate Hart Building 136
Washington, D.C. 20510

Dear Bennett:

On January 17, 1989 I was joined by the leaders of the opposition political parties of Puerto Rico in a letter requesting from the U.S. government enactment of legislation to provide for a referendum on the status of Puerto Rico with "the guarantee that the will of the People once expressed shall be implemented through an act of Congress."

The House of Representatives approved a bill containing general definitions of the status formulas and providing for a subsequent process of negotiation and implementation of the results of the referendum. The relevant committees of the Senate approved a "self-implementing" bill, with detailed definitions of the status options that would require no subsequent legislation. Largely due to the profound differences in approach between the House and Senate, the 101st Congress adjourned without enacting the requisite legislation. In the closing days of the Congress, the Chairman of the Senate Energy and Natural Resources Committee, you offered to re-initiate the legislative process in the next Congress, if Puerto Rico's political parties so desired.

During a joint meeting on October 25, I indicated to you that I had to raise this issue with our party, whose legislative majority must necessarily enact the Puerto Rican legislation needed to hold any election on the island. Last Saturday, November 17th, after a broad process of internal consultation, our party held an island-wide meeting of its General Council to set the policy on future attempts to seek federal referendum legislation. I am enclosing an English translation of the resolution adopted by the Council. In brief, it calls for a continuation of the present effort towards a late 1991 plebiscite, provided the Congressional process is structured in a way that assures prompt adoption of a consensus bill, and thus allow adequate time to campaign on such a transcendental matter as the political destiny of our People.

The accompanying resolution describes what the Popular Democratic Party holds as essential preconditions to any meaningful exercise of self-determination. It outlines those principles included in either the House or Senate bills that, in our view, must be harmonized. It also establishes that if by February 19th a consensus bill harmonizing the House and Senate bills cannot be agreed to by the leadership of both Houses, then it will not be possible responsibly to hold a referendum in 1991 as intended.

Bennett, on behalf of the People of Puerto Rico, I call upon your continued active involvement in crafting a consensus bill early in the next Congress. I look forward to working with you in this direction.

Cordially yours,

Rafael Hernández Colón

POPULAR DEMOCRATIC PARTY
GENERAL COUNCIL

TO THE CONGRESS OF THE UNITED STATES OF AMERICA:

WHEREAS, the Popular Democratic Party received a mandate in the 1988 elections to strengthen and enhance the Commonwealth relationship "to a maximum degree of autonomy compatible with its permanent union with the United States";

WHEREAS, our party platform establishes that "to determine the manner in which this mandate is to be implemented, we will initiate, immediately after the election, a dialogue with the Government of the United States and with the leaders, who in Puerto Rico represent the other status formulas, to discuss the manner in which to consult the will of the People;

WHEREAS, the Government of the Commonwealth of Puerto Rico initiated this process and, as a result, the U.S. House of Representatives approved a bill to conduct a plebiscite which contains general definitions of the status formulas and provides for a subsequent process of negotiation and implementation of the winning formula, and the relevant committees of the U.S. Senate approved a bill which contained detailed definitions of the status formulas and a self-executing provision automatically to implement the results of the plebiscite, but the full Senate did not consider this bill;

WHEREAS, the political leaders of Puerto Rico overcame their differences and achieved a consensus for holding a plebiscite;

WHEREAS, because the Congressional leadership did not overcome the fundamental conceptual differences between the House and the Senate bills, Congress adjourned without enacting a plebiscite law;

WHEREAS, the last opportunity to hold a plebiscite during this four-year term is during 1991, given that this will be the most important collective decision ever faced by our People, the plebiscitary campaign must be distanced from the primary and general election processes and consequently the status plebiscite cannot be held during 1992;

THEREFORE, be it resolved by the General Council of the Popular Democratic Party to:

Section 1.- Demand from the Congress of the United States compliance with the mandate of the People of Puerto Rico to develop and enhance the Commonwealth relationship through the holding of a plebiscite in 1991.

Section 2.- Insist, to make this possible, upon a formal agreement of the Congressional leadership, (that is, the Speaker, the Minority leader of the House, Majority and Minority leaders of the Senate, and the chairmen and the ranking members of the relevant committees of jurisdiction) which harmonizes the substantial conceptual differences between the House and the Senate into a single consensus bill by no later than February 19, 1991.

Section 3.- Require that such bill assure the full exercise of the right to self-determination under the laws of the Commonwealth of Puerto Rico on the basis of status formulas of equal political dignity, to be proposed to the People of Puerto Rico by the Congress of the United States of America, but not subordinate to the plenary power of Congress under the territorial clause of the Constitution.

Section 4.- Emphasize that the consensus bill must contain:

(1) Adequate guarantees that the Government of the United States will implement the political status democratically selected by the People of Puerto Rico;

(2) Clear definitions of the essential principles of each status formula;

(3) Provisions to assure that the process will result in a conclusive resolution, by providing for a second election between the two leading status formulas in the event no option receives more than 50 percent of the vote in the first election.

Section 5.- Require that the New Commonwealth relationship be based on the following principles:

(1) The preservation of our distinct character, our identity as a People, our language and our culture.

(2) Constitutional guarantees of the irrevocability of the United States citizenship of Puerto Ricans;

(3) Recognition of the sovereignty of the People of Puerto Rico, as provided for in the Constitution of the Commonwealth of Puerto Rico;

(4) Recognition of the Commonwealth's authority to engage in international relations and a procedure to enter into international agreements;

(5) A special procedure to accord the Commonwealth broader self-government to strengthen our authority to provide Puerto Rican solutions to Puerto Rican problems;

(6) Parity with residents of the several states in federal assistance programs, through an equitable contribution by the Government of Puerto Rico and in a manner which preserves the fiscal autonomy and tools of economic development of the Commonwealth, without the application of federal taxes;

(7) Recognition of the permanent union between Puerto Rico and the United States, based on the compact which originated the Commonwealth of Puerto Rico, and which can only be altered by the mutual consent of the People of Puerto Rico and of the Congress.

Section 6.- Specify that if the Congressional leadership introduces a consensus bill by February, 19, 1991, the Popular Democratic Party will participate in a plebiscite in 1991. If the consensus bill is agreed to a later date, the plebiscite will have to be held after 1992.

Subscribed, today, November 17, 1990, Teatro La Perla, Ponce, Puerto Rico.

COMMONWEALTH OF PUERTO RICO

OFFICE OF THE GOVERNOR
SAN JUAN, PUERTO RICO 00901

November 27, 1990

The Honorable J. Bennett Johnston
United States Senate
Washington D.C., 20510

Dear Bennett:

Yesterday the Governing Board of the Partido Popular Democrático met to discuss ways of advancing the status referendum process. We discussed the controversy, amplified by some comments to the press from your staff, regarding the character of the Commonwealth relationship. We also discussed our call, embodied in the resolution adopted by the General Council of the PPD, for referendum legislation to define three formulas of equal political dignity, not subordinate to the plenary powers of Congress under the Territorial Clause of the Constitution.

In order for the people of Puerto Rico legitimately to exercise their right to self-determination, the options presented to them must be free from any colonial taint. Any insinuation of colonialism in the referendum legislation would render it completely unacceptable to the people of Puerto Rico.

This claim is not new, nor does it represent a departure from the present status. The United Nations, the Courts of Puerto Rico, and the Courts of the U.S. —up to the U.S. Supreme Court— have repeatedly reaffirmed the self-governing, non-colonial nature of Commonwealth status, and the fact that in 1952 Puerto Rico ceased to be a territory subject to the plenary powers of Congress.

In 1953, the United States Government indicated to the United Nations that the creation of the Commonwealth relationship marked a fundamental change in the status of Puerto Rico, stating that "The previous status of Puerto Rico was a territory subject to the full authority of the Congress of the United States in all governmental matters. The relationships previously established also by a law of Congress, which only Congress could amend, have now become provisions of a compact of a bilateral nature whose terms may be changed only by common consent."

The federal courts have repeatedly validated this interpretation of the nature of Commonwealth. "Thus, in 1952, Puerto Rico ceased being a territory of the United States subject to the plenary powers of Congress as provided under the Federal Constitution. The authority exercised by the federal government emanated thereafter from the compact itself. Under the compact between the people of Puerto Rico and the United States, Congress cannot amend the Puerto Rico Constitution unilaterally, and the government of Puerto Rico is not longer a federal

government agency exercising delegated power." *U.S. v. Quiñones*, 758 F.2d 40 (1st Cir. 1985).

The U.S. Supreme Court has ratified these expressions, stating that "Puerto Rico, like a State, is an autonomous body politic, sovereign over matters not ruled by the U.S. Constitution," *Rodríguez v. Popular Democratic Party*, 457 U.S. 1 (1982). In *Harris v. Rosario*, 446 U.S. 651 (1980) the Court stated in a two paragraph *per curiam* that the territorial clause permitted unequal treatment of Puerto Ricans under the AFDC program. This expression has led to partisan attacks regarding the nature of our relationship with the United States and the rights of Puerto Ricans. S.712 as amended by the Finance Committee rightly addresses this inequity, in an important Congressional restoration of civil rights.

Through this process we must put to rest misguided remarks, including those by some Members of Congress such as Senator McClure, to the effect that under Commonwealth status Puerto Rico is somehow "subject to the whim of Congress". These attacks included in the legislative history of S.712, echo the false accusations of international enemies of the United States at the U.N. and have a profound effect on the self-esteem of the people of Puerto Rico.

The definitions we seek must be sensitive to the fact that Commonwealth status is a form of permanent union between Puerto Rico and the U.S. that was democratically and freely chosen by the people of Puerto Rico as an alternative to colonialism. Any enhancement to the present relationship must stem from that essential reality.

In upcoming days I look forward to discussing these matters at greater length with you, and devising ways in which we can expedite the referendum legislative process so that the people of Puerto Rico can meaningfully exercise their right to self-determination in the near future.

Sincerely

Rafael Hernández Colón

November 29, 1990

The Honorable George J. Mitchell
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Mitchell:

On behalf of the People of Puerto Rico we write to you once again regarding a matter of paramount importance--Puerto Rico's right to self-determination. On January 17, 1989 we wrote you requesting enactment of legislation to provide for a referendum on the status of Puerto Rico.

Ninety two years after Puerto Rico came under the sovereignty of the United States of America the People of Puerto Rico have not yet been formally consulted by the United States as to their choice of an ultimate political status in the exercise of the principles of self-determination.

During the last twenty months the hopes and expectations of the People of Puerto Rico have been raised by the development of the legislative process in the Congress of the United States, yet despite our dedicated commitment, and the expressed support of the President and the legislative leadership, the Congress adjourned without enacting legislation.

Although the House of Representatives approved a bill last September authorizing the holding of a status referendum in Puerto Rico in late 1991, the Senate did not approve legislation before adjournment of the 101st Congress.

The undersigned, Presidents of the three principal political parties in Puerto Rico, have agreed to express the following demands to the Congress of the United States:

1. That Congress enact legislation by early summer of next year that will enable a status referendum to take place in Puerto Rico at the close of 1991.

2. That in order to insure passage of such legislation before the summer of 1991 the bipartisan leadership of both House and Senate should resolve their different approaches and reach agreement so that the People of Puerto Rico may have assurances at the beginning of the One Hundred and Second Congress as to a consensus bill or the basic structure of such legislation.

Second Congress as to a consensus bill or the basic structure of such legislation.

The time for action is long overdue. Words must be met with deeds.

For too long the legitimate differences between Puerto Ricans have been used as an excuse to postpone the final resolution of the political status of Puerto Rico; it is our firm determination that this not be the case at this historic juncture.

The people of Puerto Rico, through the political parties which speak with full authority for the immense majority, have made their positions fully known to the Congress; it is now up to the Congress to act authoritatively. We have done our part, it is now up to the Congress to face up to the responsibility it assumed 92 years ago.

The people of Puerto Rico are demanding with one voice to be consulted in a meaningful manner as to their political future. During the past two years we have witnessed momentous changes throughout the world, as peoples exercised their right to self-determination throughout Europe, Latin America and Africa; and the German people negotiated and implemented their reunification.

At a moment when the international community, at the risk of war in the Persian Gulf, has repudiated annexation by force as a basis for political legitimacy, as in Kuwait, it is inconceivable --for it would be undemocratic and contradictory-- that Congress should not respond promptly and decisively to the request of 3.6 million citizens from Puerto Rico to be consulted as to the choice of their ultimate political status.

Confident of your positive response, we remain,

Sincerely,

Carlos Romero Barceló
President
New Progressive Party

Rafael Hernández Colón
President
Popular Democratic Party

Rubén Berríos Martínez
President
Puerto Rican Independence Party

The November 29, 1990 letter signed by the presidents of the three political parties in Puerto Rico was sent to the following Congressional leaders.

Senate:

Honorable George J. Mitchell
Majority Leader

Honorable Robert J. Dole
Minority Leader

Honorable Lloyd Bentsen
Chairman
Committee on Finance

Honorable J. Bennett Johnson
Chairman
Committee on Energy and Natural Resources

Honorable Bob Packwood

Honorable Malcolm Wallop

House of Representatives:

Honorable Tom Foley
Speaker

Honorable Robert H. Michel
Minority Leader

Honorable Ron de Lugo
Chairman
Insular and International Affairs Committee

Honorable Robert J. Lagomarsino

Honorable Morris K. Udall
Chairman
Interior and Insular Affairs Committee

Honorable Don Young

J. BENNETT JOHNSTON, LOUISIANA, CHAIRM
DALE BUMPERS, ARKANSAS
WENDELL H. FORD, KENTUCKY
BILL BRADLEY, NEW JERSEY
JEFF BINGAMAN, NEW MEXICO
TIMOTHY E. WIRTH, COLORADO
KENT CONRAD, NORTH DAKOTA
HOWELL T. HEFLIN, ALABAMA
JOHN D. ROCKEFELLER IV, WEST VIRGINIA
DANIEL K. AKAKA, HAWAII
JAMES .URE, IDAHO
MARK O. .FIELD, OREGON
PETE V. DOMENICI, NEW MEXICO
MALCOLM WALLOP, WYOMING
FRANK H. MURKOWSKI, ALASKA
DON NICKLES, OKLAHOMA
CONRAD BURNS, MONTANA
JAKE GARN, UTAH
MITCH McCONNELL, KENTUCKY
DARYL OWEN, STAFF DIRECTOR
D. MICHAEL HARVEY, CHIEF COUNSEL
FRANK M. CUSHING, STAFF DIRECTOR FOR THE MINORITY
GARY G. ELLSWORTH, CHIEF COUNSEL FOR THE MINORITY

United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
WASHINGTON, DC 20510-6150

February 8, 1991

The Honorable Rafael Hernandez Colon
President
Popular Democratic Party
La Fortaleza
San Juan, Puerto Rico 00902

Dear Mr. President:

I would like to thank you for your appearance at the recent hearing held by the Committee on Energy and Natural Resources on the Puerto Rico Status Referendum Act.

In order to assist the Committee in its consideration of this issue, I am attaching additional questions that have been submitted by our Members for inclusion in the hearing record. I would appreciate receiving your responses by February 19th.

Again, thank you for your testimony. I look forward to receiving your additional comments.

Sincerely,

J. Bennett Johnston
Chairman

1) RE: COMMUNITY VALUES

SECTION 411 "COMMUNITY VALUES" IS IDENTICAL TO A PROVISION IN LAST YEAR'S BILL THAT WAS DESIGNED TO ALLOW FOR VOLUNTARY GUIDELINES IN PUERTO RICO TO REDUCE THE NEGATIVE IMPACT OF VIOLENCE, DRUG USE, AND PORNOGRAPHY ON TELEVISION. HOWEVER, VERY SIMILAR LEGISLATION WAS ENACTED ON A NATIONAL BASIS LAST AUTUMN (P.L. 101-650)

THIS PROVISION MAY NOW BE REDUNDANT. IF SO, WOULD YOU OBJECT TO AMENDING THIS BILL ACCORDINGLY?

2) RE: PRINCIPLES OF COMMONWEALTH

IN THE COMMITTEE'S HEARINGS TWO YEARS AGO, YOU STATED THAT THE LEGISLATIVE LANGUAGE REGARDING THE RELATIONSHIP BETWEEN PUERTO RICO AND THE UNITED STATES "WOULD MAINTAIN THE CURRENT RELATIONSHIP AS IT IS."

IS IT YOUR VIEW THAT THE LANGUAGE UNDER SECTION 402 OF THIS NEW BILL MAINTAINS THE CURRENT RELATIONSHIP? IF NOT, HOW WOULD THE RELATIONSHIP BE CHANGED AS A RESULT OF THIS LANGUAGE?

3) RE: HOUSE BILL

YOU STATE THAT REFERENDUM LEGISLATION MUST MEET CERTAIN BASIC CRITERIA, INCLUDING CLEAR DEFINITIONS AND A COMMITMENT BY CONGRESS TO IMPLEMENT THAT OPTION CHOSEN BY THE PEOPLE. I HAVE CONSISTENTLY IDENTIFIED THESE TWO REQUIREMENTS FOR MEANINGFUL LEGISLATION AS WELL.

DO YOU BELIEVE THAT THE HOUSE BILL MEETS THESE REQUIREMENTS?

4) RE: LEGAL EFFECT OF S. 244

WHAT WOULD BE YOUR VIEW OF THE LEGAL EFFECT OF THIS LEGISLATION IF COMMONWEALTH STATUS WINS THE REFERENDUM AND TITLE IV COMES INTO EFFECT FOLLOWING RATIFICATION BY THE PEOPLE?

WOULD YOU ARGUE THAT THESE PROVISIONS COULD NOT BE ALTERED EXCEPT BY MUTUAL CONSENT, OR WOULD YOU REGARD THEM AS FEDERAL LAW SUBJECT TO FUTURE CONGRESSIONAL ACTION?

The Honorable Rafael Hernandez Colon
Governor
La Fortaleza
San Juan, Puerto Rico 00902

Dear Governor Hernandez:

At the Committee hearing on February 7, the Department of Justice submitted a section-by-section analysis as part of its testimony. The analysis addresses the Department's concerns with S. 244 and suggests several amendments.

I am enclosing a copy of the section-by-section analysis and would very much appreciate any comments you have on the concerns and suggestions raised by the Department.

I look forward to hearing from you.

Sincerely,

Malcolm Wallop
Ranking Republican Member

MW:JB/als

Enclosure

ESTADO LIBRE ASOCIADO DE PUERTO RICO

OFICINA DEL GOBERNADOR
LA FORTALEZA
SAN JUAN, PUERTO RICO 00901

February 15, 1991

The Honorable J. Bennett Johnston
The Honorable Malcolm Wallop
United States Senate

Dear Senators Johnston and Wallop:

In a written statement by Attorney General Thornburgh submitted to the Senate Committee on Energy and Natural Resources on February 7, 1991 (the "Statement"), and in section-by-section comments prepared by the Justice Department, dated February 5, 1991, and submitted to the Committee in support of the Attorney General's testimony (the "Comments"), the Bush Administration has expressed doubts as to the legality or constitutionality of certain features of S. 244 as introduced by Senators Johnston, Wallop and Simon ("S. 244" or "the bill").[1/] The purpose of this letter is to lay to rest the Administration's doubts regarding three key issues in Title IV of the bill and a fourth issue in Title I: (1) the permanence of United States citizenship of persons born in the Commonwealth; (2) the legal status and permanence of the Commonwealth relationship itself; (3) the provision for presidential consultation with the Governor of Puerto Rico in making federal appointments in the new Commonwealth of Puerto Rico; and (4) the bill's provision for setting an alternative date for the referendum.

Attorney General Thornburgh emphasized that, while the provisions of Titles II, III, and IV "would not themselves be enacted as law under" the bill, "any description of [status] options should be as fair and legally realistic as possible, so as not to mislead the electorate of Puerto Rico." (Statement at 7.) While this goal is laudable -- it is in fact the reason for Senator Johnston's insistence upon fully defined status options, as opposed to the one-word

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1/ In his first televised address to the Congress, President Bush endorsed the referendum concept and declared his support of Puerto Rican statehood. In recent weeks, the Administration has reportedly been actively lobbying the Congress seeking their support for the referendum bill generally and for statehood specifically.

"placeholder" approach of the House bill -- the Administration's comments regarding Title IV display a misunderstanding of the unique Commonwealth status fundamental enough to ensure that, if the Administration's wishes regarding Title IV were followed, the resulting description of new Commonwealth would be so crabbed and limited as to leave the voters of Puerto Rico with an unrealistic view of this political status option, in effect not representing the Commonwealth formulation to the voters of Puerto Rico. The Administration's most important misunderstandings are detailed below.[2/]

2/ Given the urgency of the need to markup this legislation quickly, and the Chairman's commitment to doing so during the week of February 18-22, we shall not belabor the Tax Uniformity Clause issue revisited by the Administration. Last year, the Administration raised with the Senate Finance Committee all of the arguments expressed in its most recent comments. When the Senate Finance Committee subsequently acted on the legislation it disposed of them. The issue had been addressed, and dispositively so, in oral and written testimony by Professor Laurence Tribe and in a supporting memorandum of law, and Professor Tribe's recommendations were reflected in the decisions taken by the Finance Committee. Nor should our failure to comment on each of the Administration's other misunderstandings of the legal issues bearing on S. 244 be taken as signifying anything more than our desire to accommodate the Committee's desire to focus -- in the limited time available -- on the most important matters of immediate concern.

Accuracy compels us to point out one thing with regard to the tax uniformity issue, however. We do not agree with the Administration's argument based on the premise that Puerto Rico may become an "incorporated" territory against Congress's will. Congress's constitutional power under the Territorial Clause clearly includes the power to specify just how long it wishes a jurisdiction not yet a state to remain an unincorporated territory. The Administration's contrary position -- that Congress controls when a jurisdiction becomes a state but is powerless to delay when the jurisdiction ceases to be an unincorporated territory -- makes no sense as a matter of logic and, as a matter of law, does not comport with the precedents that defined the categories of "unincorporated" and "incorporated" territory in the first place. See

(footnote cont'd)

I. The Permanence of Citizenship Under Commonwealth

The Administration has objected to the statement in section 402(c) that "[t]he United States citizenship of persons born in Puerto Rico shall continue to be guaranteed and indefeasible to the same extent as that of citizens born in the several states," calling this provision "very seriously misleading." (Comments at 33.) Without citing a single case in its discussion of the issue, the Administration voices the conclusion that the United States citizenship of residents of Puerto Rico can be placed on the desired footing "only by making Puerto Rico a state (or perhaps an incorporated territory)." (Id. at 34-35.)

In making this claim, the Administration has resuscitated a hoary charge that the distinguished constitutional scholar, Professor Laurence H. Tribe of Harvard Law School, squarely and definitively laid to rest in a seven-page letter to Senators Johnston and McClure dated June 13, 1989. In his letter, a copy of which is attached, Professor Tribe confirmed that "[t]he American citizenship of the people of Puerto Rico is not rendered vulnerable by . . . any . . . Supreme Court decision or legal doctrine. Puerto Ricans," Professor Tribe declared, "cannot be stripped of their citizenship by Congress, and it would be completely fallacious to suppose that only statehood for Puerto Rico would assure permanent citizenship." Professor Tribe pointed out, in words more apt than ever in the present context, that "[t]he contest between the

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(footnote cont'd)

generally the "Insular Cases," e.g., Dowdell v. United States, 221 U.S. 325, 332 (1911); Dorr v. United States, 195 U.S. 138, 143 (1904); Downes v. Bidwell, 182 U.S. 244 (1901), and cases cited therein.

If one supposes for the sake of argument, however, that the Administration's novel incorporation argument is correct, but that Professor Tribe's position -- as accepted by the Senate Finance Committee -- is correct as to the larger Tax Uniformity Clause issue, the consequences for the statehood position may be even more dire. On these assumptions, a vote in the status referendum for statehood would be a vote to eliminate Section 936 of the Internal Revenue Code -- and the jobs it brings to Puerto Rico -- not over five years, but immediately. For the Administration and the other advocates of Puerto Rican statehood as well as for the entire population of Puerto Rico, this possibility is indeed chilling.

statehood and commonwealth options must be resolved on its own merits. The citizenship issue is an irrelevant distraction."[3/]

The Administration distinguishes the citizenship conferred by the U.S. Constitution on persons born in the several States from the citizenship conferred by the Jones Act on residents of Puerto Rico. On this basis, it argues that the bill misleadingly suggests that the two types of citizenship have "equivalent constitutional status." (Comments at 34.) It is obvious from the bill's language, however, that no claim is made regarding the same "constitutional" origins of the two types of citizenship; the bill merely confirms that they are equally permanent.

Second, even assuming that the voters of Puerto Rico would give the bill as exaggerated a reading as the Administration has, there is no basis for the Administration's stated concern. As Professor Tribe demonstrates, it is simply not true that Rogers v. Bellei, 401 U.S. 815 (1971), the one case the Justice Department might have cited in support of its argument, is authority for Congress' enjoyment of the power to strip several million Puerto Ricans of the citizenship conferred on them by statute three quarters of a century ago. Bellei does nothing more than permit Congress to impose conditions that are "not unreasonable, arbitrary, or unlawful, id. at 831, on the retention of United States citizenship by a person born abroad with at least one United States citizen parent. All that the statute conferring citizenship on such a person required of him by way of a condition was that he spend a few unbroken years in the United States between the ages of 14 and 28; the litigant in Rogers v. Bellei chose instead to live in his native Italy (of which he was a citizen by birth) and visit the United States occasionally. How different from Puerto Ricans, born in what Congress has determined for purposes of its laws admitting and excluding aliens is a part of "the United States," 8 U.S.C. § 1101(a)(38), resident there -- the great majority of them -- all their lives, and enjoying no other citizenship.

The Administration's position is based entirely on the possibility that the United States citizenship of Puerto Rican residents, "in theory, could be revoked or modified by a

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3/ The quoted passages are from pp. 1-2 of Professor Tribe's attached letter.

subsequent statute." (Comments at 34.) This "theory" is strained to the breaking point. Like the analysis rebutted by Professor Tribe in 1989, the Administration's theory "misses a basic limitation on any hypothetical congressional attempt to deprive Puerto Ricans of their American citizenship. Regardless of the applicability of the Fourteenth Amendment . . . it is beyond cavil that the Due Process Clause of the Fifth Amendment restrains Congress in the exercise of any power with respect to Puerto Rico, including exercise of the naturalization power." (Tribe Letter at 3.) Examining Board v. Flores de Otero, 426 U.S. 572, 600 (1976); Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663, 668 n.5 (1974).

Discussing a number of cases, Professor Tribe emphasized that "[t]he Supreme Court has tightly cabined congressional power to strip individuals of their citizenship." (Tribe Letter at 4.) Thus, "[t]o compel a person to relinquish U.S. citizenship" is "not remotely justifiable by the happenstance of citizenship having been obtained in Puerto Rico rather than in one of the fifty States." (Id. at 4-5.) Professor Tribe thus concluded that "Congress could not constitutionally force someone who acquired American citizenship by birth in Puerto Rico to give up that status. Statehood for Puerto Rico is not required to render such citizenship invulnerable to congressional alteration. The citizenship of those who now live in the Commonwealth of Puerto Rico is therefore permanent." (Id. at 5.)

Professor Tribe went on to refute the notion that the U.S. citizenship of future generations of Puerto Ricans is any more vulnerable to congressional action than the citizenship of present generations. Emphasizing that all congressional powers must be exercised in accord with the equal protection component of the Fifth Amendment Due Process Clause, Professor Tribe declared that "the Constitution simply does not contemplate two classes of naturalized citizens, one class having a special relationship to the United States that can be passed by descent and one class having no such relationship." (Tribe Letter at 6.) Citing Plyler v. Doe, 457 U.S. 202 (1982), Professor Tribe declared that nothing in any Supreme Court decision "even remotely supports the notion that a grant of U.S. citizenship can be limited to a single generation with respect to someone both of whose parents are citizens

naturalized at birth, so long as other naturalized citizens are not so limited." (Tribe Letter at 6-7.)[4/]

Professor Tribe concluded: "The case for Puerto Rican statehood as an alternative to enhanced commonwealth status simply cannot be grounded on a fear that statehood is somehow necessary to ensure the permanence of U.S. citizenship for the people of Puerto Rico." (Tribe Letter at 7.) Nothing the Administration has said comes near to upsetting this conclusion. Citizenship under Commonwealth is already permanent. By simply affirming this fact in S. 244, Congress would be removing a distracting side issue that has been injected by others into the referendum debate. In so doing, Congress would be providing the "fair and legally realistic" description for the voters of Puerto Rico that is the Administration's stated goal.

II. Sovereignty and the Permanence of Commonwealth

The Administration has also objected to section 402(a), which would provide that Commonwealth "is a unique juridical status . . . under which Puerto Rico enjoys sovereignty, like a State, to the extent provided by the Tenth Amendment to the United States Constitution" and "autonomy consistent with its character, culture and location," and also provides that this Commonwealth relationship "is permanent unless revoked by mutual consent." Mr. Thornburgh labelled these declarations "totally inconsistent with the Constitution." (Statement at 10.)

The Administration calls into issue whether, in section 402(a), Congress is seeking to "escape" the "constitutional command" of the Territorial Clause, U.S. Const. Art. IV, § 3, cl. 2, by "extending to Puerto Rico the provisions of the Tenth Amendment which, according to its own terms, apply only to the relationship between the federal government and states." (Comments at 31.) This red herring is followed by the complaint that, "[t]o the extent this section purports to describe "autonomy" "in addition" to that of the states, it is

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4/ It should be noted that the House of Representatives directly confronted this false concern and reached a conclusion manifested in H.R. 4765 entirely consistent with Professor Tribe's learned analysis. See H. Rep. No. 101-790, 101st Cong., 2d Sess., pt. 1 at 22 (Oct. 2, 1990)

even more clear that the relationship described is not constitutionally consistent with the idea of a commonwealth status." (Id.)

It is obvious that the Tenth Amendment does not by its terms apply to Puerto Rico, and that the bill invokes the Tenth Amendment sovereignty of states simply as a simile. If the drafters of section 402(a) had sought to make the crude mechanical claim that the Administration accuses them of making, they simply would have written that "the Commonwealth possesses the sovereignty of a State under the Tenth Amendment, and additional autonomy consistent with its character, culture and location."

The Administration evidently does not understand the unique Commonwealth status, or the flexibility that characterizes it. While the jurisprudential status of the Commonwealth of Puerto Rico cannot be summarized briefly, it is clear the courts have recognized that the Commonwealth status confers dignity and autonomy no less than that of a State.

The Supreme Court has declared, for example: "We readily concede that Puerto Rico occupies a relationship to the United States that has no parallel in our history,"[5/] and "Puerto Rico has a unique status in our federal system."[6/] The Court in 1974 quoted approvingly the statement of lower federal courts that, since it achieved Commonwealth status in 1952, Puerto Rico is to be deemed "sovereign over matters not ruled by the Constitution" of the United States.[7/] In 1982, when the Commonwealth sought standing as parens patriae to represent the interests of Puerto Rican migrant workers, the Supreme Court declared that Puerto Rico "has a claim to represent its quasi-sovereign interests in federal court at least as strong as that of any

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5/ Examining Board of Engineers, Architects and Surveyors v. Flores de Otero, 426 U.S. 572, 595 (1976).

6/ Puerto Rico Department of Consumer Affairs v. Isla Petroleum, 485 U.S. 495, 499 (1988).

7/ Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663, 673 (1974).

State."[8] The Supreme Court has recognized that, "[a]bsent some clear constitutional limitation, Puerto Rico is free to structure its political system to meet its special concerns and circumstances."[9] In a related case, the United States Court of Appeals for the First Circuit said that the Commonwealth Status of Puerto Rico provides "no less autonomy to Puerto Rico than to the States."[10] In 1985 the First Circuit summarized its long-line of cases stating that "in 1952, Puerto Rico ceased being a territory of the United States subject to the plenary power of Congress as provided in the Federal Constitution. The authority exercised by the federal government emanated thereafter from the compact itself."[11]

The language used in S.244 is a perfectly acceptable way succinctly to express the complex and nuanced concepts sketched above. The omission of such language, as the Administration urges, would make the description of the Commonwealth status option utterly misleading.

The Administration expresses "reservations" about the bill's provision that the Commonwealth relationship is permanent unless revoked by mutual consent, asserting, with uncharacteristic diffidence, that "[t]his clause may improperly attempt to impose a statutory limitation on Congress' power under the Territory Clause of the Constitution (Art. IV, § 3, cl. 2)." (Comments at 31.) The Administration admits that "there are statutory precedents for . . . such limitations" but adds that "it remains subject to serious legal question whether one Congress may create a statutory limitation on Congress' power to legislate in the future with respect to the status of what remains, for constitutional purposes, a territory subject to Congress' authority under the Territory Clause." (Id.)

8/ Alfred L. Snapp & Son, Inc., v. Puerto Rico, 458 U.S. 592, 608 n.15 (1982) (emphasis added).

9/ Rodriguez v. Popular Democratic Party, 457 U.S. 1, 13-14 (1982).

10/ Garcia v. Barcelo, 671 F.2d 1, 7 (1st Cir. 1982); see id. at 5.

11/ United States v. Quiñones, 758 F.2d 40 (1st Cir. 1985).

The Administration acknowledges that "in the past the Department of Justice has taken the position that Congress can agree not to exercise its legislative authority in a limited number of narrowly defined areas," but it hastens to add that those instances "do not include a situation such as is proposed here, where a mutual consent requirement is proposed to be attached to the status relation." (Comments at 33.) "To the extent the Department's earlier opinions could be [so] construed," the Administration concludes by fiat, "they are subject to serious question." (Id.)

The Committee has been provided with no citations to the occasions on which the Department of Justice has taken the position that it would now limit or disavow. We know, however, of one Justice Department opinion that takes just as expansive a view of the congressional power to limit future Congresses as we do here and, if it is to be disavowed, would require the repudiation of Justice Department officials of singular distinction. On May 12, 1975, the Department wrote to former Senator Marlow Cook, then co-chairman of an advisory group on Puerto Rico, in response to a request for review of the constitutionality and feasibility of a proposed Compact of Permanent Union Between Puerto Rico and the United States. The letter was signed by A. Mitchell McConnell, Jr., now Senator from Kentucky, then a deputy Assistant Attorney General, and was written during the tenure of Edward H. Levi as Attorney General -- a high point of learning, objectivity and disinterestedness in the history of the Justice Department.

Among other things, the proposed compact would have required "mutual agreement for amendment of" the Compact. The letter said that provision "would, in our belief, be constitutional." That was because, in light of the plenary nature of the congressional power over territories, "it is possible for Congress to bind future Congresses with respect to Puerto Rico by means of a 'compact'." Mr. McConnell said that the binding nature of the compact could be viewed "either as the vesting of certain rights [citing Downes v. Bidwell] or as the granting of a certain measure of independence which once granted cannot be retrieved."

The Administration's present position completely ignores Puerto Rican legal history; its Statement and Comments are written as though the "compact" that defines the present Commonwealth relationship had not been consummated almost 40

years ago in a solemn, bilateral process.[12/] The Administration thus is blind to the fact that Section 402(a) of S. 244 does not propose to add a mutual consent requirement to the Commonwealth relationship; it merely affirms that this mutual consent requirement is in force and has been in force since the compact was consummated in 1952. And if, like the proposed compact that the Department of Justice reviewed in 1975, Title IV of S. 244 makes an explicit statement of the necessity that any change in the relationship between the United States and the Commonwealth of Puerto Rico requires bilateral consent, that is all to the good -- as Mr. McConnell said of the comparable provision of the proposed compact of 1975.

In his Statement, Mr. Thornburgh's very first words about Commonwealth are that "Puerto Rico is a commonwealth under the sovereignty of the United States." (Statement at 3, emphasis added.) At worst this statement is fundamentally incorrect; at best it is seriously incomplete. Starting from this shaky premise, it is little surprise that the Administration concludes not only that Congress may unilaterally alter

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12/ The Act of July 3, 1950, Ch. 446, 64 Stat. 319 (hereinafter referred to as "Public Law 600"), codified at 48 U.S.C. §§ 731b-731e, provided for the Commonwealth "relationship in the nature of a compact" between the people of Puerto Rico and the United States.

The compact consists of (1) Public Law 600, 64 Stat. 319 (1950), which expressly provided for its "acceptance or rejection through an island-wide referendum" in Puerto Rico, and, if accepted by "a majority of the voters participating in such referendum," authorized Puerto Rico to adopt its own constitution; (2) the referendum of June 4, 1951, in which the people of Puerto Rico accepted Public Law 600 in accordance with section 2 thereof; (3) the Constitution of the Commonwealth of Puerto Rico, adopted by Constitutional Convention (February 6, 1952); (4) Pub. L. No. 447, Ch. 567, 66 Stat. 327 (1952), which approved the Constitution of the Commonwealth of Puerto Rico with certain provisos; (5) Resolution 34 of the Commonwealth, approved by Constitutional Convention (July 10, 1952), which satisfied those provisos; and (6) those provisions of the Organic Act of 1917, ch. 145, 39 Stat. 951 (popularly known as the Jones Act), that Public Law 600 continued in force, see 48 U.S.C. §§ 731b-731e.

the Commonwealth relationship, but that Congress lacks the power even now voluntarily to bind future Congresses not to alter the relationship unilaterally.

Substantial scholarly opinion holds that the "compact" that defines the present Commonwealth relationship is akin to a bilateral contract and, as such, cannot be altered unilaterally.[13/] Of course, the compact does not confer on Congress power to do things that the Constitution forbids, but if there were doubt as to a particular matter, the existence of the compact would counsel stilling the doubt and allowing Congress to keep the word it has given to the people of Puerto Rico. In the words of Professor Helfeld, "norms of political morality" require that, consistent with the compact, the United States must consult with the Puerto Rican people before legislating any alteration in the fundamentals of the Commonwealth relationship.[14/] Cf. Scott v. Detroit Young Men's Society Lessee, 1 Doug. 119, 134 (Mich. 1843) (States morally bound to comply with a compact between States and a territory expressed in the Ordinance of 1787). The Commonwealth compact does not dictate the form of the required consultation, of course, but a referendum like the one at issue clearly is one way of satisfying not only the principle of self-determination at the core of S. 244 but also the requirement of mutual consent that stems from the compact.

Since the authority of the United States Congress under the Territorial Clause of the United States Constitution is plenary, it perforce is broad enough to encompass the power to extinguish some or all of this authority in regard to any particular area subject to it. This notion is neither novel nor something with which the Supreme Court is unfamiliar. Were it otherwise, there undoubtedly would have been challenges to congressional actions extinguishing completely Congress' authority over Cuba, the Panama Canal, and the Philippines.

13/ See, e.g., Helfeld, "How Much of the United States Constitution and Statutes are Applicable to the Commonwealth of Puerto Rico?" (Proceedings of the First Circuit Judicial Conference on the Applicability of the United States Constitution and Federal Laws to the Commonwealth of Puerto Rico, Nov. 4-6, 1985), reprinted in 110 F.R.D. 452, 465.

14/ See Helfeld, supra note [#-1], 110 F.R.D. at 465.

Especially noteworthy is one case, Cincinnati Soap Co. v. United States, 301 U.S. 308 (1937), in which the Supreme Court considered the authority of Congress to transfer over to the Treasury of the Philippine Islands the proceeds of a federal excise tax on the domestic processing of coconut oil produced in the Philippines. Significantly, this opinion was rendered in 1937 -- three years after enactment of the Philippine Independence Act of March 24, 1934, and the adoption and approval of a Constitution for the Commonwealth of the Philippine Islands, and seven years before the Philippines were to become fully independent in accordance with the terms of that Act.

The Supreme Court drew a meaningful distinction between the period of the Philippines' territorial status preceding this enactment and the 10 year pre-independence period that was to follow enactment. In the former period, the Court observed, "by degrees, the active powers of the dependency have been enlarged, and those of the federal government decreased. But the authority which conferred additional power might at any time have withdrawn it." 301 U.S. at 318.

By way of contrast, the Court recognized that passage of the Philippine Independence Act and adoption and approval of a constitution for the Commonwealth of the Philippine Islands effected a significant change in the political status of the Philippines, even though independence was to be delayed for ten years by the terms of the Act. Thus, the Court wrote of the latter, post-enactment period, "undoubtedly these acts have brought about a profound change in the status of the islands and in their relations to the United States; but the sovereignty [of the United States] has not been, and for a long time, may not be, finally withdrawn." Id. at 319. Importantly for our purposes, the Court noted that although the United States still retained certain powers with respect to trade relations with the Philippines, there now were "certain exceptions" to those powers as "set forth particularly in the act." Id. In short, the Court recognized that, although the power of the United States in regard to the Philippines "has not been abolished," it nonetheless "has been modified." Id.

Congress is not limited under the Territorial Clause to the binary options of retaining its plenary power or wholly ceding it to the subject jurisdiction. Congress has on many occasions chosen to delegate part of its Territorial Clause authority and to retain part, and the very breadth of this plenary authority has tended to insulate even broad and

unconventional such delegations of Congress's authority under the Clause. For example, in United States v. Husband R. (Roach), 453 F.2d 1054 (5th Cir. 1971), cert. denied, 406 U.S. 935 (1972), the court noted that "[w]ith respect to the basic areas of civil government of the [Panama] Canal Zone, Congress has delegated its plenary authority to the executive branch of our government." Id. at 1059 (emphasis added). In affirming a conviction for operating a bus in violation of Canal Zone regulations, the court upheld the validity of Congress' broad delegation of territorial powers to the President and his delegation in turn to the Governor of the Canal Zone. The Governor, the court wrote in sustaining this novel delegation of Territorial Clause authority, was "in effect the agent and creature of Congress." 453 U.S. at 1059.

The breadth of Congress' power to delegate Article IV authority is illustrated by the delegation to the legislature of Puerto Rico (and the legislature of the Philippine Islands) of the power to amend or repeal the provisions of the United States income tax laws in force in those territories. The Second Revenue Act of 1917 and the Revenue Act of 1919 provided that the Puerto Rico legislature and the Philippine legislature had the "power by due enactment to amend, alter, modify, or repeal the income tax laws in force" in those territories. Ch. 63, § 5, 40 Stat. 300, 302; ch. 18, § 261, 40 Stat. 1057, 1088. And Section 6 of the Organic Act for the Philippines Islands of 1916, ch. 416, 39 Stat. 545, 547, provided that "the laws now in force in the Philippines shall continue in force and effect, except as altered, amended, or modified herein, until altered, amended, or repealed by the legislative authority herein provided or by Act of Congress of the United States."

Thus, the Administration is plainly mistaken when it puts forward the following black-and-white view, which is the basis of many of its misconceived notions regarding Title IV of the bill: "Either the United States retains sovereignty over a territory or it does not." (Comments at 32 n.13.) If the complex history and jurisprudence of non-state political statuses associated with the United States -- including the others mentioned above as well as Puerto Rico's -- show anything, it is that the Administration's all-or-nothing view of Congress's options in exercising its plenary powers under the Territorial Clause power is simplistic and incorrect.

In addition to the bilateral commitment between the United States and Puerto Rico expressed in the Compact of 1950-52, the United States emphasized its international commitment not to alter unilaterally central aspects of the

compact (specifically, the Puerto Rican Constitution), in the course of a debate in the United Nations that resulted in recognition of Puerto Rico as self-governing by the community of nations. The United States' recognition of the Commonwealth of Puerto Rico's self-governing status freed the United States from further burdens under its treaty obligations set forth in Article 73(e) of the United Nations Charter.

In October 1953, the United Nations Trusteeship Committee considered the political status of Puerto Rico. The United States told the committee that the compact, consummated just the year before, guaranteed that the United States retained no power itself to alter or amend the Puerto Rican Constitution. Dr. Antonio Fernos-Isern, the United States' special representative to the U.N. Trusteeship Committee, stated that it was "mistaken" to argue that the United States retained the "power to revoke or amend unilaterally the Constitution of the Commonwealth." 29 Dep't State Bull. 801 (Dec. 7, 1953). Indeed, Dr. Fernos-Isern confirmed that Congress, following ratification, no longer had "power to repeal or unilaterally amend Public Law 600 and the Puerto Rican Federal Relations Act, upon which the compact between the two peoples rests." Id.

The official position stated by Dr. Fernos-Isern was reiterated by other responsible United States officials. Frances P. Bolton, the United States' Representative to the United Nations General Assembly, told the Trusteeship Committee that "[a] fundamental feature of the new Constitution is that it was entered into in the nature of a compact between the American Congress and the Puerto Rican people." 29 Dep't State Bull. 798 (Dec. 7, 1953). And she said that "[t]his arrangement" had been authoritatively described -- by Senator Butler of Nebraska, the chairman at the time of the predecessor to the Senate Committee on Energy and Natural Resources and a co-sponsor of Public Law 600 -- "as a relationship between two parties which may not be amended or abrogated unilaterally." Id. (emphasis added).

On March 20, 1953, the United States sent a formal memorandum to the Secretary General of the United Nations declaring that Puerto Rico was no longer a non-self-governing territory. The memorandum stated that the compact bound both the Commonwealth and the United States to observe all of the Compact's constituent parts, including but not limited to the Puerto Rican Constitution.

After extended debate, the United Nations General Assembly adopted Resolution 748 (VIII). In that resolution,

the United Nations recognized "a new constitutional status" for Puerto Rico, which recognized that the people of the Commonwealth of Puerto Rico have been invested with attributes of political sovereignty which clearly identifies the status of self-government attained by the Puerto Rican people as that of an autonomous political entity. [Resolution 748 VIII (1953)].[15/] The United States was among the majority of the nations of the world adopting that resolution.[16/]

III. Consultation on Federal Appointments in the Commonwealth

The Administration has objected to the provision in section 408(b) of the bill that, prior to nominating any person to serve in Puerto Rico whose appointment requires the advice and consent of the Senate of the United States, the President "shall consult with the Governor as to whether there are special circumstances or qualifications which should be considered in deciding on the nomination." The Administration stresses that the Appointments Clause of the Constitution, Art. II, § 2, cl. 2, "does not permit Congress to fetter the President's power to appoint principal officers with a

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15/ Yearbook of the United Nations (1953) at 539 (emphasis added).

16/ In September, 1971 then Ambassador George Bush, as Permanent Representative of the U.S. before the U.N., successfully defeated Cuba's efforts to include the "decolonization of Puerto Rico" in the agenda of the General Assembly, affirming before the General Assembly that:

> . . . the Cuban request constitutes an act of interference in the internal affairs of the United States and Puerto Rico. The people of Puerto Rico fully exercised their right to self-determination in 1952, in a freely held plebiscite, when they by an overwhelming majority approved the maintenance of the existing relationship between Puerto Rico and the United States. They freely entered into a compact with the United States and freely adopted their own constitution.

(A/BUR/SR.192)

requirement that the appointment come from persons on a particular list or be made in consultation with some particular person or group, thereby allowing non-federal officers to share in the appointment power." (Comments at 36.) Yet the bill provides on its face that nothing in section 408 is "a limitation on the ability of the heads of agencies to appoint, or the President to nominate any individual."

The Administration reveals the forced nature of its concern by acknowledging that of course it would have "no objection" "to a provision that would simply recognize the right of the Governor of Puerto Rico to provide the President with advice and information" with regard to special circumstances that should be considered in making certain federal appointments in Puerto Rico, so long as there were no "formal requirement of consultation." (Comments at 36.) In plain English, the Administration is saying that the Governor has a right to advise but that the President cannot be forced to take the Governor's advice. Yet this is what the bill already provides.

Hortatory requirements regarding the President's appointments power are commonplace and present no constitutional difficulty. Indeed, more than that, the President's appointment power often has been channeled by statute and such channeling has not been thought to run afoul of the Appointments Clause. As examples of loose restrictions on the appointment power, the Solicitor General must be a person "learned in the law," 28 U.S.C. § 505 (1982); the Surgeon General must "have specialized training or significant experience in public health programs," 42 U.S.C. § 205 (1982); the Administrator of the Federal Aviation Administration must be a civilian at the time of his appointment, 49 U.S.C. § 106(c)(2) (1982); and, for practical purposes, only members of one political party are eligible for appointment to some vacancies on independent regulatory commissions, no more than a bare majority of whose members may be members of the same party, e.g., 15 U.S.C. § 41 (1982) (FTC); 47 U.S.C. § 154(b)(5) (1982) (FCC).

The statute creating the United States Sentencing Commission is an example of a restriction similar to that proposed here. It provides for a commission of seven members appointed by the President, at least three of whom "shall be Federal judges," and those three judges are to be selected by the President after he considers "a list of six judges recommended to the President by the Judicial Conference of the United States." 28 U.S.C. § 991(a) (Supp. IV 1986). Thus the

President's choice is limited to the fewer than 1,000 federal judges, and he is obviously expected to make his choice of three from a much smaller group of six judges recommended for his consideration by their peers. The constitutionality of the Sentencing Commission was vigorously contested in litigation in almost every judicial district, on many different grounds including its membership. Yet we know of no district judge who seriously entertained a claim that the President's appointment power has been unconstitutionally infringed by the confinement of his selections to federal judges or by the further requirement that he consider for appointment federal judges recommended by the Judicial Conference.

The Supreme Court sustained the constitutionality of the Sentencing Commission and of its guidelines in Mistretta v. United States, 109 S. Ct. 647 (1989). In the Court's opinion, this feature of the appointment process was mentioned, 109 S. Ct. at 652-53, 667-68, but without a hint that it was constitutionally doubtful thus to restrict the President.

The statute providing for appointment of the Comptroller General is an example of an even tighter restriction on the President's choice of appointees. That statute provides that, whenever a vacancy occurs in the office of Comptroller General, a commission is established to recommend individuals to the President for appointment to that vacancy. The commission consists of the current occupants of eight enumerated congressional leadership posts. 31 U.S.C. § 703(a)(2) (1982). "The President may ask the commission to recommend additional individuals," § 703(a)(3), but the Supreme Court has assumed, though the statute nowhere says in terms that he must do so, that the President makes his choice from among those recommended by the commission. Bowsher v. Synar, 478 U.S. 714, 727-28 (1986). It is noteworthy that the restriction of the President's appointment power, although noted, played no part either in the majority decision in Bowsher v. Synar, holding that, because he was subject to dismissal by Congress, the Controller General could not constitutionally exercise the executive powers conferred on him by the Gramm-Rudman-Hollings Act, or in Justice Stevens' special concurrence, in which, declining to rest solely in the congressional power of dismissal, he amassed evidence that the comptroller general is the servant of the Legislative Branch. Id. at 742-45.

In sum, the minimal constraint on the President's appointment power reflected in the consultation requirement of section 408 -- cabined as it is by the express proviso that is not a limitation on the President's power to nominate (or the

agencies' power to appoint) any individual -- is no more of a restriction than other constraints that have been sustained by the courts. As such, section 408 as drafted clearly is constitutional.

IV. Congress's Power to Decide Who Shall Set the Date of the Referendum

Section 101(b) of the bill provides that the Puerto Rico status referendum "shall occur on December 2, 1991, or on a date during the autumn of calendar year 1991 as may be mutually agreed by the three principal political parties of Puerto Rico." In this way, Congress would be delegating to the three major Puerto Rican political parties participating in the referendum Congress's authority to set an alternative date for the referendum.

The Administration finds constitutional fault even with this unobjectionable Congressional decision, asserting that it "unconstitutionally vests federal authority in persons other than officers of the United States appointed pursuant to the Appointments Clause." (Comments at 6.) In support of its position, the Administration cites but two passages from a single case: Buckley v. Valeo, 424 U.S. 1, 126, 141 (1976). The Administration has an alternative referendum date-setter in mind: "We recommend that this function be vested in the President alone." (Comments at 6.) The Administration generously adds that "[w]e would have no objection, however, to a provision that permitted the three principal political parties to recommend to the President an alternative referendum date." (Id.)

The logic of the Administration's position seems seductively similar to that disposed of in Part III above. But the Administration is on even weaker ground here than with respect to section 408 of the bill. The Administration simply assumes that the function of changing the date of the referendum from December 2, 1991, to some other date is an executive branch function, appropriately handled by the President or one of his appointees. But nothing in logic or law supports this unthinking assumption. Indeed, the very passage cited by the Administration clearly places responsibility for the kind of function at issue here outside the definition of the kinds of functions that constitutionally must be exercised by presidential appointees.

In Buckley v. Valeo, the Supreme Court held that Commissioners of the Federal Election Commission must be

appointed pursuant to the Appointments Clause not only because "each of [their] functions . . . represents the performance of a significant governmental duty exercised pursuant to a public law" -- a requirement the Administration notes -- but also because "none of [these functions] operates merely in aid of congressional authority to legislate" -- the dispositive requirement that the Administration has failed to note. 424 U.S. at 141. It is hard to imagine a function that operates more clearly "in aid of congressional authority to legislate" than the function of possibly selecting an alternative date for the referendum being provided for in S. 244. This is quintessentially not an executive branch function, but an aiding of Congress in one detail of its legislative function. Congress -- not the President -- has chosen the date of December 2, 1991, and it is up to Congress -- not the President -- to choose an alternative date if one is needed, or to designate who shall choose such an alternative date.

Appearances aside, the Administration thus is hardly being generous when it states no objection to permitting the Dialogue Committee "to recommend to the President an alternative referendum date." The ultimate choice of a referendum date is clearly not the President's in the first place. It is the Congress's, and the Congress may, within reasonable limits not nearly reached here, delegate it as it sees fit.

Apart from the separation-of-powers issue disposed of above, a number of extra-constitutional reasons make the President -- who has already formed and expressed his preference for a particular political status for Puerto Rico -- a singularly inappropriate person to exercise the alternative date-setting function. These same reasons make the approach taken in S. 244 as drafted -- which serves the principles of self-determination and of localized decision-making by the persons most affected by the decision-- singularly appropriate.

We add only this:

It should be kept in mind clearly just what the referendum is about -- a further act of self-determination by the people of the Commonwealth of Puerto Rico. The present stage of this process began when the Governor called for a referendum in his inaugural speech in January of 1989 and continued with the joint petition of the leaders of the three major political parties of Puerto Rico to the President of the United States and to the United States Congress. It would be a distortion of the contemplated process and an unfortunate violation of the principle of self-determination if Congress

were to heed the Administration's call to transform the referendum from a spontaneous indigenous exercise of the will of the Puerto Rican people into an exercise of federal fiat imposed from without. From the perspective of the people who will be most affected, what has always been contemplated is a local Puerto Rican referendum held in accordance with the laws of Puerto Rico, which will also provide authentic and accurate guidance to the Congress with respect to the will of the Puerto Rican voters.

The President has no natural role in this scheme of things, which essentially contemplates a bilateral series of actions between the people of Puerto Rico and the Congress. For the President to dictate a date for the referendum simply would not be appropriate -- all the more so in light of the President's public declaration of his own status preference for Puerto Rico, and his Administration's loyal pursuit of that objective. An important insight motivates section 101 of S. 244 as drafted, and this insight should not be tampered with: the date of the referendum -- if it is not specified by Congress in concert with the appropriate representatives of Puerto Rico -- is a matter properly delegated for determination by the appropriate electoral bodies of the Commonwealth of Puerto Rico, and not something to be imposed upon them, and upon Congress, by the President, under the guise of "executing" Congress's legislation.

Sincerely,

Rafael Hernández Colón

ESTADO LIBRE ASOCIADO DE PUERTO RICO

OFICINA DEL GOBERNADOR
LA FORTALEZA
SAN JUAN, PUERTO RICO 00901

February 18, 1991

The Honorable J. Bennett Johnston
Chairman
Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In response to your February 8th letter, received on the 12th, I am hereby answering your additional written questions regarding S. 244, the Puerto Rico Status Referendum Act, for inclusion in the hearing record.

(1) COMMUNITY VALUES

Given the new legislation approved by the Congress, we feel that there is no need to include Section 411 on Community Values in the definition of a New Commonwealth relationship.

(2) PRINCIPLES OF COMMONWEALTH

You ask whether the language under section 402 of the bill changes the existing Commonwealth relationship, and if so how.

The proposed language under section 402 of the Commonwealth definition aims at clarifying, strengthening and expanding on the present relationship between Puerto Rico and the United States, without altering its essential elements of mutual consent, based on a compact, common citizenship, defense, market, and currency. Certain aspects of the relationship which have been defined by the Courts of the United States and Puerto Rico and understood by the United Nations, are not explicitly covered by the Federal Relations Act. Public Law 600 and the constitutional process which led to the establishment of Commonwealth, failed to address many concerns which we feel have become more important as the relationship has evolved. We thus seek to strengthen the pillars of the relationship while clarifying the inviolability of the U.S. citizenship of Puerto Ricans, the sphere of sovereignty enjoyed by the Commonwealth, the policy of the United States with regards to the Commonwealth of Puerto Rico, and several other aspects of the relationship which the bill explicitly covers.

The purpose of this language is to eliminate, to the greatest extent possible, any remaining doubts as to the non-colonial nature of Commonwealth status, and to assure that it will be a relationship blessed with the stability and permanence that the people of Puerto Rico and the United States mutually wish to bestow upon it.

The General Assembly of the United Nations, in its resolution 748 VIII of 1953,

> Recognizes that, in the framework of their Constitution and of the compact agreed upon with the United States of America, the people of the Commonwealth of Puerto Rico have been invested with attributes of political sovereignty which clearly identify the status of self-government attained by the Puerto Rican people as that of an autonomous political entity.

The federal courts, up to the U.S. Supreme Court, have repeatedly validated the understanding that the establishment of Commonwealth in 1952, ended Puerto Rico's territorial status, and subordination to the plenary territorial powers of Congress.

> "Puerto Rico, like a state, is an autonomous political entity, sovereign over matters not ruled by the Constitution." *Rodríguez v. Popular Democratic Party*, 457 U.S. 1 (1982)

> "Thus, in 1952, Puerto Rico ceased being a territory of the United States subject to the plenary power of Congress as provided in the Federal Constitution. The authority exercised by the federal government emanated thereafter from the compact itself." *United States v. Quiñones,* 758 F.2d 40 (1st Cir. 1985)

> "...the constitution of the Commonwealth is not just another Organic Act of the Congress. We find no reason to impute to the Congress the perpetration of such a monumental hoax. Public Law 600 offered to the people of Puerto Rico a compact under which, if the people accepted it, as they did, they were authorized to organize a government pursuant to a constitution of their own adoption...This constitution was adopted by the people of Puerto Rico through their duly chosen representatives in constitutional convention assembled. It stands as an expression of the will of the Puerto Rican people...(it) is not an act of Congress." *Figueroa v. People of Puerto Rico* , 232 F2d 615 (1st Cir. 1956).

While section 402 clarifies and strengthens the basic framework of the relationship, it also envisions an expansion in the scope of self-government enjoyed by Puerto Rico, consistent with a common citizenship, defense, currency and market. By setting a norm for the applicability and adaptability of federal laws to the Commonwealth of Puerto Rico we seek to harmonize the requirements of federal uniformity with the cultural, geographic, and economic peculiarities of our Island. Our aim is to enhance the policy tools available to Puerto Rico under Commonwealth in order to accelerate our economic development and bolster our self-sufficiency, in ways that are productive and constructive.

(3) HOUSE BILL

You ask whether I believe that the House bill meets the requirements of clear definitions and a commitment by Congress to implement the option chosen by the people of Puerto Rico.

H.R. 316, like its predecessor H.R. 4765, incorporates by reference general definitions of the status options available to the people of Puerto Rico. As to Commonwealth, the definition is conceptually correct, yet it is inadequate in that it lacks concreteness and specificity. However, these general definitions fail to address several crucial aspects of statehood and independence, that need to be defined before the plebiscite. They lack content and thus do not provide the people of Puerto Rico and the United States with an adequate, common understanding of the consequences of each option. I must note that the Senate definitions, although much more specific and detailed, fail to address the cultural consequences of statehood, as I pointed out in

my testimony before the Senate Energy and Natural Resources Committee on January 30, 1991.

The House definitions further fail adequately to commit the U.S. government with the results of the referendum. This lack of commitment is compounded by the generality of the definitions. The emphasis of the House bill is with a procedural commitment to consider the results of the referendum, rather than with the substantive commitment that we seek.

The Senate bill S. 244 includes a substantive commitment in Title I, sec. 101 (e) (2): "enactment of this section constitutes a commitment by Congress to implement the status receiving a majority." This is less strong a commitment than what we would like, but it is acceptable. However, I must state categorically that any attempt at weakening this commitment, either by altering the language or by reducing the level of specificity in the definitions would defeat your stated objective of attaining the strongest possible moral and political commitment. Any such change would seriously compromise the value of this process to Puerto Rico and the United States. Again, it is the destination, not the journey, that we are after. Absent definitions or a commitment to implement the winning formula, federal legislation for a status referendum would be inconsequential and unnecessary. Since January, 1989, our central objective has consistently been a meaningful process: to define the options and commit the Congress to honor the referendum results.

(4) LEGAL EFFECT OF S. 244

Finally, you inquire whether I believe that the proposed enhancements to the Commonwealth, once effective, could be amended without mutual consent.

The process set out in S. 244 clearly bases any change in the status of Puerto Rico upon mutual consent. By providing for ratification by the People of Puerto Rico of the implementing legislation developed by the Congress after the referendum, the intention of Congress is clearly to base the enhancements of Commonwealth upon a solid and legitimate foundation of mutual consent.

The present Commonwealth relationship rests on a foundation of mutual consent, ratified by the Congress and the People of Puerto Rico as a compact. To be sure, I cannot conceive how any fundamental change in the relationship between Puerto Rico and the United States could be effected without the mutual consent of both Puerto Rico and the United States. If it were otherwise we could not support the legislation.

Sincerely,

Rafael Hernández Colón

cc: Committee on Energy and Natural Resources

CARLOS A. ROMERO BARCELÓ
ATTORNEY AND COUNSELOR AT LAW

February 20, 1991

The Honorable J. Bennett Johnston
Chairman
Senate Committee on Energy and Natural Resources
SD-364 Dirksen Senate Office Building
Washington, D.C. 20510-6150

Dear Mr. Chairman:

I am writing because I believe this morning's discussion in the Senate Energy Committee represents a material turning point in the legislative process to enact a bill authorizing a referendum by the people of Puerto Rico. Based on the discussion, I believe Committee members have come to conclude that the definitional provisions of S. 244 have become confusing. It further became clear that the Committee will pass a bill that will allow for a referendum on the three status options -- as we have suggested recently -- without burdening the bill's terms with excessive detail.

Although the effort to draft detailed definitions applicable to each status option began as a good faith effort to inform Puerto Rican voters about the meaning of each status option, a variety of concessions made during the political process have distorted the definitions to a point where they actually could have the opposite effect: to confuse the voters about each option's meaning.

Committee members complained today about the definitions' complexity; expressed concern about having to vote for the equivalent of a statehood admission bill prematurely; and stated a preference that Puerto Rico petition for statehood in the traditional manner, a majority vote first and consideration of the petition after the vote.

We believe the imperative point in this process is this: Congress should authorize the plebiscite requested by Puerto Rico's three political parties and make clear that, if a majority of Puerto Ricans favor a statehood petition, Congress would consider the People's petition. That way the voters of Puerto Rico will be assured that they are being afforded a valid opportunity to exercise their right of self-determination, as the United States has represented before the United Nations and other international forums.

This legislative process has been educational for the voters of Puerto Rico. Because of it they are equipped to make a more intelligent choice among the three status options. Moreover, once Puerto Rico's voters have chosen statehood and Congress has before it only the task of writing an admission bill -- without the confusion created by competing status options -- Congress will be better able to write a responsible law.

Puerto Rico's Statehood Party has confidence that the people of Puerto Rico will vote intelligently and that Congress will treat a statehood petition responsibly, as it has when other territories have petitioned for admission in the past.

Sincerely,

Carlos Romero Barcelo
President
New Progressive Party

THE WHITE HOUSE

WASHINGTON

February 26, 1991

Dear Mr. Chairman:

On Wednesday the Committee on Energy and Natural Resources will mark up S. 244, the bill cosponsored by you and Senator Wallop to hold a referendum on the political future of Puerto Rico. I urge you to act favorably on calling for such a referendum on the island.

The most compelling reason to do so is that, nearly a century after coming under the American flag and more than 70 years after becoming American citizens, Puerto Ricans deserve the chance to express themselves on what they want their political future to be. We owe it to the people on the island -- and to our own principles -- to find out which course they want to take: statehood, independence, or continued status as a commonwealth.

If we do not act now to resolve this question, it will call into question whether we truly believe in self-determination for 3.6 million of our fellow citizens, many of whom have fought America's wars of this century and are fighting today. The other issues that have been raised on this bill -- such as how many Senators one party might elect if Puerto Rico ever becomes a State or who might lose certain tax benefits -- are far below this in importance.

I therefore hope you act in this spirit and vote to hold a referendum on the island this year.

With thanks for your consideration,

Sincerely,

George Bush

The Honorable J. Bennett Johnston
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

DOCUMENTOS LEGISLATIVOS

Anteproyectos, proyectos de ley, informes de las subcomisiones y comisiones del Senado y la Cámara de Representantes de los Estados Unidos y material relacionado publicado en el "Congressional Record", organizados juntos en orden cronológico.

under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized for whatever time as in morning business.

PUERTO RICO'S STATUS

Mr. JOHNSTON. Mr. President, it has been over two decades since the people of Puerto Rico were consulted as to their preference on political status. Much has changed since that time. Many current voters, for example, were not eligible to vote 22 years ago and have thus not had an opportunity to express their choice.

The three principal political parties in Puerto Rico which represent the three alternative status options (commonwealth, independence, and statehood) all included statements supporting the need to resolve the status issue in the platforms they put before the electorate in the November 1988 local elections. In January, the presidents of these three parties communicated to the President of the United States and the leadership of the Congress their desire that the people of Puerto Rico be consulted as to their preferences. Although one of these presidents has since resigned and a new one has assumed office, the new party president has since communicated to me his position in favor of a referendum "which would give the people of Puerto Rico an opportunity to vote on their preference of status and to put an end to our political status dilemma."

I ask unanimous consent that copies of the correspondence I received from the three party presidents in January and the subsequent letter I received in March from the new president of the New Progressive Party be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JOHNSTON. Mr. President, this desire for the people of Puerto Rico to be consulted on the status issue was transmitted to me in my capacity as chairman of the Committee on Energy and Natural Resources. Under the Standing Rules of the Senate, this committee has principal jurisdiction over insular status matters although other committees will undoubtedly be both interested and involved in the process.

I consider Puerto Rico's political future to be an issue of utmost importance. There is no principle more cherished by the American people, and no principle more closely held by the Founding Fathers, than self-determination. I am therefore committed to serious and expeditious action on this matter.

Mr. President, I know many of my colleagues share my deep interest in this matter. I therefore would like to tell my colleagues what actions we are taking and why we are taking them.

Knowing of the interest of the three principal parties in Puerto Rico in a referendum on political status, I drafted a bill which would provide simply for the people of Puerto Rico to make a choice between the three statuses described in one word or a phrase as, for example, "statehood" or "independence" or "commonwealth." The bill would require a runoff if necessary to obtain a majority for one option, to be followed by a period of negotiation. The objective of that negotiation would be enactment of legislation by Congress. Finally, this bill would provide that the legislation enacted by the Congress would be put before the people of Puerto Rico for approval or disapproval in a second referendum.

In this bill, it was to be understood, of course, that there would not be a guarantee of acceptance by Congress of any particular version of status chosen by the people of Puerto Rico because the terms and definitions of each status can vary widely.

In February, I went to Puerto Rico and had separate meetings with each of the principal party leaders, followed by a joint meeting with all three. It was a repeated theme in these meetings that the status options should be more fully described so that the first referendum would be more meaningful.

While I emphasized the difficulty of fully defining three statuses, the three party leaders believed it could be done. And they thought we ought to try. I then hit upon the idea of having two additional bills.

The second bill would be similar to the first but, when introduced, would instead of saying, for example, "statehood" would state "statehood defined as follows": leaving a blank in the bill, as introduced, to be filled in during the congressional process. This bill would attempt to define the three statuses in general terms and therefore would require the same negotiation with the Congress as described in the first bill. A second congressional bill would be the result of this negotiation followed by a final referendum of the people of Puerto Rico approving it or disapproving it.

The third bill would also have blanks to be filled in for the definitions of the three statuses. However, it is contemplated that in this bill the full legal relationship to be negotiated would be filled in so that upon approval either in the first referendum, or a runoff if necessary to obtain a majority, the status selected would be self-executing. In other words, if the people of Puerto Rico chose a particular status in the referendum, that status would be achieved upon certification of the referendum returns.

We do not know at this point what success we will have in defining these three statuses. If we could fully define the status as provided in the third bill, that would be the most desirable because the people of Puerto Rico would know precisely every detail of their relationship. But we all know what a formidable task this would be. The second bill would be easier but it also presents a formidable task. Although the first bill would lack the definitional clarity of both the second and third bills, and from that standpoint would be less desirable, it would nevertheless present a real choice to the people of Puerto Rico and would certainly be a giant step forward in the self-determination process.

I emphasized to all three parties that it was my intention as chairman of the committee to be evenhanded in this process and not to favor any status during the legislative process. At the same time, I emphasized to the three party leaders that their request to us, which was so urgently and ardently made by all three party leaders, will be treated with the utmost seriousness and that once the process begins it will be my intention to push it to a conclusion, so far as the first legislative round is concerned, in this Congress.

I want to make clear, Mr. President, that these three bills are my product, not those of a particular party. That is, no particular version has been drafted by any of the principal parties. Instead, the three bills will represent attempts by me to respond to the main concern raised by all three parties—the need for precision in definitions of each status option. It is my own view that such precision will be exceedingly difficult to achieve as the complexities of making changes in the current status or changing the current status to another relationship altogether become clear. However, I believe we should make a good faith effort to do so, and I am certainly willing to try. The best forum for defining the status options is the Congress, for ultimately legislation must be passed to implement whatever status option the people choose.

I also outlined an ambitious schedule for the Energy Committee in these meetings with the three party leaders which I would like to share with my colleagues. This schedule is as follows:

Tuesday, April 4: I will introduce three bills (leaving blanks for the required definitions for the second and third bills as described above)

Tuesday, May 9: Deadline for submission to me by each party of paradigm definitions for their respective status options required to complete the second and third bills.

I will introduce these definitions in new bills, or as amendments to the original bills, as soon as possible after

receiving the recommendations of the three parties.

Thursday, June 1; Friday, June 2; and Monday, June 5: Target dates for the first hearings by the Senate Committee on Energy and Natural Resources to be held in Washington, DC.

Friday, June 16 and Monday, June 19: Target dates for the second round of hearings by the Senate Committee on Energy and Natural Resources to be held in San Juan, PR. These dates will be finalized when the Senate's June schedule is announced.

It is very important that we adhere to this schedule because I believe it is important for the first referendum to occur in 1991, and before the next gubernatorial election in Puerto Rico in 1992. It is my view, and a view which I believe all three principal parties share, that the status issue should be considered separate and apart from a general election so that there can be a more meaningful debate on status.

In my discussions with the three party leaders, the need for funding for the three parties for staff, travel, and similar expenses was also discussed. I agreed to seek $500,000 for each party for this purpose to be used during this Congress. I have since spoken to President Bush and with White House representatives whose response has given me confidence that this funding goal will be achieved early in this Congress.

Given the importance of this issue, Mr. President, I wanted to outline the schedule I have developed for the consideration of this matter. I have briefly discussed this approach with President Bush, who in his first State of the Union Message stated his belief that "the people of Puerto Rico should have the right to determine their own political future" and who I believe shares my view that we should move ahead in this Congress to develop a fair process in which the views of the people can be expressed.

At every stage of these proceedings I have kept my esteemed ranking minority member, the distinguished senior Senator from Idaho, advised. He will in due course make his own comments upon this matter. I strongly believe that the matter of Puerto Rico's status should be handled on a nonpartisan basis, and with very close cooperation between the two parties and the excellent staffs of the majority and the minority as we do with so much of our legislation in the Committee on Energy and Natural Resources.

I look forward to working with my many colleagues in the Senate who share my keen interest in this matter over the next 2 years and I hope we will be able to develop legislation by the end of the 101st Congress to which all parties can agree.

In summary, Mr. President, I recently made a trip to Puerto Rico to speak to the leaders of the three parties there—the Statehood Party, the Commonwealth Party, and the Independence Party—to discuss the future status of Puerto Rico. As my colleagues will recall, the President, in his State of the Union Message, mentioned the status of Puerto Rico and its importance. It is a very live and important and enthusiastic issue in terms of the people of Puerto Rico.

After consultation with the leaders of the three parties, it was determined, Mr. President, that in this Congress we should deal with the issue of status and that we should convert legislation leading to a referendum or set of referendums to determine the status of Puerto Rico.

We hit upon a plan to do so, Mr. President, and we planned in the Committee on Energy and Natural Resources, which is the committee of primary jurisdiction over Puerto Rican matters, to introduce legislation to that effect.

I will introduce three bills, Mr. President. The first will call for a referendum in Puerto Rico on the three statuses—that is statehood, commonwealth, and independence—described in a word or two to give them a choice of one of the three statuses with a runoff in case no status gets 50 percent of the vote.

Upon choosing one of these statuses, we would then enter a period of negotiation with Puerto Rico to define that status. For example, if the people in their referendum chose commonwealth, we would enter into a period of negotiations to define how to enhance and improve that commonwealth status. Likewise, if statehood was chosen, we would in the neogitations define the terms of statehood under which Puerto Rico would come into the Union.

That legislation, when adopted by Congress, would envision that we would have another referendum by the people of Puerto Rico to approve that so that, in effect, you have the first referendum and perhaps a runoff to secure a 50-percent choice on one of the three statuses, leading to a choice of one of the three within a period of negotiation leading to a second piece of legislation to define fully that status and leading to a final referendum for the people of Puerto Rico so that they would have in this first bill two choices. First, a choice of which status to negotiate and, second, a choice of approval of the fruits of that negotiation.

Mr. President, I went to Puerto Rico armed with a draft of that bill. I discussed it with the leaders of the three parties who want very much to have the referendum, but who suggested it would be a better referendum if the terms of the three statuses were more fully defined to the people so that if they voted for commonwealth, they would know more precisely what the terms of that status were, and likewise with the other two statuses.

Pursuant to that suggestion, Mr. President, we hit upon the idea of introducing two other bills. The second bill would be similar to that first discussed, except that instead of saying, for example, statehood period, it would say statehood defined as follows, leaving a blank with the congressional process to fill in that blank. Similarly with the other two statuses. You would have the same referendum and runoff leading to a period of negotiation with a second congressional bill and a final referendum. In the second bill, the description would be in general terms and would not attempt fully to define the status.

The third bill, Mr. President, would leave a blank after the one-word description of the status with the blank to be filled in similarly to the second bill. However, it would be the purpose of the third bill to fully and completely define that status so that upon the referendum by the people of Puerto Rico, that status would be self-executing and ipso facto the choice of the people of Puerto Rico would come into being. For example, if it were the independence chosen, then the kind of independence as defined fully would automatically upon certification of the election results be effective.

Mr. President, it is of course a daunting task to define fully and completely the terms of what is a very complicated legal relationship between Puerto Rico and the United States, and we recognize the difficulty of doing that in the second bill, or even of doing it in general terms. Nevertheless, Mr. President, it is clear that we should try to do this, and so accordingly we will introduce those bills.

EXHIBIT 1

JANUARY 17, 1989.

HON. J. BENNETT JOHNSTON,
Chairman, Energy and National Resources Committee, Washington, DC.

DEAR MR. CHAIRMAN: In the past election held on November 8, 1988, all three political parties, which represent the three alternatives for the ultimate political status of the People of Puerto Rico, included the need for the resolution of the status issue in the platforms they presented to the electorate.

In accordance with the platform of the Popular Democratic Party, the Governor of Puerto Rico announced in his Inauguration the intention of the Government of Puerto Rico to pursue the resolution of the status question with the Government of the United States of America and convened a meeting of the leadership of the three political parties that represent the three formulas.

As a result of this meeting we, the President—of the Popular Democratic Party, representing Commonwealth, the New Progressive Party, representing Statehood, and the Independence Party, representing Independence—have agreed to express to the President and to the Congress of the United States of America, that the People of Puerto Rico wish to be consulted as to their preference with regards to their ultimate political status and the consultation should have the guarantee that the will of the People once expressed shall be implemented through an act of Congress which would establish the appropriate mechanisms and procedures to that effect.

Towards the formulation of such an act of Congress and related policies, we request to meet with you at your earliest convenience.

Conscious that since Puerto Rico came under the sovereignty of the United States of America through the Treaty of Paris in 1898, the People of Puerto Rico have not been formally consulted by the United States of America as to their choice of their ultimate political status, and in the Puerto Rican history and confident of the commitment of the United States of America and of the People of Puerto Rico to the principles of self-determination and government by the consent of the governed, we remain,

Cordially yours,

BALTASAR CORRADA DEL RIO,
President,
New Progressive Party.

RAFAEL HERNANDEZ COLON,
President,
Popular Democratic Party.

RUBEN BERRIOS MARTINEZ,
President,
Puerto Rican Independence Party.

CHARLES ROMERO BARCELO,
FORMER GOVERNOR OF PUERTO RICO,
San Juan, PR, March 13, 1989.

Hon. BENNETT JOHNSTON,
Senator, U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: On February 27, 1989 I told you that I would have completed my consultation with the leadership of the New Progressive Party by March 13. I have completed the initial consultation process as I promised.

The local press has reported that you will be giving a report to the Senate on our conversations and discussions regarding the referendum on the status of Puerto Rico. We would like you to have the benefits of the results of my consultation before you make the report to the Senate.

In my discussion with the leadership of the party, it was determined and decided to make it clearly known that we are strongly in favor of a referendum which would give the people of Puerto Rico an opportunity to vote on their preference of status and to put an end to our political status dilemma. We want a consultation that provides for a definite solution. A solution compatible with the democratic principles of our Nation and a solution which provides the people of Puerto Rico with full sovereignty as a State of the Union or as an independent nation. Any alternative which provides for US citizenship, but fails to provide for equal participation in the political process of the Nation that we are citizens of, would be unacceptable.

During the discussion with the leadership of our Party, the letter of January 17, 1989 signed by Baltasar Corrada del rio, Rafael Hernández-Colón and Rubén Berrios-Martinez and the Joint Declaration were considered to be unacceptable to the New Progressive Party. A proposed Executive Order to be signed by the Governor, referred to in the Joint Declaration, may be considered acceptable and a proper way to channel all our efforts locally, but only after the proposed Executive Order is reviewed and its complete text unanimously accepted by Rafael Hernández-Colón, Rubén Berrios-Martinez and myself.

We also consider unacceptable that part of the letter which states that the beginning of the process leading to the holding of a referendum is the result of an initiative by the Governor of Puerto Rico. We do not accept that the conversations and the process now underway are the result of the Governor's initiative. It is, on the contrary, the result of the desire and the constant demands of all those persons who oppose the colonial or territorial status of Puerto Rico. It is also the result of President Bush's commitment and continued remarks during the last campaign in Puerto Rico when he indicated his desire to submit the question of the political status to a vote in Puerto Rico, and that he personally favored statehood. It was the result of all of these pressures upon the Governor that bore upon him to call for a meeting with the Presidents of the other two registered political parties.

We further want to make clear for the record that we cannot accept the last part of the third parapraph of the letter, which states or implies that Congress must honor the result of the referendum, no matter which status formula wins. We cannot and we will never condone, endorse or accept as a definite or permanent solution to our status dilemma, a relationship with the rest of the Nation where we would remain as US citizens, but would be permanently denied our right to vote for President and we would also be denied our right to have two Senators and the corresponding number of Representatives in the House.

The Governor and his Popular Party advocate the "culmination" of the colonial status of Puerto Rico, which under the US Constitution and according to the US Supreme Court is nothing else than an "unincorporated territory". The name Commonwealth does not define a status. It is merely a word used to embellish the negative implication of the word "territory".

Any "improvement" or "enhancement" of Commonwealth which would leave unaltered the basic relationship existing between the 3.4 million US citizens and the rest of the Nation, based on a relationship of permanent union, would constitute a "permanent disenfranchisement". Such a relationship would not only be undemocratic, but should never be condoned, supported or encouraged by Congress.

In 1991, we will be celebrating the 500th anniversary of the Discovery of America. At that time, we should have at least begun to take the first steps to decolonize Puerto Rico. It would be a shame to the Nation if Congress were to sponsor or support any relationship with 3.4 million US citizens which was to include a condition of permanent disenfranchisement.

Although we do not subscribe to the letter and to the Joint Declaration of January 17, 1989 for the above stated reasons, we nevertheless feel that the process has already started pursuant to the conversations held in Puerto Rico on February 27, 1989 at the Condado Plaza under your auspices as Chairman of the Committee on Energy and Natural Resources. For that reason we do not believe that it is necessary at this time to sign any other letter or Joint Agreement. As far as we are concerned, the basis for the process now before us is the initial conversation held by and between Governor Rafael Hernández-Colón, as President of the Popular Democratic Party, Rubén Berrios-Martinez as President of the Independent Party, and myself, as President of the New Progressive Party together with you as Chairman of the Committee on Energy and Natural Resources of the US Senate.

We are encouraged, by what has transpired since then, and as you know, we have been keeping in touch with your staff and moving rapidly to keep-up with your proposed time table.

We will cooperate in every way possible to get legislation through Congress before the end of the year 1990. We want it to be understood, however, that the plebiscite should not be held until the year 1991, preferably during the summer.

We have discussed the reasons why the plebiscite should be held in 1991 and not sooner. Among the many reasons, one is the need for time to reorganize the Party, another is the need to raise the funds and organize the campaign of education necessary for the people to be properly advised as to what they are voting for.

You can count on our support in facilitating the process for the approval of the necessary legislation to guarantee a meaningful and fair vote by the people of Puerto Rico on the status preference. We appreciate your commitment to finding a permanent solution to our political status dilemma.

In 1993, Puerto Rico will have been a colony for 500 years. Let us hope that this process, which is now beginning, will lead us to our dream of equality in political rights and economic and social opportunities with all of the US citizens in the rest of the Nation.

Sincerely yours,

CARLOS ROMERO-BARCELÓ.

Mr. McCLURE. Mr. President, I would like to join my colleague from Louisiana in his remarks. While I do not have the background which he does with respect to Puerto Rico since he served on the ad hoc advisory group in the early 1970's, I do appreciate how difficult it has been to achieve a consensus among the different political aspirations which exist in Puerto Rico. What he has accomplished so far is remarkable, and he is to be commended for his efforts. I share his hope that we will be able to consider and enact legislation early enough so that the three parties will have ample time to present their respective preferences to the people of Puerto Rico at a time when the issue is not clouded by the general elections.

Mr. President, it has been barely 30 years since the last two States were admitted to the Union. We have among our colleagues, Members who were intimately involved in that process and who remember the days of territorial government. They also can remember the debates and the concerns which made the process for Hawaii and Alaska so protracted and at times acrimonious. I have no delusions about the course on which we are about to embark. I am also under no illusions that as we develop legislation, we will be asked by representatives of the various status options to tilt the process in one direction or another. The temptation to acceed to that tilt which individual Members may personally support will have to be resisted.

I remember a few years ago when the Senate and the House considered and enacted a resolution dealing with an effort by Cuba to bring Puerto Rico before the United Nations. We had an interesting debate at that time with respect to the concept of self determination. Senator JOHNSTON stated at one point during the debate: "I do not know whether the Congress would approve Statehood or not. I do not know whether the Congress would approve the new thesis or not. I do not know whether the Congress would approve independence or not. I honestly do not know what Statehood, new thesis, and Independence mean in all their details. Without that knowledge, it would be dishonest on my part to vote for a resolution indicating I would approve a proposal I haven't seen. I'm not will-

ing to do that with administration propsals sight unseen and I am certainly not going to do it with the future of 3½ million people."

I agree fully with Senator JOHNSTON that we need to provide some parameters so that there is no misconception as to what our fellow citizens in Puerto Rico will have before them. Certainly, I expect that each of the three parties will make claims, both with respect to their preferred status and against the other two options, which will not be accurate. That is the nature of political debate. I concur with Senator JOHNSTON that we need to minimize, if we can not eliminate, any misconceptions. We have an obligation to be fair and even-handed, so will be held. I support the effort being undertaken by Senator JOHNSTON and I plan to work closely with him.

The Committee on Energy and Natural Resources, through its predecessor, the Committee on Interior and Insular Affairs, has institutionally the history of implementation of status options ranging from the Northwest ordinance to Philippine independence to statehood from the Northwest ordinance to Philippine independence to statehood for 37 States. We are responsible for the present Federal relations arrangement with Puerto Rico and have considered and reported other measures for other areas such as Guam, the Virgin Islands, American Samoa, The Northern Mariana Islands, and the freely associated states of the Republic of the Marshall Islands, and the Federated States of Micronesia. We currently have pending before the committee a proposal from Guam to alter certain aspects of their Federal relations. Senator JOHNSTON and I worked closely together on many of those issues and I look forward to working with him, our Senate colleagues, the administration, and the interested parties and individuals in Puerto Rico and elsewhere who will be involved in this process.

WHISTLEBLOWER PROTECTION ACT OF 1989

The Senate continued with the consideration of the bill.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Maine wish to be recognized.

Mr. COHEN. Mr. President, I believe that Senator MCCAIN wanted to address the amendment now pending.

Mr. DIXON. Mr. President, will the managers yield for a question?

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. I wonder if the managers would yield to me. I am anxious to support the amendment by my distinguished friend, the minority leader, which I suspect is what my friend, the Senator from Arizona, wants to talk about. I wonder what kind of timeframe and procedural situation we are in here.

The PRESIDING OFFICER. The Chair would inform Senators that there is no time remaining at all on the bill or any pending amendments. Any other statements would have to be presented under unanimous consent.

Mr. LEVIN. I would ask the Senators from Arizona and Illinois how many minutes they need.

Mr. DIXON. I only need a minute or two to express my support for what I understand is the Dole-Dixon amendment. It concerns a matter of desecration of the flag in Chicago, and I certainly want to be on record supporting it but I do not want to take much time.

Mr. LEVIN. I ask unanimous consent that 4 minutes be allocated to the Senator from Arizona and 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Chair also informs Senators that at this time a recess is scheduled for 12 noon.

Mr. LEVIN. I understand the majority leader is on his way to the floor.

I ask unanimous consent that the recess begin following disposition of these remarks and that 10 minutes be allocated to the Senator from Colorado prior to that recess.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered. Under the unanimous-consent agreement, the Senator from Arizona is recognized.

Mr. MCCAIN. I thank the chair. I thank my friend from Michigan for his unanimous-consent request in order to allow me to say a few words about the proposed amendment of the distinguished Republican leader.

Mr. President, I first of all, I should like to thank Senator DOLE for his sponsorship of this amendment and my colleague from Illinois for his sponsorship. I do not know what in the world is going on in Chicago. I have visited that airport on many occasions, sometimes spending the night there. Mr. President, every American who has served their country should understand the issue involved, and what is going on in the name of art—an American flag is placed on the floor in front and directly below a guest book. This guest book is a register that has to be signed in order to enter into this particular establishment, and it forces American citizens to stand on the American flag.

Mr. President, this is not art. This is an insult. This is an insult to the American flag and the men and women of this country who serve it and who have made sacrifices to our country.

Mr. President, I hope we adopt the amendment of the distinguished minority leader and Senator from Illinois as rapidly as possible. Veterans throughout America are calling my office; men and women who have served this country are, understandably, angered by this kind of activity. We do not need it. It is totally unnecessary and it is a needless affront to people who cherish this flag of ours. I hope we get a unanimous vote on passage of this amendment so that we can express the sense of this body that this kind of behavior is not only uncalled for but an affront to all Americans who cherish and revere the symbol of this great Nation. A beacon of freedom simply does not deserve such treatment.

Mr. COHEN. If the Senator will yield, I might point out that the Senator from Arizona made a very powerful speech before the Republican National Convention about the meaning of the flag to one of his colleagues who spent a considerable amount of very difficult time in a North Vietnamese prison camp, and the kind of hope and inspiration it provided for the other men who were confined to that camp. I think that stands in dramatic contrast to what is taking place in Chicago as far as laying out that flag, forcing American people to walk on it to register at that art museum.

The PRESIDING OFFICER. Under the order, the Senator from Illinois is now recognized.

Mr. DIXON. Mr. President, I thank my distinguished friend from Arizona and my friend from Maine for their remarks.

Chicago is a great city, Mr. President, my State is a great State, and the people of my State object just as strenuously to a desecration of the American flag as anybody anywhere in America. I am delighted to be a principal cosponsor with my friend, the distinguished minority leader, of this amendment.

As I understand, the statute now says you may not burn a flag, the statute says you may not trample upon the American flag, and by this amendment we will say that you cannot place the American flag on the ground and treat it with contempt. I support that amendment, Mr. President.

I am shocked at what has occurred in a great city and a great State, and I feel I speak for all 11½ million Illinoisans who are like minded when I say we should pass this amendment at once and express our horror at the desecration of the American flag, which is the institutional, significant banner of our great Nation.

I thank the chair. I thank my colleagues for yielding me this time.

The PRESIDING OFFICER The Senator from Wisconsin.

Mr. LEVIN. Mr. President, will the Senator from Wisconsin yield for a unanimous-consent request?

Mr. KASTEN. I am pleased to yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator DOLE's amendment be voted on as a separate bill immediately following the final passage vote on S. 20, the whistleblower bill; I further ask unanimous consent that no amendments or motions be in order with respect to

EC-853. A communication from the clerk of the U.S. Court of Appeals transmitting, pursuant to law, a report of the independent counsel, and appendix, in re Theodore B. Olson and Robert M. Perry, No. 81-1; to the Committee on the Judiciary.

EC-854. A communication from the Chairman of the National Labor Relations Board, transmitting, pursuant to law, the annual report of the Board under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-855. A communication from the Director of the Federal Judicial Center, transmitting, pursuant to law, the 1988 annual report of the Federal Judicial Center; to the Committee on the Judiciary.

EC-856. A communication from the Director of Selective Service, transmitting, pursuant to law, the annual report of the Service under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-857. A communication from the Secretary of Defense transmitting, pursuant to law, the annual report of the Department of Defense under the Freedom of Information Act for the calendar year 1988; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. KASSEBAUM (for herself, Mr. DOLE, Mr. COCHRAN, Mr. HATCH, Mr. JEFFORDS, Mr. THURMOND, Mr. COATS, Mr. DURENBERGER, Mr. BOREN, Mr. BOSCHWITZ, Mr. BURNS, Mr. CHAFEE, Mr. COHEN, Mr. DANFORTH, Mr. DOMENICI, Mr. GORTON, Mr. GRAMM, Mr. HEINZ, Mr. KASTEN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCLURE, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. RUDMAN, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. WALLOP, Mr. WARNER, Mr. WILSON, and Mr. D'AMATO):

S. 695. A bill to promote excellence in American education by recognizing and rewarding schools, teachers, and students for their outstanding achievements; enhancing parental choice; encouraging the study of science, mathematics, and engineering, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HATCH:

S. 696. A bill to amend title 28, United States Code, to increase the rates of pay for certain Federal judges and other judicial officials, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HEINZ:

S. 697. A bill to extend until January 1, 1994, the existing suspension of duty on certain wool; to the Committee on Finance.

S. 698. A bill to extend the suspension of duty on certain circular knitting machines and parts; to the Committee on Finance.

S. 699. A bill to temporarily suspend the duty on Molten-salt-cooled acrylic acid reactors and their associated parts, accessories, and equipment; to the Committee on Finance.

By Mr. DOMENICI:

S. 700. A bill to amend the Internal Revenue Code of 1986 to meet the growing challenge of America's infrastructure needs; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 701. A bill to authorize the construction of a Center for National Security and Arms Control at Sandia National Laboratories in Albuquerque, New Mexico; to the Committee on Armed Services.

By Mr. MITCHELL (for himself, Mr. DURENBERGER, Mr. HEINZ, Mr. CHAFEE, Mr. BRADLEY, Mr. DASCHLE, Mr. ROCKEFELLER, Mr. RIEGLE, Mr. PRYOR, and Mr. BAUCUS):

S. 702. A bill to amend title XVIII of the Social Security Act to increase the amount authorized for a patient outcomes assessment research program, to transfer supervisory authority for such program to the Assistant Secretary for Health, to create a practice guidelines development program, to define the missions, priorities and scope of such programs, to establish an advisory committee for such programs, and for other purposes; to the Committee on Finance.

By Mr. SYMMS:

S. 703. A bill entitled "The Human Rights in Central America Act of 1989"; to the Committee on Appropriations.

By Mr. RIEGLE (for himself, Mr. PACKWOOD, Mr. BRADLEY, Mr. CHAFEE, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. MATSUNAGA, Mr. DECONCINI, Ms. MIKULSKI, Mr. HOLLINGS, Mr. SIMON, Mr. PELL, Mr. CONRAD, and Mr. INOUYE):

S. 704. A bill to increase the authorization under title XX of the Social Security Act for block grants to States for social services; to the Committee on Finance.

By Mr. DASCHLE (for himself and Mr. PRESSLER):

S. 705. A bill to assure fair consideration of the interests of States likely to be affected by the establishment of low-level radioactive waste disposal facilities; to the Committee on Environment and Public Works.

By Mr. SHELBY:

S. 706. A bill to amend the Tennessee Valley Authority Act of 1933 to change the composition, operation, and duties of the Board of Directors of the Tennessee Valley Authority; to the Committee on Environment and Public Works.

By Mr. METZENBAUM (for himself and Mr. LAUTENBERG):

S. 707. A bill to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BRADLEY (for himself and Mr. DURENBERGER):

S. 708. A bill to amend title V of the Social Security Act to promote the integration and coordination of services for pregnant women and infants to prevent and reduce infant mortality and morbidity; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. ADAMS, Mr. KENNEDY, and Mr. LEVIN):

S. 709. A bill to establish a program to guarantee the availability of downpayments for first time homebuyers based on a program of monthly or other payments into an interest tax-exempt account; to the Committee on Finance.

By Mr. JOHNSTON (for himself and Mr. MCCLURE):

S. 710. A bill to provide for a referendum on the political status of Puerto Rico; to the Committee on Energy and Natural Resources.

S. 711. A bill to provide for a referendum on the political status of Puerto Rico; to the Committee on Energy and Natural Resources.

S. 712. A bill to provide for a referendum on the political status of Puerto Rico; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG:

S.J. Res. 96. Joint resolution designating July 2, 1989, as "National Literacy Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SYMMS (for himself, Mr. LOTT, Mr. KASTEN, Mr. BOSCHWITZ, Mr. DOLE, Mr. ARMSTRONG, Mr. WALLOP, Mr. HATCH, Mr. DOMENICI, Mr. COCHRAN, Mr. DECONCINI, Mr. PRESSLER, Mr. MCCAIN, Mr. HELMS, Mr. MCCLURE, Mr. MCCONNELL, Mr. BOND, Mr. COATS, Mr. NICKLES, and Mr. BREAUX):

S. Res. 92. Resolution expressing the sense of the Senate regarding Section 89 of the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. FOWLER (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 93. Resolution to provide for a special Bicentennial Session of the Senate on April 6, 1989; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. KASSEBAUM (for herself, Mr. DOLE, Mr. COCHRAN, Mr. HATCH, Mr. JEFFORDS, Mr. THURMOND, Mr. COATS, Mr. DURENBERGER, Mr. BOREN, Mr. BOSCHWITZ, Mr. BURNS, Mr. CHAFEE, Mr. COHEN, Mr. DANFORTH, Mr. DOMENICI, Mr. GORTON, Mr. GRAMM, Mr. HEINZ, Mr. KASTEN, Mr. LOTT, Mr. LUGAR, Mr. MACK Mr. MCCAIN, Mr. MCCLURE, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. RUDMAN, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. WALLOP, Mr. WARNER, Mr. WILSON and Mr. D'AMATO):

S. 695. A bill to promote excellence in American education by recognizing and rewarding schools, teachers, and students for their outstanding achievements; enhancing parental choice; encouraging the study of science, mathematics, and engineering; and for other purposes; to the Committee on Labor and Human Resources.

EDUCATIONAL EXCELLENCE ACT

Mrs. KASSEBAUM. Mr. President, I am pleased to join with a number of my colleagues in introducing President Bush's education initiatives, the Educational Excellence Act of 1989.

I think it is particularly fitting that it be done today as President Bush recognized the Teacher of the Year, Mrs. Mary Bicouvaris of Hampton, VA, at a ceremony this morning.

Mr. President, there is no profession that I admire more than the teaching profession. I think when "Mrs. Bic," as she is called by her students, acknowledged that her formula for teaching "combines respect for my job, love for the children that I teach, and a very sincere commitment to make a differ-

Answer. The First-Home Program will be financed by savings contributions from participants nationally. In that regard, the program will operate similar to the way a life insurance program works, where individual premium payments go to the company where the funds are invested and earnings are applied to claims that come due in any year.

16. *Question.* Given our curent budget deficit and rising interest rates, what are the benefits of this program to the US economy.

Answer. The First-Home Program should help the U.S. economy in several ways. First, the program will promote increased savings nationally. These increased savings will, in turn, result in a reduction in our need to borrow foreign capital and the cost of capital. Second, assisting first-time homebuyers with savings for downpayments will likely increase the number of homebuyers entering the market for the first time. This in turn will increase housing production, new jobs and construction.

17. *Question.* Is there any risk associated with this program to the Government?

Answer. Since the First-Home program guarantees the availability of a downpayment at a time certain, the economic criteria used to establish the payment schedules will be very important. These criteria will be determined by the Secretary of HUD, and the Secretary of the Treasury, in conjunction with various housing and mortgage institutions and organizations and the criteria will be adjusted on a regular basis (perhaps every 6 months), to take into account changes in the economic marketplace; new entrants into the program and the maturation of guarantees. The result will be an actuarily sound program with funds coming in exceeding funds going out—no risk to HUD.

18. *Question.*—Is there any risk to participants in the program?

Answer. No, if participants complete the program they will get the downpayment; if they don't, they get their money back. A participant may lose earning interest at a higher rate than they could have earned by investing elsewhere.

19. *Question.*—Does the bank where I save my money have to provide me with a mortgage at the end of the savings period?

Answer. No. Participants will have, however, a history of saving at their First-Home bank along with a downpayment that they can use to apply for a mortgage. This should help secure a mortgage, but is no guarantee.

20. *Question.*—What banks will participate in the First-Home Program?

Answer. The determination as to the number of participating banks will be made on the advice of the Secretary of Treasury and the Secretary of HUD.

21. *Question.*—What do the banks get from the program?

Answer. Depending upon the recommendations by the Secretary of HUD and the Secretary of Treasury, banks may receive an administrative fee for handling First-Home accounts. This fee will come from the proceeds of contributions nationwide. In addition, banks should realize an increase in the flow of qualified first time homebuyers who they know and vice versa.

22. *Question.*—What would prevent a participant from saving for a million dollar First-Home?

Answer. First-Home participants can elect to save for homes in any price range. The tax-exempt interest accrues, however, only up to the downpayment necessary to purchase a median priced home in the area selected.

23. *Question.*—What happens if you can't afford a mortgage after your savings period has elapsed?

Answer. Participants would receive their principal investment. Interest would be taxable if the money is not used for a downpayment. Of course, a participant can elect to buy a lower priced house with their downpayment with no penalty at all or can negotiate to extend the contract.

24. *Question.*—If I live in an area with a soft housing market such as the southwest, won't my contributions help to underwrite an area with a stronger, tighter market?

Answer. That certainly may be true for the national housing situation as it exists today and could conceivably be true for another 10 years. The reality is, however, that any given growth area today could level off and a new growth area could emerge in another area of the country, or another area of a state for that matter. Had a program like First-Home been in existence 10 years ago, participants in the Northeast would have helped families purchase homes depsite the big price increases that occurred in the Southwest the same way that situation is occurring in reverse today.

25. *Question.*—What if the amount that I have saved exceeds what I need for my downpayment? Do I get to keep the extra money?

Answer. Any principal amount saved would, of course belong to the saver. If the total is not used for downpayment purposes, then the interest accumulated on the non-downpayment amount would be taxable.

26. *Question.*—What happens if I get divorced or separated after joining the First-Home Program or if a party to the contract dies?

Answer. In these situations you could (1) renegotiate you contract; (2) drop out of the program entirely; (3) have the proceeds handled under the terms of a person's will.

27. *Question.*—How long will I have to save?

Answer. It is all up to you. What kind of house do you want; in what area; what can you afford to save? Savings periods will depend on the factors calculated by the Secretary of HUD, but could range anywhere from 2 to 10 years, depending on the amount of downpayment contemplated and the monthly contribution a participant is able to afford.●

● Mr. ADAMS. Mr. President, I rise as a prime cosponsor of legislation introduced by my friend from Massachusetts, Senator JOHN KERRY, that will provide long-needed assistance to our first-time homebuyers in this Nation.

This legislation fills a critical gap in the area of home ownership affordability. Nationally, home ownership rates have fallen dramatically. That drop has been most pronounced among young families in the 25- to 34-age group.

But Mr. President, why has this occurred? One reason is that we live in an era of rapidly declining purchasing power. Data clearly indicates that average real income has fallen for wage and salary workers, and the average per person income, from all sources, has been growing more slowly during the 1980's than it did during the 1970's. Notwithstanding, the dominant national trend is for the aging of the baby-boom generation and the arrival of the baby-bust generation into prime household formation years. The demand for affordable housing continues, however, concrete financial mechanisms are needed to make the homeownership dream a reality.

Owning one's home not only promotes the local economy, but inspires home owner pride that is so essential to develop the social fabric of a community. It provides a foundation to be involved in neighborhood activities and support local community projects.

Mr. President, in my own State, first-time home buyers, without equity from a previous home purchase, are faced with home prices double and triple that of the middle 1970's, and the necessity of saving a minimum of $16,000 to cover the downpayment and closing costs for a modest home. Many responsible and hard working young people from Seattle to Spokane; Bellingham to Battle Ground, WA, cannot afford to make that first initial downpayment. It is both unfair and tragic for this to occur. That is why I enthusiastically endorse this bill introduced by Mr. KERRY.

To conclude, Mr. President, affordable housing for all citizens is important to the social and economic welfare of this country. It is a priority issue in my office and must be a priority item for our national agenda. I will continue to study and support initiatives that promote this ideal, and implore my colleagues to do the same.●

By Mr. JOHNSTON (for himself and Mr. MCCLURE):

S. 710. A bill to provide for a referendum on the political status of Puerto Rico; to the Committee of Energy and Natural Resources.

S. 711. A bill to provide for a referendum on the political status of Puerto Rico; to the Committee of Energy and Natural Resources.

S. 712. A bill to provide for a referendum on the political status of Puerto Rico; to the Committee of Energy and Natural Resources.

REFERENDUM ON THE POLITICAL STATUS OF PUERTO RICO

● Mr. JOHNSTON. Mr. President, today I am pleased to introduce, with the cosponsorship of the ranking minority member of the Committee on Energy and Natural Resoruces, Senator MCCLURE, three bills to initiate the legislative process on the issue of Puerto Rican political status. This is an issue of special interest to me because it was one of the first issues I worked on as a freshman Senator on the Committee on Interior and Insular Affairs and as a member of the Ad Hoc Commission on Puerto Rico.

My experience with Puerto Rico over the years has brought me to understand, as much as anyone can understand this extremely complex issue, that the status of Puerto Rico is far more significant than the sum of the tangled components of Federal-Puerto Rican relations. This issue goes to the very heart of our system of government; to the principles of self-determination, and government by the consent of the governed.

Puerto Rico has been a part of the United States since its acquisition in

1898, and its residents have been U.S. citizens since 1917. For more than 50 years Puerto Rico remained in the transitionary status of "territory"; a status experienced by most of the States of the Union for relatively brief periods. In 1952, the people of Puerto Rico ratified the "Compact" with the Federal Government establishing the Commonwealth of Puerto Rico and thereby achieved a relationship based on consent. Nevertheless, the status issue remains the driving issues behind Puerto Rican politics. While it is an issue which we in Congress have considered from time to time, for the 3.4 million residents of Puerto Rico it is the focus of nearly continuous local debate.

The debate in Puerto Rico resolves around the three principal status options: Commonwealth, statehood and independence, and over which of these options should be the goal for future relations with the United States. For many years tremendous effort has been expended in Puerto Rico on studies, commissions and conferences to define the specifics of these three options. However, to be meaningful, Congress must become involved in these efforts because only Congress has the constitutional authority to change the political status of Puerto Rico.

On March 16, I spoke in anticipation of the introduction of these three bills and I sent a copy of that statement to each of my colleagues. I would like to reiterate three major points I made in that statement.

First, the reason that this issue has reemerged is because the people of Puerto Rico have not had an opportunity to express their preference regarding the future political status of Puerto Rico since a referendum in 1967. Many new voters have become eligible within the past 22 years and they deserve an opportunity to register their views. Moreover, the three principal political parties of Puerto Rico, representing the three status options of commonwealth, statehood and independence, have all communicated to the Congress and the President of the United States their desire that the people of Puerto Rico be consulted on this issue. We have a responsibility to respond to these requests.

Second, to initiate this process of consultation with the people of Puerto Rico, I drafted the three bills now being introduced. Each of the bills would authorize a referendum between the three status options, but they differ in the level of specificity of the definitions of the three options.

The first bill would authorize a referendum on the three status options as defined by a few words. The second bill would define the options in a general way. The third bill would actually set forth enabling, self-executing, legislation with complete detailed definitions of the three options.

Under the first two measures, a runoff referendum would be held, if necessary, to obtain a majority vote on one of the status options. Under the first two bills, representatives of the option which finally received a majority would then negotiate, in consultation with the other parties, the details of that option with Congress. Following enactment of the negotiated details of the option, there would be a second referendum in Puerto Rico to either accept or reject implementation of the option as fully defined by Congress. In the case of the third bill, a second referendum would be unnecessary because each of the definitions would be complete and "self-implementing." That is, the option receiving the majority vote in the first referendum would be implemented in accordance with the terms of the enabling legislation.

In the first bill the phrases characterizing the three options were proposed by the three parties. It is important to note that these phrases have not been considered by Congress, and thus do not necessarily represent a resolution of the many issues which surround each of the status options. For example, "economic guarantees," such as the level of Federal payments, are not specified; "enhancements," including amendments to existing statues, are not defined; and specific issues of "cultural identity," such as the role of the Spanish language, are not resolved.

The two bills requiring definitions have blanks for those definitions at this time. The three principal Puerto Rican political parties will present their initial definitions to fill in these blanks in early May. I will introduce their definitions as amendments to these bills at that time.

These three bills represent the range of specificity possible for the definitions. If everything goes extraordinarily well in developing the definitions, then it is possible that Congress can develop the complete definitions proposed under the third bill. If, on the other hand, congressional consideration yields no areas of agreement, then the few word definitions of the first bill will be the only definitions. The second bill represents a mid-way point between the approaches taken in the first and third bills.

I do not know how successful we will be in defining the three status options, but by using this approach Congress will be able to enact one of these three bills.

The third point that I would like to reiterate from my earlier statement concerns my schedule for considering these measures. It is important for Congress to consider this legislation expeditiously. I believe that legislation must be enacted in the 101st Congress so that a referendum can be held in Puerto Rico in 1991, and well before the local elections in 1992, otherwise the referendum will be confounded by other political issues.

Accordingly, I have established May 9 as a deadline for the three parties to submit their initial definitions to me for introduction as amendments to bills 2 and 3. I expect to hold a first set of hearings on June 1, 2 and 5, here in Washington, to allow for a presentation and comments on each of the three option definitions. June 16 and 19 are target dates, depending on the Senate schedule, for hearings to be held in Puerto Rico. Next, I anticipate additional hearings in District of Columbia in July to receive testimony from the administration.

In addition to these three points I made 2 weeks ago, there are several others I would now add.

Several people have asked me what my preference for Puerto Rico's future status is: Commonwealth, statehood or independence? I have responded that I don't know, because I don't know what these terms mean. Each of these three status options is enormously complex. Virtually all Federal programs, and most Federal laws apply in Puerto Rico, often with special modifications. Each status option offers a range of possibilities for changes in these programs and laws. It is extremely difficult to judge the merits of the status options until these possibilities have been considered and each option has been substantially formulated. I urge my colleagues to keep an open mind.

To encourage meeting the ambitious schedule I have proposed for the consideration of these measures, I plan to send a letter to the President along with my good friend the ranking minority member of the Committee on Energy and Natural Resources, Senator McCLURE. We will ask the President to establish an Administration Task Force on Puerto Rico; designate contacts on this issue in each of the Federal agencies, and OMB; and designate a lead agency to coordinate communications between the Congress and the administration. I am pleased that the President shares our commitment to swift action on this issue and I look forward to working with him.

Mr. President, the leaders of the three principal political parties of Puerto Rico have communicated their interest in having the Federal Government consult with the people of Puerto Rico on the future political status of the island. We in Congress have a responsibility to respond to their request and the introduction of these bills demonstrates our intention to meet that responsibility.

I look forward to working with the President, the political leadership of Puerto Rico, and my colleagues here in Congress. With a continued commitment by all parties I am confident that the people of Puerto Rico will have a meaningful opportunity to express their preference on Puerto Rico's political future.●

● Mr. McCLURE. Mr. President, I am pleased to join my colleagues and chairman of the Committee on Energy and Natural Resources in the introduction of three measures calling for

an election in Puerto Rico to determine whether our fellow citizens wish to alter their relationship to the Federal Government. These measures present a range of options for the Committee on Energy and Natural Resources and the Senate to consider, ranging from a general status option to a fully self-executing set of alternatives.

I want to congratulate Senator JOHNSTON on the work which he has put into the development of this legislation. While I am pleased to join him in their introduction, they are really a result of his efforts to date to reach a consensus among the advocates of differing alternatives in Puerto Rico. These measures should be viewed as initial working documents which will evolve as the committee progresses through this process. Personally, I believe that the best alternative would be to spell out in detail exactly what each of the alternatives means, so that the election would be self-executing. Unfortunately, I doubt seriously that it will be possible to do that for various reasons. That pragmatic view should not distract us, however, from discussing what each of the alternatives actually entails. I think that we do a disservice to the voters of Puerto Rico if we do not discuss the constitutional and political parameters which attend each option.

The issue which has colored and permeated issues affecting Puerto Rico—that of status—will continue to cloud legislation until finally resolved. In fairness, I believe that only independence or statehood will finally resolve that debate. That is not to say that either option is necessarily the best option at this time or at any given moment, but rather that those two options are in my mind irreversable. We settled the issue of a State's right to secede with some finality and extreme prejudice 125 years ago. I think that independence would likely also be final. We have never before dealt with the relinquishment of citizenship, but that certainly will need to be addressed under the independence option. The present commonwealth arrangement may or may not be the best arrangement for this time, but it can not foreclose forever either of the other options to our fellow citizens in Puerto Rico if they should change their minds in the future. What is important, however, is that in considering these measures we not allow our personal preferences to cloud the discussion and prevent us from presenting a fair and accurate series of options to Puerto Rico.

I intend to keep an open mind as the committee begins its review of these measures. I hope that all persuasions in Puerto Rico will assist the committee in refining what is and what is not possible under each of the options. I also hope that the administration will assist in the process and be able to respond to questions as to what each of the options may mean with respect to individual issues. We have an enormous responsibility before us. While we need to fully respect the freely expressed desires of the voters in Puerto Rico, we also must make certain that the options presented are in fact realistic. We should not encourage false hopes, but neither should we deny our own capability to be creative and innovative in addressing particular concerns. From my own standpoint, I hope that this process will not be as lengthy nor as tortured as that for Micronesia. Some of the issues will be the same, however, and perhaps we will have learned from our experience here.

The issue of permanent denial, base rights, citizenship, currency, Federal assistance, immigration, and other issues which we dealt with in the Micronesia context will have to be examined under an independence option. I do not know what is being, or will be, proposed under the commonwealth option, but whatever is proposed should be given the same thoughtful consideration. Those proposals, however, present the committee with a complex problem since it is difficult to understand why a referendum would be necessary to put those options into effect assuming we agree that they represent sound policy. They also will lack the permanence which would attend either independence or statehood. If they are good ideas, they should probably be enacted as soon as possible. Conversely, if they are not sound, a referendum will only create a situation similar to that which the committee is facing with some of the provisions in the proposed Guam Commonwealth legislation. Statehood also will present a variety of difficulties, none of which are insurmountable, if only as a result of Puerto Rico being an island. The experience of Hawaii will be helpful, but there will be complexities attendant to this legislation which were not present for Hawaii due to the growth of Federal legislation and the particular way certain of those Federal laws, such as the Internal Revenue Code, apply to Puerto Rico.

I know that there has been speculation as to whether the Spanish culture and traditions of Puerto Rico would pose an impediment to statehood, and I expect that issue will also be explored during congressional consideration. We do have antecedents, including Hawaii, but the best analogy would probably be that of Louisiana. The territory of Orleans presented a novel problem for the United States. It was almost exclusively French speaking, followed the Napoleonic Code, and was Catholic. During the eighth Congress, following the acquisition of the Louisiana territory, Senator Mitchill of New York described U.S. policy toward the new territory:

> They are thus to serve an apprenticeship to liberty; they are to be taught the lessons of freedom; and by degrees they are to be raised to the enjoyment and practice of independence. All this is to be done as soon as possible . . . they will pass from the childhood of republicanism through the improving period of youth, and arrive at the mature experience of manhood. And then, they may be admitted to the full privileges which their merit and station will entitle them to.

Needless to say, in 1812 the territory of Orleans became the State of Louisiana, and as any lawyer can attest, there is the common law and then there is Louisiana, there is the Uniform Commercial Code and then there is Louisiana's version, there is general admiralty law and then there is Louisiana. I hope that we will not get distracted into fruitless exercises on this issue either by the proponents or opponents of statehood.

I do want to congratulate Senator JOHNSTON on his work so far. I fully expect that these measures will be further refined as the Congress considers them. There are aspects of each which I am not at all comfortable with at this time, but I fully concur with Senator JOHNSTON's belief that we need to have them introduced and that we need to begin the hearing process as soon as possible. There have been several recent discussions to refine these drafts and I want to make clear that I do not view anyone as bound by any of the language suggested in any of the drafts at this point. I fully expect that each of the parties will want to refine their preferred description as the process continues. I also agree that we should strive for enactment this Congress of one of the measures so that a vote may be held in Puerto Rico during 1991 when the electorate can consider the options without the distractions and political activity which would surround a general election. I am pleased to cosponsor these measures and I look forward to working with the chairman, my other colleagues, and the administration to achieve enactment as quickly as possible.●

101ST CONGRESS
1ST SESSION

S. 710

To provide for a referendum on the political status of Puerto Rico.

IN THE SENATE OF THE UNITED STATES

APRIL 5 (legislative day, JANUARY 3), 1989

Mr. JOHNSTON (for himself and Mr. MCCLURE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To provide for a referendum on the political status of Puerto Rico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the

SEC. 2. REFERENDUM.

(a) IN GENERAL.—An islandwide referendum shall be held in Puerto Rico in which qualified voters of the Commonwealth of Puerto Rico shall be presented a choice of selecting and negotiating one of three status options for Puerto Rico as follows:

(1) Statehood with full powers and cultural identity duly recognized;

(2) Independence with full economic guarantees; or

(3) Enhanced Commonwealth in permanent union.

(b) DATE OF REFERENDUM.—The first referendum shall occur on , 1991.

(c) RETURNS OF REFERENDUM.—The returns of the referendum held under this Act shall be made to the Governor of Puerto Rico, who shall cause them to be canvassed in the manner provided by law for the canvass of votes cast in general elections in the Commonwealth of Puerto Rico. If there is not a majority in favor of one of the three options, then there shall be, on , 1991, a runoff referendum between the two status options which had received the largest number of votes. The Governor shall certify to the President and to the Congress of the United States that decision of the people of Puerto Rico which received a majority of the votes cast.

(d) APPLICABLE ELECTION LAWS.—The election laws of the Commonwealth of Puerto Rico shall apply to the referendum held under this Act.

SEC. 3. NEGOTIATIONS TO DEVELOP LEGISLATION BASED ON REFERENDUM.

(a) NEGOTIATIONS.—Following certification by the Governor as provided in section 2(c), then the process, involving representatives of the principal political party representing the status option selected, and in full consultation with the other two principal political parties, shall begin to develop implementing legislation in consultation with the Committee on Energy and Natural Resources of the United States Senate and the appropriate committees of jurisdiction in the United States House of Representatives. Such legislation shall, upon enactment, authorize a further referendum of the people of Puerto Rico to approve or disapprove the selected status as defined in the legislation. A change of status shall not be effective unless or until approved in such a referendum.

(b) TIME LIMIT.—The second referendum to approve or disapprove the selected status as defined in the legislation developed under this section shall occur no later than the end of the Congress which is in session on the fourth anniversary of the date of the Governor's certification provided for under section 2(c), or as may be otherwise provided in such legislation.

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101ST CONGRESS
1ST SESSION

S. 711

To provide for a referendum on the political status of Puerto Rico.

IN THE SENATE OF THE UNITED STATES

APRIL 5 (legislative day, JANUARY 3), 1989

Mr. JOHNSTON (for himself and Mr. MCCLURE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To provide for a referendum on the political status of Puerto Rico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the United States of America recognizes the principles of international law with respect to its relationship with Puerto Rico; and

(2) the United States is committed to a process of consultation and negotiation with the people of Puerto Rico leading to a referendum on the issue of political status to be conducted in a fair and equitable manner.

SEC. 2. REFERENDUM.

(a) IN GENERAL.—An islandwide referendum shall be held in Puerto Rico in which qualified voters of the Commonwealth of Puerto Rico shall be presented a choice of negotiating one of three status options for Puerto Rico as follows:

(1) Statehood;

(2) Independence; or

(3) Commonwealth.

For the purpose of these negotiations it is understood that the initial position of the people of the Commonwealth of Puerto Rico and of the Congress of the United States is that the terms shall be as follows;

(b) INITIAL DEFINITIONS.—

(1) Statehood: _____

_____;

(2) Independence: _____

_____;

(3) Commonwealth: _____

_____.

(c) DATE OF REFERENDUM.—The first referendum shall occur upon the call of the Governor, and during calendar year 1991.

(d) RETURNS OF REFERENDUM.—The returns of the referendum held under this Act shall be made to the Governor of Puerto Rico. who shall cause them to be canvassed in the manner provided by law for the canvass of votes cast in

general elections in the Commonwealth of Puerto Rico. If there is not a majority in favor of one of the three options, then there shall be, upon the call of the Governor, and during calendar year 1991, a runoff referendum between the two status options which had received the largest number of votes. The Governor shall certify to the President and to the Congress of the United States that decision of the people of Puerto Rico which received a majority of the votes cast.

(e) APPLICABLE ELECTION LAWS.—The election laws of the Commonwealth of Puerto Rico shall apply to the referendum held under this Act.

SEC. 3. NEGOTIATIONS TO DEVELOP LEGISLATION BASED ON REFERENDUM.

(a) NEGOTIATIONS.—Following certification by the Governor as provided in section 2(d), then the process, involving representatives of the principal political party representing the status option selected, and in full consultation with the other two principal political parties, shall begin to develop implementing legislation encompassed within the principles as set forth in section 2(b), and in consultation with the Committee on Energy and Natural Resources of the United States Senate and the appropriate committees of jurisdiction in the United States House of Representatives. Such legislation shall, upon enactment, authorize a further referendum of the people of Puerto Rico to approve or disap-

prove the selected status as defined in the legislation. A change of status shall not be effective unless or until approved in such a referendum.

(b) TIME LIMIT.—The second referendum to approve or disapprove the selected status as defined in the legislation developed under this section shall occur no later than the end of the Congress which is in session on the fourth anniversary of the date of the Governor's certification provided for under section 2(d), or as may be otherwise provided in such legislation.

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101ST CONGRESS
1ST SESSION

S. 712

To provide for a referendum on the political status of Puerto Rico.

IN THE SENATE OF THE UNITED STATES

APRIL 5 (legislative day, JANUARY 3), 1989

Mr. JOHNSTON (for himself and Mr. MCCLURE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To provide for a referendum on the political status of Puerto Rico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the United States of America recognizes the principle of self-determination and other applicable principles of international law with respect to Puerto Rico; and

(2) the United States is committed to a process of consultation and negotiation with the people of Puerto

Rico leading to a referendum on the issue of political status to be conducted in a fair and equitable manner.

TITLE I

SEC. 2. REFERENDUM.

(a) IN GENERAL.—An island-wide referendum shall be held in Puerto Rico in which qualified voters of the Commonwealth of Puerto Rico shall be presented a choice of three status options for Puerto Rico as follows:

(1) statehood;

(2) independence; or

(3) commonwealth

as set forth in titles II, III, and IV of this Act.

(b) DATE OF REFERENDUM.—The first referendum shall occur on _____, 1991, or on a date as may be mutually agreed by the three principal political parties, and during the summer of calendar year 1991.

(c) RETURNS OF REFERENDUM.—The returns of the referendum held under this Act shall be made to the Governor of Puerto Rico, who shall cause them to be canvassed in the manner provided by law for the canvass of votes cast in general elections in the Commonwealth of Puerto Rico. If there is not a majority in favor of one of the three options, then there shall be, on _____, 1991, or on a date as may be mutually agreed by the three principal political parties, and during the summer of calendar year 1991, a runoff

referendum between the two status options which had received the largest number of votes. Such referendum shall also include an option of "None of the Above". The Governor shall certify to the President and to the Congress of the United States that decision of the people of Puerto Rico which received a majority of the votes cast, if a majority is obtained.

(d) APPLICABLE ELECTION LAWS.—The election laws of the Commonwealth of Puerto Rico shall apply to the referendum held under this Act.

(e) Upon the effective date of this Act, the status option which has been certified by the Governor pursuant to subsection (c), shall go into effect in accordance with the appropriate title of this Act.

TITLE II

Statehood: _____ _____ _____ _____ _____ _____.

TITLE III

Independence: _____ _____ _____ _____ _____ _____.

TITLE IV

Commonwealth: _____ _____ _____ _____ _____ _____.

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(e) Upon the effective date of this Act, the status option which has been certified by the Governor pursuant to subsection (c), shall go into effect in accordance with the appropriate title of this Act.

TITLE II

Statehood:

TITLE III

Independence:

TITLE IV

SUBPART 1. STATEMENT OF PURPOSES.

In 1952 the Congress of the United States, fully recognizing the principle of government by consent, and the People of Puerto Rico, in the exercise of their right to self-determination, entered upon a compact which established a Commonwealth relationship between Puerto Rico and the United States.

Under the compact the People of Puerto Rico adopted in their own sovereign right their own Constitution and formed an autonomous political community in permanent union with the United States of America based on the irreversible bond of American citizenship.

In 1953 the General Assembly of the United Nations recognized the creation of the Commonwealth and removed Puerto Rico from the list of non-self-governing territories.This association has enabled the People of Puerto Rico to advance their economic and social development and to preserve their distinct historical heritage and cultural personality.

As inherent in all political relationships freely entered upon, it was based on the understanding that it would evolve and develop within its particular political nature upon mutually agreeable terms.

It is the purpose of this Act to provide for the enhancement of the Commonwealth relationship by enlarging the scope of self-government of the Puerto Rican people upon the approval of a proposition to that effect by a majority of the eligible voters of the Commonwealth of Puerto Rico.

SUBPART 2. REFERENDUM PROPOSITION: COMMONWEALTH

The referendum proposition regarding Commonwealth, to be presented to, and voted upon, by the People of Puerto Rico shall be as follows:

"The Commonwealth association with the United States shall be enhanced to enable the People of Puerto Rico to accelerate their economic and social development and attain maximum cultural and political autonomy within permanent union with the United States based on the irreversible bond of American citizenship, a common defense, a common market, and a common currency."

The proposition will appear in the ballot, in Spanish, as follows:

"El Estado Libre Asociado se fortalecerá para acelerar el desarrollo económico y social y alcanzar la máxima autonomía cultural y política del pueblo de Puerto Rico en su unión permanente con los Estados Unidos sobre los pilares de común defensa, común mercado, común moneda, y el vínculo indisoluble de la ciudadanía americana."

SUBPART 3. PRINCIPLES OF COMMONWEALTH

Section 1 of the Puerto Rico Federal Relations Act, 39 Stat. 954, as amended, 48 U.S.C. Section 731, shall be repealed, and replaced by the following:

"(1) The provisions of this Act shall apply to the Commonwealth of Puerto Rico, an autonomous body politic joined in permanent union with the United States on the basis of common citizenship, common defense, common market and common currency.

(2) The policy of the United States shall be to enhance the Commonwealth relationship enjoyed by the Commonwealth of Puerto Rico and the United States to enable the People of Puerto Rico to accelerate their economic and social development and attain maximum cultural and political autonomy within permanent union with the United States, to secure more equitable participation for the People of the Commonwealth of Puerto Rico in all federal programs that provide grants or services to citizens of the United States as individuals, to secure increased participation by the People of Puerto Rico in U.S. governmental decisions affecting them, to safeguard the distinct cultural identity of the People of Puerto Rico, and to protect the bilateral nature of the relationship between the Commonwealth of Puerto Rico and the United States.

SUBPART 4. IMPLEMENTATION OF FEDERAL POLICY

Section 9 of the Federal Relations Act, 39 Stat. 954, as amended, 48 U.S.C. Section 734, is amended by inserting at the beginning thereof the term "(a)" and by adding at the end thereof the following:

"(b) A federal statutory law, or provision of such law, is locally inapplicable unless it is consistent with the policy established under subpart 3 and unless such federal statutory law has proper regard for the economic, cultural, ecological, geographic, demographic and other local conditions of the Commonwealth of Puerto Rico. This subsection shall not apply to:

(i) any federal statutory law in which the Congress makes a specific finding that there is an overriding national interest that such law should apply to the Commonwealth of Puerto Rico, or

(ii) any federal statutory law, or provision thereof, establishing directly or indirectly grants and/or services to citizens of the United States as individuals, or

(iii) any federal statutory law or provision thereof relating to citizenship, or

(iv) any federal statutory law or provision thereof pertaining to the foreign relations, defense or national security of the United States that requires uniform applicability throughout the United States, including the Commonwealth of Puerto Rico, to achieve its intended purposes.

(c) In addition to judicial determinations of the inapplicability of federal laws under subsection (b), the Governor of the Commonwealth of Puerto Rico may certify from time to

time to the Speaker of the House of Representatives, the President of the Senate, and the President of the United States, that a federal statutory law or provision thereof, other than one excluded from the operation of subsection (b), is inconsistent with a Puerto Rican statute and the policy established under subsection (b). Unless, within 60 days of the receipt of such certification, a statute is enacted embodying the finding required under subsection (b)(i), the President shall issue a proclamation that such federal statutory law or provision thereof identified in the Governor's certification is not applicable in Puerto Rico.

(d)(i) The Commonwealth of Puerto Rico may continue to enter in its own name into international cultural, commercial, educational and sports agreements, and other agreements of like nature.

(ii) In addition, the Governor of the Commonwealth of Puerto Rico may take any official action to promote the international interests of Puerto Rico that requires the consent of the United States Government and is not expressly prohibited by law. The Governor of the Commonwealth of Puerto Rico shall provide written notice to the President of the United States of any official action he contemplates taking pursuant to the authorization of this part of this subsection and not pursuant to any other authorization or consent. The President may, within 30 days of his receipt of such notice, sign and transmit to the Governor of the Commonwealth of Puerto Rico a document expressing his determination that the contemplated official action would imperil the foreign relations or national defense of the United States, in which case the authorization hereby granted shall be withdrawn as regards such contemplated official action.

(e) All departments and agencies of the Government of the United States shall be guided by the policy established in subsection (b) when carrying out their duties under federal statutory laws and federal regulations applicable in or affecting the Commonwealth of Puerto Rico. Every such department or agency shall, before taking any major federal action applicable in or affecting the Commonwealth of Puerto Rico, separately evaluate the consistency of such action with such policy and shall state, in a document accompanying the major federal action, the extent, nature and result of its consideration.

(f) Any rule, as defined in 5 U.S.C. sec. 551(4), issued by an agency, as defined in 5 U.S.C. sec. 551(1), shall apply in the Commonwealth of Puerto Rico only to the extent that it is consistent with the policy set forth in subsection (b). After the effective date of this amendment, when any such rule, other than a rule issued after notice and hearing required by statute, that does not in terms provide that it is inapplicable in the Commonwealth of Puerto Rico is published in the Federal Register, the Governor of the Commonwealth of Puerto Rico may submit to the agency within 30 days in writing (or such longer period as the agency may have prescribed as the period between publication of the rule and its effectiveness) the

Governor's determination that such rule is inconsistent with the policy established in subsection (b). Thereupon, the agency shall reconsider the question of consistency of the rule with the policy established in subsection (b) and shall, within 45 days of its receipt of the Governor's determination, publish in the Federal Register its finding either that there is an overriding national interest that the rule be applicable in the Commonwealth of Puerto Rico, in which case the rule, whether or not previously applicable in the Commonwealth of Puerto Rico, shall thereafter be so applicable, or that the rule is not compatible with such policy, in which event such rule, whether or not previously applicable in the Commonwealth of Puerto Rico, shall not be so applicable. Unless the agency for good cause finds that a rule that is the subject of such determination by the Governor of Puerto Rico as is described in this subsection shall be applicable to the Commonwealth of Puerto Rico pending its consideration of such determination, and publishes such finding in the Federal Register, such rule, whether or not previously applicable in the Commonwealth of Puerto Rico, shall not be so applicable pending such consideration. An agency's decision to make a rule applicable or inapplicable in Puerto Rico shall be subject to judicial review.

(g) The laws, rules and regulations of the United States applicable in the Commonwealth of Puerto Rico when the new federal policy is established in accordance with subpart 3 shall continue in effect except to the extent repealed or modified by this Act, or inconsistent with it, and except as hereafter modified, suspended or repealed in accordance with law.

SUBPART 5. AVIATION

Section 1102 of the Federal Aviation Act is amended by adding a new Section (e) to read as follow:

"(e)(i). The Government of the Commonwealth of Puerto Rico shall have authority to negotiate on its own behalf bilateral air transportation agreements governing the operation of air services by United States and foreign air carriers between the Commonwealth and foreign points. Such agreements may also include authorization of service by United States and foreign air carriers to use any point in the Commonwealth as an intermediate or beyond point on routes between points in the United States and foreign nations for which the carrier holds certificate or foreign air carrier operating authority from the Department of Transportation. Such agreements may authorize such carriers to engage in common carriage of persons and property between such authorized points in the

United States and the Commonwealth, notwithstanding the provisions of sections 416(6)(7) and 1108 of this Act.

(ii) Operating rights contained in Commonwealth bilateral air transportation agreements shall be subject to the grant of necessary operating authority by the Department of Transportation and the Administrator. The responsibilities of the Department and the Administrator under subsection (a) of this section shall extend to such bilateral agreements.

(iii) Operating authority issued by the Department of Transportation in implementation of bilateral agreements negotiated by the Government of the Commonwealth of Puerto Rico shall be subject to the President's right of disapproval as contained in section 801(a) of this Act.

(iv) In addition to the obligations established under subpart 4, the officials of the Government of the United States are directed to assist and cooperate with the appropriate officials of the Commonwealth of Puerto Rico in the implementation of any air transportation agreement entered into pursuant to the authority herein established."

SUBPART 6. DEVELOPMENT OF TOURISM

Section 4a(l) of the Coastal Barrier Resources Act of 1982, 16 U.S.C. Section 3503(a)(l), is amended by adding to the end of the subsection:

"Notwithstanding the foregoing, no area within the Commonwealth of Puerto Rico shall be included within the Coastal Barrier Resources System."

SUBPART 7. INTERNATIONAL TRADE

(a) Section 2 of the Act of April 12, 1900, 48 U.S.C. 739, is amended by inserting the following subsection:

"1. To the extent consistent with the international obligations of the United States, the Commonwealth of Puerto Rico is authorized to impose tariff duties on foreign origin products imported into Puerto Rico. Such tariff duties shall be in addition to the general tariff duties applicable to products imported into the customs territory of the United States."

(b) Section 1102 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. § 2902, is amended by adding a new subsection (e) as follows:

"(e) During the negotiation of any trade agreement affecting Puerto Rico under subsections (a), (b), and (c), the President shall seek the participation of the Commonwealth of Puerto Rico in the negotiation process, and shall consult with the Governor of the Commonwealth of Puerto Rico concerning the potential impact of any proposed tariff rate change on the economy of Puerto Rico.

The Government of the United States shall seek to obtain favorable treatment from foreign countries for exports from the Commonwealth of Puerto Rico and shall encourage other countries to consider Puerto Rico as a developing territory for purposes of their respective General Systems of Trade Preferences, and any such regional systems of trade preferences."

SUBPART 8. MARITIME

(a) Section 9 of the Puerto Rican Federal Relations Act, 48 U.S.C. Section 744, is amended to add at the end of the provision:

"except that those provisions of the Shipping Act, 1916, administered by the Federal Maritime Commission shall not be applicable to the trade between Puerto Rico and the States of the United States. The Commonwealth of Puerto Rico is authorized to establish its own maritime commission which, when established in accordance with Puerto Rico law shall exercise exclusive jurisdiction over service, rates, fares, and practices governing the trade between Puerto Rico and the states of the United States."

(b) Section 1 of the Shipping Act, 1916, as amended, 46 U.S.C. App. Section 801, is amended by inserting after the second "possession of the United States" and at the end of the provision, the following phrase: "not including the Commonwealth of Puerto Rico."

SUBPART 9. JURISDICTION OVER MARITIME RESOURCES.

(a) Amend Section 3(21) of the Magnuson Fishery Conservation and Management Act, as amended, 16 U.S.C. 1802(21) to read as follows:

"(21) The term 'State' means each of the several States, the District of Columbia, American Samoa, the Virgin Islands, Guam, and any other territory or possession of the United States, but does not include the Commonwealth of Puerto Rico."

(b) Amend the first sentence of Section 2(6) of the Magnuson Fishery Conservation and Management Act, as amended, 16 U.S.C. 1802(6) to read as follows:

"The term 'exclusive economic zone' means the zone established by Proclamation Numbered 5030, dated March 10, 1983, except that such zone shall not include zones contiguous to the territorial sea of the Commonwealth of Puerto Rico, provided that the Commonwealth of Puerto Rico shall take no action that would purport to restrict or charge fees to vessels of the United States for the right to fish for highly migratory species of fish within any fishing jurisdiction the 'Commonwealth of Puerto Rico may establish beyond its territorial waters."

(c) The Puerto Rican Federal Relations Act is amended by inserting a new Section 8C, as follows:

"Title to all living and non-living resources and to all submerged lands and resources thereunder extending seaward from the outer boundary of the territorial waters of the Commonwealth of Puerto Rico presently under the jurisdiction of the United States is hereby conveyed to the People of Puerto Rico, and placed under the control of the Government of the Commonwealth of Puerto Rico."

SUBPART 10. INTELLECTUAL PROPERTY

(a) Section 101 of Title 17 of the United States Code is amended as follows:

(1) By inserting the following new definitions in alphabetical order:

"The 'design of a useful article,' hereinafter referred to in this Title as a 'design,' consists of those aspects or elements of the article, including its two dimensional or three dimensional features of shape and surface, which make up ht e appearance of the article, and shall include a 'typeface' as herein defined.

A design is 'of Puerto Rican origin' (a) if more than 50 percent of its development costs have been incurred within the Commonwealth of Puerto Rico, irrespective of whether such design is fixed in a useful article in the Commonwealth of Puerto Rico; or (B) if it is first fixed in the Commonwealth of Puerto Rico in a useful article intended to be distributed to the public for commercial purposes.

A 'typeface' consists of a set of letters, numbers, or other symbolic characters, whose forms are related by repeating design elements consistently applied in a notational system, to the extent that the repeating design elements in the combination employed in a notational system are (A) original, (B) distinct, and (C) incorporated in a useful article whose normal use is in composing text or other cognizable combination of characters."

(2) By adding, after the semicolon in the second sentence of the definition of "Pictorial, graphic, and sculptural works," the following:

"except where a design of Puerto Rican origin is involved,".

(b) Section 102 of Title 17 of the United States Code is amended by adding a new subsection 102 (a)(8) as follows:

"(8) designs of useful articles, where such designs are of Puerto Rican origin."

(c) Section 113 of Title 17 of the United States Code is amended by adding a new subsection (d) as follows:

"(d) in the case of a design of Puerto Rican origin, the scope of exclusive rights in a copyrighted work does not extend to a design that is (i) staple or commonplace, such as a standard geometric figure, familiar symbol, emblem, or motif, or other shape, pattern, or configuration which has become common, prevalent, or ordinary; (ii) different from a design excluded by (i) hereof only in insignificant details or in elements which are variants commonly used in the relevant trades; (iii) dictated primarily by a utilitarian function of the article in which it is fixed; (iv) composed of three-dimensional features of shape and surface with respect to men's, women's, and children's apparel; or (v) fixed in a semiconductor chip product that is protected under Chapter 9 of this title. Notwithstanding the foregoing, the scope of exclusive rights shall not be limited by the employment in the design of subject matter excluded under (i) through (iii) hereof, if the design is a substantial revision, adaptation, or rearrangement of said subject matter: *provided,* however, that such exclusive rights shall be available for a design employing subject matter protected under Chapters 1 through 8 of this title, or Title 35 of the United States Code, only if such protected subject matter is employed with the consent of the proprietor thereof. Such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any rights to subject matter excluded from protection or as extending any subsisting protection."

(d) Chapter 3 of Title 17 of the United States Code is amended by the addition of a new Section 306 as follows:

"§ 306. DESIGNS OF PUERTO RICAN ORIGIN

(a) The provisions of Section 302 through 305 of this Chapter shall not apply to copyrights in designs of Puerto Rican origin.

(b) Copyright in a design of Puerto Rican origin subsists from its creation and endures for a period of ten years.

(c) A term of copyright provided by this section shall run to the end of the calendar year in which it would otherwise expire."

(e) Section 407 of Title 17 of the United States Code is amended by adding the following language before the semicolon in Section 401 (b)(1):

", or, in the case of a design of Puerto Rican origin, the symbol D (the letter D in a circle), or the words 'Design Copyright,' or the abbreviation 'Des. Copr.'."

(f) Section 407 of Title 17 of the United States Code is amended by striking the period at the end of Section 407 (c) and adding the following language:

", or the work is a design of Puerto Rican origin."

(g) Section 901 (a) of Title 17 of the United States Code is amended by adding a new subsection (10) as follows:

" (10) a mask work is 'of Puerto Rican origin' (a) if more than 50% of its development costs have been incurred within the Commonwealth of Puerto Rico, irrespective of whether such mask work is fixed in a computer chip in the Commonwealth of Puerto Rico; or (B) if it is first fixed in the Commonwealth of Puerto Rico in a computer chip intended to be distributed to the public for commercial purposes."

(h) Section 906 of Title 17 of the United States Code is amended by adding at the end thereof the following:

"(c) The limitations on exclusive rights provided under subsections (a) and (b) of this section shall not apply to mask works of Puerto Rican origin."

(i) The foregoing Sections (a) through (h) shall apply after the date of enactment to all acts of manufacture or distribution that occur in the United States after such date, to all acts of importation into the United States that occur after such date, and to all violations of the exclusive rights of the copyright's owner under Title 17 of the United States Code that occur after such date.

SUBPART 11. FEDERAL PROGRAMS

(a) Consolidation of grant-in-aid programs. The Puerto Rico Federal Relations Act is amended by inserting a new Section 59, as follows:

"SECTION 59.

In order to minimize the burden caused by existing application and reporting procedures for grant-in-aid programs available to the Commonwealth of Puerto Rico it is hereby declared to be the policy of the Congress, notwithstanding any provision of law to the contrary, that:

(a) At the request of the Governor of the Commonwealth, any department or agency of the government of the United States which administers any Act of Congress which specifically provides for making grants to the Commonwealth under which payments received may be used by the Commonwealth only for certain specified purposes (other than direct payments to classes of individuals, including, but not limited to, Aid to Families with Dependent Children, Title IV-A of the Social Security Act, 42 U.S.C. 601; Medicaid, Title XIX of the Social Security Act, 42 U.S.C. 2396; Supplemental Security Income, Title XVI of the Social Security Act, 42 U.S.C. 1381; Foster Care, Title IV-E of the Social Security Act, 42 U.S.C. 670; and Nutrition Assistance Program, 7 U.S.C. 2028) shall, acting through appropriate administrative authorities of such department or agency, consolidate any or all grants made to the Commonwealth for any fiscal year or years;

(b) Any consolidated grant for the Commonwealth shall not be less than the sum of all grants which the Commonwealth would otherwise be entitled to receive for such year;

(c) The funds received under a consolidated grant shall be expended in furtherance of the programs and purposes authorized for any of the grants which are being consolidated, which are authorized under any of the Acts administered by the department or agency making the grant, and which would be applicable to grants for such programs and purposes in the absence of the consolidation, but the Commonwealth shall determine the proportion of the funds granted which shall be allocated to such programs and purposes; and

(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which the Commonwealth may submit : (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated

grant shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications, and (ii) a single report to such department or agency with respect to each such consolidated grant: *Provided,* That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receiving benefits from any consolidated grant. The administering authority of any department or agency, in its discretion, may (i) waive any requirement for matching funds otherwise required by law to be provided by the Commonwealth and (ii) waive the requirement that the Commonwealth submit an application or report in writing with respect to any consolidated grant.

(b) Equitable treatment in social programs. The Puerto Rican Federal Relations Act is amended by inserting a new Section 60 as follows:

"SECTION 60.

(a) It is the policy of the United States that the allocations to the Commonwealth of Puerto Rico of the following programs shall achieve full parity with the States of the Union as soon as possible but in no event later than the fifth anniversary of the date of enactment hereof with allocations to States of the Union in the following programs or their successor thereof: Nutrition Assistance Program (NAP); Aid to Families with Dependent Children (AFDC); and Medicaid; and in no event later than the ninth anniversary of the date of enactment hereof with allocations to States of the Union for the Supplemental Security Income (SSI) program, or its successor.

SUBPART 12. PROTECTION OF WORKERS

(a) Amend Section 3 of the Labor Management Act, as amended, 29 U.S.C. §153(b), by adding after the first sentence:

"; with the exception of cases arising under the jurisdiction of the Commonwealth of Puerto Rico which are hereby exclusively delegated to the Labor

Relations Board of Puerto Rico. Decisions of the Labor Relations Board of Puerto Rico may be appealed to the Federal Court of Appeals for the First Circuit.

(b) The Puerto Rican Federal Relations Act is amended by adding a new section 61, as follows:

"Puerto Rico shall maintain exclusive jurisdiction over employee benefits, other than the benefits currently covered under the Fair Labor Standards Act, the Employee Retirement Income Security Act, and the Occupational Safety and Health Act. Puerto Rico's exclusive jurisdiction shall include, but not be limited to Christmas bonuses, sick and vacation pay, worksman's compensation, and any other benefits not covered under the current aforementioned federal legislation."

SUBPART 13. PUERTO RICO PARTICIPATION IN FEDERAL APPOINTMENTS

Section 301 of Title 3, is amended by inserting at the beginning thereof the term "(a)" and by adding at the end thereof the following:

"(b) The highest ranking federal officer serving in the Commonwealth of Puerto Rico for any federal department and agency, or division thereof, and any other appointment in the Commonwealth of Puerto Rico subject to Senate confirmation, shall be appointed by the President from a list of eligible candidates recommended by the Governor of the Commonwealth of Puerto Rico."

SUBPART 14. REPRESENTATION IN UNITED STATES SENATE.

Section 36 of the Puerto Rican Federal Relations Act, 48 U.S.C. Section 891-895, is amended as follows:

"SUBCHAPTER V. RESIDENT COMMISSIONERS.

SECTION 891. RESIDENT COMMISSIONERS; ELECTION.

The qualified electors of Puerto Rico shall choose a Resident Commissioner to the United States Senate and a Resident Commissioner to the United States House of Representatives at each general election, whose terms of office shall be four years from the 3d of January following such general election, and who shall be entitled to

receive official recognition as such commissioner by all of the departments of the Government of the United States, upon presentation, through the Department of State, of a certificate of election of the Governor of Puerto Rico.

SECTION 892. QUALIFICATIONS OF COMMISSIONERS; APPOINTMENT TO FILL VACANCY.

No person shall be eligible to election as a Resident Commissioner who is not a bona fide citizen of the United States and who is not more than twenty-five years of age, and who does not read and write the English language. In case of a vacancy in either office of Resident Commissioner by death, resignation, or otherwise, the Governor, by and with the advice and consent of the Senate of the Commonwealth of Puerto Rico, shall appoint a Resident Commissioner to fill the vacancy who shall serve until the next general election and until his successor is elected and qualified.

SECTION 893. SALARY OF COMMISSIONERS; ALLOWANCES, FRANKING PRIVILEGE.

Each Resident Commissioner shall receive a salary payable monthly by the United States. The Resident Commissioners shall be allowed the same sum for stationary and for the pay of necessary clerk hire as is allowed Members of the Senate of the United States and Members of the House of Representatives of the United States, respectively. The Resident Commissioners shall be allowed the franking privilege granted Members of Congress.

SECTION 894. SALARY AND TRAVELING EXPENSES; PAYMENT.

The salary and traveling expenses of the Resident Commissioners from Puerto Rico to the United States shall be paid in the same manner as the salaries of the Members of the Senate and the House of Representatives are paid.

SECTION 895. OTHER PRIVILEGES.

The appropriate sections of Title 2 of the United States Codes and any other statutory law that relates to the privileges afforded United States Senators shall be amended to include the Resident Commissioner from the Commonwealth of Puerto Rico to the United States Senate."

SUBPART 15. JUDICIARY

Section 42 of the Puerto Rico Federal Relations Act, 48 U.S.C. Section 864, is amended by deleting the last sentence and inserting the following paragraph:

"Notwithstanding any other provision of law:

(1) The District Court shall not undertake to construe a theretofore unconstrued Puerto Rico statute or regulation or decide a theretofore undecided point of substantive Puerto Rico nonstatutory law without having given the Supreme Court of Puerto Rico the opportunity to construe such statute or regulation or to rule upon such point of Puerto Rico law.

(2) The proceedings of the U.S. District Court for the District of Puerto Rico shall be conducted in the Spanish language upon the request of any party to the proceedings.

(3) Any issue of law arising under the Puerto Rico Federal Relations Act in any action or controversy brought in federal court shall be certified to the District of Columbia Court of Appeals. In addition, the Commonwealth of Puerto Rico, acting through its Secretary of Justice, may transfer any action brought against it, or any of its officers or employees acting in their official capacity, from the U.S. District Court for the District of Puerto Rico to the U.S. District Court for the District of Columbia."

SUBPART 16. PASSPORTS.

(a) Section 211a of Title 22, is amended by adding after the provision "by the chief or other executive officer of the insular possessions of the United States,": "and the Governor of the Commonwealth of Puerto Rico,".

(b) The following new section shall be added to Title 22 as Section 211b;

"SECTION 211b. U.S. PASSPORT OFFICE IN PUERTO RICO

The Secretary of State shall establish a Passport Office for the Caribbean located in San Juan, Puerto Rico and shall authorize the Governor of the Commonwealth to administer such office as required by law."

(c) Section 212 of the Immigration and Nationality Act, 8 U.S.C. Section 1182 is amended by adding a new subsection (m) as follows:

"(M) COMMONWEALTH OF PUERTO RICO; WAIVER OF REQUIREMENTS; NONIMMIGRANT VISITORS.

(1) The requirement of paragraph 26(B) of subsection (a) of this section shall be waived by the Attorney General upon the request of the Government of the Commonwealth of Puerto Rico, in the case of an alien applying for admission as a nonimmigrant visitor at the invitation of the Government of the Commonwealth and solely for entry into and stay in the Commonwealth of Puerto Rico for a period not to exceed thirty days.. The District Office for Puerto Rico of the Immigration and Nationality Service shall issue the special temporary entry visit visas, as well as other entry visas.

(2) If adequate appropriated funds to carry out this subsection are not otherwise available, the Director of the Immigration and Nationality Service is authorized to accept from the Government of the Commonwealth of Puerto Rico such funds as may be tendered to cover all or any part of the cost of administration and enforcement of this subsection."

SUBPART 17. LAW ENFORCEMENT

Section 287 of the Immigration and Nationality Act, 8 U.S.C. Section 1357, is amended as follows:

"(a) Any officer or employee of the Service authorized under regulations proscribed by the Attorney General, and any officer or employee of and within the Commonwealth of Puerto Rico authorized by the Governor of the Commonwealth of Puerto Rico shall have the power without warrant..."

SUBPART 18. HISTORIC SITES AND CONSERVATION LANDS

Section 8 of the Puerto Rico Federal Relations Act, 48 U.S.C. Section 749 is amended by redesignating it Section 8A and enacting a new Section 8B:

"SECTION 8B

(a)(i) Lands. Title to all lands, buildings, and interests in lands, and other property within the territorial limits of the Commonwealth of Puerto Rico, and the harbor areas and navigable streams and bodies of water and submerged lands

underlying the same in and around the island of Puerto Rico and the adjacent islands and waters, acquired by the United States by cession of Spain in the treaty of Paris entered into on December 10, 1898, and the lands owned by, and administered under the Caribbean National Forest, is hereby conveyed to the people of Puerto Rico and placed under the control of the Government of the Commonwealth of Puerto Rico; *provided,* That the United States and the Commonwealth of Puerto Rico may negotiate to establish mutually agreed terms and conditions for the continued use and administration of such lands and properties.

(ii) The conveyance described in subsection (i) of this section shall be effective thirty days after the enactment of this section and the Legislature of the Commonwealth of Puerto Rico shall have the authority to legislate as it shall deem advisable with respect to all such Crown Lands conveyed under this section."

SUBPART 19. COMMUNITY VALUES

The Puerto Rican Federal Relations Act is amended by inserting a new Section 61 as follows:

"SECTION 61.

(a) DEFINITIONS

(1) The term 'antitrust laws' has the same meaning given such term in the first section of the Clayton Act, 15 U.S.C. Section 12, and shall also include section 5 of the Federal Trade Commission Act, 15 U.S.C. Section 45.

(2) The term 'person in the entertainment industry' means any organization, or an individual connected with any organization, that produces, distributes, transmits, or exhibits any form of audio or visual entertainment; and

(3) The term "audio or visual entertainment" includes:

(i) video, audio, or mixed programs transmitted via electromagnetic waves of any frequency, whether transmitted to all receivers of a given type within transmission range, or to only selected receivers on the basis of a subscription fee or any other criteria.

(ii) programs transmitted by cable systems as defined in section 602(5)-(6) of the Cable Communications Policy Act of 1984, 47 U.S.C. Section 522 (5)-(6), except that reference in 47 U.S.C. Section 522(6) to "video" shall be read as "video or audio" and references in 47 U.S.C. Section 522(6) to 'television' shall be read as 'television or radio', and

(iii) motion pictures, which include entertainment, using film, videotapes, videocassettes, compact discs, or any other functionally substantially equivalent medium, if admission is generally charged for such entertainment, or if such entertainment is generally made available to the public on a rental or purchase basis for private viewing.

The term 'audio or visual entertainment' does not include printed or otherwise written material unless such printed or otherwise written material is used in any form of audio or visual entertainment described above.

(b) Upon declaration by the Governor of Puerto Rico (the Governor) and publication of such declaration in the official register of the Commonwealth of Puerto Rico, the antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the entertainment industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate the negative impact of violence and drugs in all audio or visual entertainment in Puerto Rico, or in any subset of audio or visual entertainment in Puerto Rico as the Governor may designate in any declaration under this section, provided that

(1) no declaration by the Governor under this section shall operate to exempt from the antitrust laws any joint discussion, consideration, review, action, or agreement that results in a boycott of any person, and

(2) no declaration by the Governor under this section shall operate to exempt from the antitrust laws any activities conducted more than 36 months after such declaration by the Governor. The Governor may limit the effect of any such declaration to a shorter period if he or she does so in the declaration itself.

(c) A declaration by the Governor under section 2 concerning any forms of audio or visual entertainment shall not limit his or her authority to make future declarations concerning those forms of audio or visual entertainment. "

SUBPART 20. ASSUMPTION OF BUDGETARY RESPONSIBILITIES AND TRANSFER OF FEDERAL FUNCTIONS.

The Puerto Rican Federal Relations Act is amended by inserting a new Section 63, as follows:

"The Commonwealth of Puerto Rico shall assume the expenses inherent in all governmental authority transferred pursuant to this Act.. The Government of the United States, or any agency thereof, may from time to time delegate to the Commonwealth of Puerto Rico the total or partial performance of functions vested in the United States, including the administration of such federal laws and programs on the island, as may be mutually agreed. "

SUBPART 21.

The enhancements to the Commonwealth relationship adopted pursuant to this Act shall form part of the Compact entered upon by the Congress and the People of Puerto Rico in 1952. It may be amended in the same manner as entered upon in order to provide for the continuing enhancement of the Commonwealth relationship.

NATIONAL ASIAN PACIFIC AMERICAN HERITAGE WEEK

● Mr. GORTON. Mr. President, this week has been proclaimed by President Bush to be "National Asian Pacific American Heritage Week." I would like to join in recognizing and saluting the contributions and achievements made by Americans of Asian and Pacific Island descent.

Contrary to what many believe, Asian Pacific Americans are among our earliest settlers. Although the majority of Asians and Pacific Islanders came here after the turn of the century, Filipinos have been here even before the United States was founded. This year marks the 226th anniversary of Filipinos in America.

As Asians and Pacific Islanders emigrated to the United States, they brought to this country a variety of rich and distinctive traditions and cultures. The heritage of each group is similar but by no means alike. Asian Pacific Americans are intensely proud both of being American, and also of their heritage.

Overcoming great hardships, Asian Pacific Americans have made historic contributions to this Nation. Workers of Chinese ancestry were instrumental in building the first east-west transcontinental railroad. The 442d Regimental Combat Team, composed entirely of Japanese Americans who fought in World War II, became the most decorated fighting unit in U.S. military history.

Today, Asian Pacific Americans are among the leaders of industry, especially in the high-technology field. As we enter into what some have called the Era of the Pacific Rim, Asian Pacific Americans will act as a nature bridge to link the United States with our trading partners in the Far East and Southeast Asia.

Asian Pacific Americans will be among our business and community leaders of tomorrow. Asian Pacific American students have achieved high scholastic marks in our finest schools and universities. In addition, they are entering in record numbers professions in which they were typically underrepresented, such as politics and law.

The United States is a nation of immigrants and their descendants, who together bring richness and diversity to all of our lives. As Asian Pacific Americans have become part of the American fabric, they have contributed notably to the histories of this great Nation and of my home state of Washington. It is with great pleasure that I salute all Asian Pacific Americans, not only during this special week of recognition, but throughout the year as well.●

AUTHORITY FOR RECORD TO REMAIN OPEN

Mr. WIRTH. Mr. President, I ask unanimous consent that the RECORD remain open until 5 p.m. today for the introduction of bills and statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

TO DELAY THE EFFECTIVE DATE OF SECTION 27 OF THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 968, now at the desk.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 968) to delay the effective date of section 27 of the Office of Federal Procurement Policy Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the bill (S. 968) was considered, ordered to a third reading, read the third time, and passed, as follows:

S. 968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DELAY OF EFFECTIVE DATE.

Section 6(b) of the Office of Federal Procurement Policy Act Amendments of 1988 (Public Law 100-679; 102 Stat. 4068) is amended by striking out "180 days after the date of the enactment of this Act" and inserting in lieu thereof "July 16, 1989".

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOINT REFERRAL OF BILL—S. 978

Mr. WIRTH. Mr. President, I ask unanimous consent that S. 978, a bill to authorize the establishment of the National Museum of the American Indian within the Smithsonian Institute, be jointly referred to the Committees on Rules and Administration and Indian Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT—S. 711, S. 712

Mr. WIRTH. Mr. President, I ask unanimous consent that S. 711 and S. 712, two bills dealing with the status of Puerto Rico, be star printed to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I further ask unanimous consent that a statement by Senator JOHNSTON appear at this point in the RECORD and that the two bills be printed in the RECORD following his remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, on April 5, 1989, Senator MCCLURE and I introduced three bills: S. 710, S. 711, and S. 712, to provide for referendums on the future political status of puerto Rico. The purpose of these bills is to give the people of Puerto Rico an opportunity to express their preference between the three status options: statehood, commonwealth, and independence. The reason that three bills were introduced was to reflect the uncertainty which exists regarding the level of specificity which the Congress will achieve in defining these three status options. S. 710 defines the options with just a few words. S. 711 would define them in general terms and in a few pages, while S. 712 would define the options in complete detail including legislative language on transition and implementation procedures.

As I stated upon introduction of these bills on April 5, the initial definitions of the status options for S. 711 and S. 712 were to be provided by the three political parties on May 9. Accordingly, the appropriate places in the bills were left blank.

Mr. President, I am very pleased that the three parties have dedicated themselves to this difficult task, and to our ambitious schedule. They have submitted their respective definitions as anticipated, and they are to be commended for their efforts.

The issue of Puerto Rican status is wide-ranging and necessarily involves matters of concern of many Members, and committees, of the Senate. If Puerto Rico is to hold a plebiscite in 1992, then we must enact legislation in the 101st Congress. This means completing action in the Senate this year. Otherwise, the House will not have sufficient time to consider this legislation next year, and the referendum will not be able to be held in Puerto Rico before the 1992 election campaign gets underway. Such a delay would push the referendum into 1992, and cause it to become confused by other issues. Accordingly, because of this time constraint, and the wide range of issues covered by this legislation, I encourage my colleagues to study these definitions carefully so that we can work together to resolve any concerns promptly.

In order to facilitate this process of review the committee has scheduled a staff briefing for Monday, May 22, at 1:30 in the Energy Committee hearing room, SD-366. Invitations to this briefing have been sent to all Senate Offices, and I encourage the attendance of staff, from Member offices and committees. The briefing will include short presentations by a representative of each of the parties on their respective definitions of statehood, commonwealth, and independence, and they will be available to answer questions.

On June 1 and 2, the committee will begin its formal consideration of these three bills. These hearings will contin-

ue to Puerto Rico in mid-June and then will return to DC to receive testimony from the administration in July.

Mr. President, I am very pleased that this process remains on schedule. With these initial proposed definitions, the real work now begins. These definitions represent the desires of the three principal political parties, but now the Congress must consider them, and modify them, to reflect the concerns of the Federal Government. Only after congressional consideration, and definition of the status options, can a meaningful referendum be held in Puerto Rico. This is because only Congress has the authority to change the island's political status.

This issue is of great importance to the Nation and to the people of Puerto Rico. The leadership of the island has asked for our assistance and consideration in consulting on future political status. We have a responsibility to respond, and I look forward to working with my colleagues in meeting this responsibility.

S. 711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the United States of America recognizes the principles of international law with respect to its relationship with Puerto Rico; and

(2) the United States is committed to a process of consultation and negotiation with the people of Puerto Rico leading to a referendum on the issue of political status to be conducted in a fair and equitable manner.

SEC. 2. REFERENDUM.

(a) IN GENERAL.—An islandwide referendum shall be held in Puerto Rico in which qualified voters of the Commonwealth of Puerto Rico in which qualified voters of the Commonwealth of Puerto Rico shall be represented a choice of negotiating one of three status options for Puerto Rico as follows:

(1) Statehood;

(2) Independence; or

(3) Commonwealth.

For the purpose of these negotiations it is understood that the initial position of the people of the Commonwealth of Puerto Rico and of the Congress of the United States is that the terms shall be as follows:

(b) INITIAL DEFINITIONS.—

(1) STATEHOOD.—Upon admission as a state, Puerto Rico would cease being a territory of the United States. The Commonwealth of Puerto Rico would be admitted as a sovereign state of the Union, with its current Constitution, on an equal footing and in true permanent union with the other fifty states.

The new State of Puerto Rico shall be known as The Commonwealth of Puerto Rico. In Spanish it shall be known as "Estado Soberano de Puerto Rico".

Admission to the Union has historically been a flexible and varied process which has been adapted to the individual circumstances of each new state. Congress, which has the constitutional power to facilitate the admission of new states, would provide for a smooth process of adjustment from the tax structure of the territorial status to the federal fiscal system.

The Commonwealth of Puerto Rico would be assured of its reserved state right under the Constitution to continue to maintain both Spanish and English as its official languages, as well as of its right to preserve and enhance its particular cultural characteristics.

Statehood creates the only permanent union with the United States that is consistent with the "more perfect union" of equal states established by the United States Constitution.

Statehood would entail fundamental political and economic betterment for the Commonwealth of Puerto Rico.

Statehood means economic self-reliance and social justice, including parity for its residents in those aspects of federal legislation that cover the residents of the several states at the time of admission and in the future.

Statehood means political equality, and, specifically, the right to participate in the process of election of the President and Vice-President of the United States as well as the right to elect two (2) U.S. Senators and the corresponding number of members of the U.S. House of Representatives.

Statehood means that all benefits and protections of the United States Constitution would be fully bestowed on the People of the Commonwealth of Puerto Rico together with the guarantee of full protection by the Federal judicial system.

Statehood entails the immediate full extension of federal entitlements and legislation providing parity for the residents of Puerto Rico in all Federal programs. The Commonwealth will assume all responsibilities of a State of the Union.

Statehood is a political formula recongized by the international community through Resolution 1541 (XV) of the General Assembly of the United Nations and through Resolution 1469 (XIV) of that body, which was adopted upon the admission of the new states of Alaska and Hawaii.

Statehood embodies the highest degree of autonomy and sovereignty in true permanent union with the several states.

(2) INDEPENDENCE.—

(A) In order to ensure the legitimate interests of Puerto Rico and the United States, to strengthen bonds of friendship and cooperation, and to provide for equitable economic relations between both nations, the United States shall recognize the independence of Puerto Rico in accordance with the principles set forth below, thus guaranteeing the necessary conditions for a rational and mutually advantageous transition before and after the proclamation of Puerto Rico's independence.

(B) The following shall constitute the Principles under which the Congress shall recognize Puerto Rico's independence in accordance with the provisions of Section 3:

(I) HUMAN RIGHTS.—The people of Puerto Rico shall, through a Constitutional Convention, establish a republican form of government which shall guarantee the full protection of fundamental human rights.

(II) CITIZENSHIP.—The Republic of Puerto Rico shall establish its own citizenship, and there shall be agreements between the United States and the Republic of Puerto Rico to ensure the compatibility between the citizenships of both nations.

(III) DEFENSE.—The United States and the Republic of Puerto Rico shall enter into agreements that will make possible the ultimate demilitarization of the Republic of Puerto Rico.

(IV) TRADE.—The United States shall allow free access into its market to all imports of goods and services originating in the Republic of Puerto Rico for a period of twenty years after the proclamation of independence.

(V) TAXATION.—The United States shall guarantee that the tax credit currently allowed under Section 936 of the Internal Revenue Code shall remain in full effect upon the proclamation of Puerto Rico's independence and during the fifteen years immediately thereafter.

(VI) PUBLIC DEBT.—The Republic of Puerto Rico shall assume the outstanding debts and obligations of the Commonwealth of Puerto Rico, its instrumentalities and municipalities, and the United States shall for a period of twenty-five years maintain the income tax exemption currently provided by law on interest payments derived from debts and obligations incurred into before or after the proclamation of independence.

(VII) VESTED RIGHTS.—The United States shall guarantee all vested rights and benefits accruing to residents of Puerto Rico under the laws of the United States from past services or contributions, such as benefits for Veterans of the Armed Forces of the United States and their relatives, benefits for retired government employees, and old age and/or disability payments under the Social Security Act, until their extinction under the applicable laws of the United States; and contributions made to the Social Security System by those not yet eligible for benefits at the time of the proclamation of independence shall be transferred for administration by the Republic of Puerto Rico.

(VIII) ECONOMIC ASSISTANCE.—The United States shall guarantee the continuation of transfer payments to individuals, and to the Government of Puerto Rico, its instrumentalities and municipalities, at current-level funding in the form of block grants for the discretionary use of the government of the Republic of Puerto Rico for ten years after the proclamation of independence, and thereafter for ten additional years on a decreasing basis.

(IX) CURRENCY.—The Republic of Puerto Rico may establish its own monetary system, provided that during the ten years following the proclamation of independence both the U.S. dollar and Puerto Rican currency shall be accepted as legal tender in all transactions in Puerto Rico.

(X) FRIENDSHIP AND COOPERATION.—To ensure the effectiveness of the purposes of this Act after the proclamation of the independence of Puerto Rico, the United States and the Republic of Puerto Rico shall set forth the details of their bilateral relations in a Treaty of Friendship and Cooperation.

(3) ENHANCED COMMONWEALTH.—

Subpart 1.—Statement of Purposes

In 1952 the Congress of the United States, fully recognizing the principle of government by consent, and the People of Puerto Rico, in the exercise of their right to self-determination, entered upon a compact which established a Commonwealth relationship between Puerto Rico and the United States.

Under the compact the People of Puerto Rico adopted in their own sovereign right their own Constitution and formed an autonomous political community in permanent union with the United States of America based on the irreversible bond of American citizenship.

In 1953 the General Assembly of the United Nations recognized the creation of the Commonwealth and removed Puerto Rico from the list of nonself-governing territories.

This association has enabled the People of Puerto Rico to advance their economic and social development and to preserve their distinct historical heritage and cultural personality.

As inherent in all political relationships freely entered upon, it was based on the understanding that it would evolve and devel-

op within its particular political nature upon mutually agreeable terms.

It is the purpose of Section 2(b)(3) to provide for the enhancement of the Commonwealth relationship by enlarging the scope of self-government of the Puerto Rican people upon the approval of a proposition to that effect by a majority of the eligible voters of the Commonwealth of Puerto Rico.

Subpart 2.—Referendum Proposition: Commonwealth

The referendum proposition regarding Commonwealth, to be presented to, and voted upon, by the People of Puerto Rico shall be as follows: "The Commonwealth association with the United States shall be enhanced to enable the People of Puerto Rico to accelerate their economic and social development and attain maximum cultural and political autonomy within permanent union with the United States based on the irreversible bond of American citizenship, a common defense, a common market, and a common currency."

The proposition will appear in the ballot, in Spanish, as follows: "El Estado Libre Asociado se fortalecerá para acelerar el desarrollo económico y social y alcanzar la máxima autonomía cultural y política del pueblo de Puerto Rico en su unión permanente con los Estados Unidos sobre los pilares de común defensa, común mercado, común moneda, y el vinculo indisoluble de la ciudadania americana."

Subpart 3.—Principles of Commonwealth

When the Governor certifies to the President and to the Congress of the United States in accordance with Section 2(d) that the decision of the People of Puerto Rico which received the majority of the votes cast favors the proposition of enhanced Commonwealth in permanent union with the United States, as set forth in subpart 2, above, Section 1 of the Puerto Rico Federal Relations Act, 39 Stat. 954, as amended, 48 U.S.C. Section 731, shall be repealed, and replaced by the following:

"(1) The provisions of this Act shall apply to the Commonwealth of Puerto Rico, an autonomous body politic joined in permanent union with the United States on the basis of common citizenship, common defense, common market and common currency.

"(2) The policy of the United States shall be to enhance the Commonwealth relationship enjoyed by the Commonwealth of Puerto Rico and the United States to enable the People of Puerto Rico to accelerate their economic and social development and attain maximum cultural and political autonomy within permanent union with the United States, to secure more equitable participation for the People of the Commonwealth of Puerto Rico in all federal programs that provide grants or services to citizens of the United States as individuals, to secure increased participation by the People of Puerto Rico in U.S. governmental decisions affecting them, to safeguard the distinct cultural identity of the People of Puerto Rico, and to protect the bilateral nature of the relationship between the Commonwealth of Puerto Rico and the United States."

Subpart 4.—Implementation of Federal Policy

When the new federal policy is established in accordance with subpart 3, then Section 9 of the Federal Relations Act, 39 Stat. 954, as amended, 48 U.S.C. Section 734, is amended by inserting at the beginning thereof the term "(a)" and by adding at the end thereof the following:

"(b) A federal statutory law, or provision of such law, is locally inapplicable unless it is consistent with the policy established under subpart 3 and unless such federal statutory law has proper regard for the economic, cultural, ecological, geographic, demographic and other local conditions of the Commonwealth of Puerto Rico. This subsection shall not apply to:

"(i) any federal statutory law in which the Congress makes a specific finding that there is an overriding national interest that such law should apply to the Commonwealth of Puerto Rico, or

"(ii) any federal statutory law, or provision thereof, establishing directly or indirectly grants and/or services to citizens of the United States as individuals, or

"(iii) any federal statutory law or provision thereof relating to citizenshp, or

(iv) any federal statutory law or provision thereof pertaining to the foreign relations, defense or national security of the United States that requires uniform applicability throughout the United States, including the Commonwealth of Puerto Rico, to achieve its intended purposes.

"(c) In addition to judicial determinations of the inapplicability of federal laws under subsection (b), the Governor of the Commonwealth of Puerto Rico may certify from time to time to the Speaker of the House of Representatives, the President of the Senate, and the President of the United States, that a federal statutory law or provision thereof, other than one excluded from the operation of subsection (b), is inconsistent with a Puerto Rican statute and the policy established under subsection (b). Unless, within 60 days of the receipt of such certification, a statue is enacted embodying the finding required under subsection (b)(i), the President shall issue a proclamation that such federal statutory law or provision thereof identified in the Governor's certification is not applicable in Puerto Rico.

"(d)(i) The Commonwealth of Puerto Rico may continue to enter in its own right into international cultural, commercial, educational and sports agreements, and other agreements of like nature.

"(ii) In addition, the Governor of the Commonwealth of Puerto Rico may take any official action to promote the international interests of Puerto Rico that requires the consent of the United States Government and is not expressly prohibited by law. The Governor of the Commonwealth of Puerto Rico shall provide written notice to the President of the United States of any official action he contemplates taking pursuant to the authorization of this part of this subsection and not pursuant to any other authorization or consent. The President may, within 30 days of his receipt of such notice, sign and transmit to the Governor of the Commonwealth of Puerto Rico a document expressing his determination that the contemplated official action would imperil the foreign relations or national defense of the United States, in which case the authorization hereby granted shall be withdrawn as regards such contemplated official action.

"(e) All departments and agencies of the Government of the United States shall be guided by the policy stated in subpart 3 when carrying out their duties under federal statutory laws and federal regulations applicable in or affecting the Commonwealth of Puerto Rico. Every such department or agency shall, before taking any major federal action applicable in or affecting the Commonwealth of Puerto Rico, separately evaluate the consistency of such action with such policy and shall state, on a document accompanying the major federal action, the extent nature and result of its consideration.

"(f) Any rule, as defined in U.S.C. sec. 551(4), issued by an agency, as defined in 5 U.S.C. sec. 551(1), shall apply in the Commonwealth of Puerto Rico only to the extent that it is consistent with the policy set forth in Subsection (b). After the effective date of this amendment, when any such rule, other than a rule issued after notice and hearing required by statute, that does not in terms provide that it is inapplicable in the Commonwealth of Puerto Rico is published in the Federal Register, the Governor of the Commonwealth of Puerto Rico may submit to the agency within 30 days in writing (or such longer period as the agency may have prescribed as the period between publication of the rule and its effectiveness) the Governor's determination that such rule is inconsistent with the policy stated in subsection (b). Thereupon, the agency shall reconsider the question of consistency of the rule with the policy stated in Subsection (b) and shall, within 45 days of its receipt of the Governor's determination, publish in the Federal Register its finding either that there is an overriding national interest that the rule be applicable in the Commonwealth of Puerto Rico, in which case the rule, whether or not previously applicable in the Commonwealth of Puerto Rico, shall thereafter be so applicable, or that the rule is not compatible with such policy, in which event such rule, whether or not previously applicable in the Commonwealth of Puerto Rico shall not be so applicable. Unless the agency for good cause finds that a rule that is the subject of such determination by the Governor of Puerto Rico as is described in this subsection shall be applicable to the Commonwealth of Puerto Rico pending its consideration of such determination, and publishes such finding in the Federal Register, such rule, whether or not previously applicable to the Commonwealth of Puerto Rico, shall not be so applicable pending such consideration. An agency's decision to make a rule applicable or inapplicable in Puerto Rico shall be subject to judicial review.

"(g) The laws, rules and regulations of the United States applicable in the Commonwealth of Puerto Rico when the new federal policy is established in accordance with subpart 3 shall continue in effect except to the extent repealed or modified by this Act, or inconsistent with it, and except as hereafter modified, suspended or repealed in accordance with law."

Subpart 5.—Substantive Areas of Enhancement

In the event the status option of enhanced Commonwealth in permanent union with the United States receives a majority of the votes cast in the referendum, the negotiations contemplated in Section 3 hereof shall develop implementing legislation to enhance the Commonwealth relationship in the following areas, as hereafter established:

1. AVIATION.—Amend the Federal Aviation Act to authorize the Commonwealth of Puerto Rico to seek on its own behalf bilateral air transportation agreements governing the operation of air services by United States and foreign air carriers between the Commonwealth and foreign points, and between the Commonwealth and the United States for foreign air carriers.

2. DEVELOPMENT OF TOURISM.—Amend the Coastal Barrier Resource Act to clarify congressional intent to exclude the Commonwealth of Puerto Rico from the application of this federal statute that never was intended to apply to a Caribbean island, thus

enhancing the autonomy of the Commonwealth to decide for itself how best to develop its coastal zone, including the promotion of tourism that is so important to the economic well-being of Puerto Rico.

3. INTERNATIONAL TRADE.—

(a) TARIFF AUTHORITY.—Enable the Commonwealth of Puerto Rico to impose tariff duties on foreign origin products imported into Puerto Rico to the extent it can do so consistent with the international obligations of the United States.

(b) GENERALIZED SYSTEM OF TRADE PREFERENCES.—Secure enactment of a policy statement by the United States encouraging other countries to consider Puerto Rico as a developing territory for purposes of their respective general or regional systems of trade preferences.

(c) CONSULTATION ROLE IN THE NEGOTIATION OF TRADE AGREEMENTS.—Establish arrangements to assure that the President consults with the Governor of the Commonwealth of Puerto Rico concerning the potential impact of any proposed tariff rate reductions on the economy of Puerto Rico before the President concludes any such trade agreements under Section 1102 of the Omnibus Trade and Competitiveness Act of 1988. Arrangements shall also be sought to provide for appropriate participation by the Commonwealth of Puerto Rico, at its request, in the negotiations of trade agreements affecting them.

4. MARITIME.—Enable the Commonwealth of Puerto Rico to establish its own maritime authority, which will exercise exclusive jurisdiction to establish and enforce uniform and non-discriminatory rates for trade between ports in the United States and ports in Puerto Rico to assure Puerto Rico the lowest possible rates.

5. MARITIME RESOURCES.—Amend federal law to enable the Commonwealth of Puerto Rico to acquire jurisdiction over the territorial waters, seabed and submerged lands surrounding Puerto Rico and presently under the jurisdiction of the United States. Amend federal law to exclude the Commonwealth from the coverage of the Magnuson Act and permit the Commonwealth to receive financial benefits from countries other than the United States for maritime resources to which the Commonwealth may lay claim.

6. INTELLECTUAL PROPERTY.—Looking to the future and the critical importance of information in the economic development that will occur in the next century, secure new means of encouraging such information-related economic development in Puerto Rico, including new forms of intellectual property protection for computer chip manufacturers and industrial designers.

7. FEDERAL FUNDS AND PROGRAMS.—

(a) CONSOLIDATION OF GRANT-IN-AID PROGRAMS.—Amend federal law to authorize the Commonwealth of Puerto Rico to consolidate any or all federal grant-in-aid programs, except those that directly or indirectly provide payments or services to persons as individuals for any fiscal year or years.

(b) EQUITABLE TREATMENT IN SOCIAL PROGRAMS.—Achieve equitable allocations to Puerto Rico with the goal of achieving full parity with the states over a period no longer than four years in the following programs: Nutrition Assistance Program (NAP), Aid to Families with Dependent Children (AFDC), and Medicaid, and over a period no longer than eight years in the Supplemental Security Income Program (SSI), as is currently enjoyed with regard to other federal programs.

8. PROTECTION OF WORKERS.—Delegate to the Labor Relations Board of Puerto Rico all the functions presently exercised by the National Labor Relations Board, regarding labor relations in the Commonwealth of Puerto Rico.

Puerto Rico shall continue to have exclusive jurisdiction to legislate employee benefits, including but not limited to Christmas bonuses, sick and vacation pay, and workman's compensation, excluding the federal minimum wage and overtime pay legislation which shall continue to apply.

9. PUERTO RICO PARTICIPATION IN FEDERAL APPOINTMENTS.—Assure the participation of Puerto Rico in designating candidates for the highest ranking federal appointments serving in Puerto Rico, including Presidential appointments subject to Senate confirmation.

10. REPRESENTATION IN THE SENATE.—Secure representation of Puerto Rico's interests in the United States Senate by a second Resident Commissioner.

11. FEDERAL JUDICIARY.—

(a) PRIMARY JURISDICTION OF PUERTO RICO COURTS.—Assure that federal courts abstain from construing an unconstrued Puerto Rico statute or regulation or deciding an undecided point of substantive Puerto Rico non-statutory law without first giving the courts of Puerto Rico an opportunity to construe such statute or regulation or to rule upon such point of Puerto Rico law, which constructions shall be binding on the federal courts.

(b) USE OF SPANISH LANGUAGE.—Enact legislation requiring the United States District Court for Puerto Rico to conduct its proceedings in the Spanish language, upon the request of any party to the proceeding.

(c) Enact a statutory provision for the certification to the District of Columbia Court of Appeals of the actions or controversies arising under, and involving the Puerto Rico Federal Relations Act, as amended by this Act, and for the transfer by the Commonwealth of Puerto Rico, its departments, agencies and instrumentalities, as well as officials and agents, in both their official and personal capacity, of any action brought against them from the District Court for Puerto Rico to the District Court for the District of Columbia.

12. PASSPORTS.—

(a) RESTORING PUERTO RICO'S ISSUANCE OF U.S. PASSPORTS.—Restore Puerto Rico's authority to issue U.S. passports.

(b) SPECIAL TEMPORARY VISIT VISAS.—Consistent with prohibitions imposed by the President on the entry of aliens from specified countries, authorize the Government of Puerto Rico to secure Puerto Rico-only temporary visas, for a period not to exceed thirty days, for nonresident aliens invited by the Government of the Commonwealth of Puerto Rico. The District Office for Puerto Rico of the Immigration and Naturalization Service shall issue these special temporary visit visas, as well as other entry visas.

(c) The District Office for Puerto Rico of the Immigration and Nationality Service shall issue the special temporary visit visas, as well as other entry visas.

13. LAW ENFORCEMENT.—Amend federal law to authorize the Commonwealth to supplement United States efforts to patrol Puerto Rico's borders and make them secure against illegal traffic in drugs and aliens, including joint enforcement of relevant federal laws.

14. HISTORIC SITES AND CONSERVATION LANDS.—Title to lands and properties acquired by the Unied States under the cession of Spain in the Treaty of Paris entered into on December 10, 1898, as well as of ownership of the Caribbean National Forest, shall be transferred to the Commonwealth of Puerto Rico. Continued use and administration by the federal government of these lands and properties may be negotiated with the Commonwealth of Puerto Rico.

15. COMMUNITY VALUES.—Authorize the Governor of the Commonwealth of Puerto Rico to grant antitrust exemptions for voluntary joint efforts by broadcasters to foster local programming and to foster community and cultural values, including the possible adoption of codes limiting the violence, pornography, and substance-abuse depicted in broadcast programming.

16. ASSUMPTION OF BUDGETARY RESPONSIBILITIES AND TRANSFER OF FEDERAL FUNCTIONS.—The Commonwealth of Puerto Rico shall assume the expenses inherent in all governmental authority transferred pursuant to this Act. The Government of the United States, or any agency thereof, may from time to time delegate to the Commonwealth of Puerto Rico the total or partial performance of functions vested in the United States, including the administration of such federal laws and programs on the island, as may be mutually agreed.

Subpart 6.—Future Enhancements

The enhancements to the Commonwealth relationship resulting from this Act shall form part of the Compact entered upon by the Congress and the People of Puerto Rico in 1952. It may be amended in the same manner as entered upon in order to provide for the continuing enhancement of the Commonwealth relationship.

(c) DATE OF REFERENDUM.—The first referndum shall occur upon the call of the Governor, and during calendar year 1991.

(d) RETURNS OF REFERENDUM.—The returns of the referendum held under this Act shall be made to the Governor of Puerto Rico, who shall cause them to be canvased in the manner provided by law for the canvass of votes cast in general elections in the Commonwealth of Puerto Rico. If there is not a majority in favor of one of the three options, then there shall be, upon the call of the Governor, and during calendar year 1991, a runoff referendum between the two status options which had received the largest number of votes. The Governor shall certify to the President and to the Congress of the United States that decision of the people of Puerto Rico which received a majority of the votes cast.

(e) APPLICABLE ELECTION LAWS.—The election laws of the Commonwealth of Puerto Rico shall apply to the referendum held under this Act.

SEC. 3. NEGOTIATIONS TO DEVELOP LEGISLATION BASED ON REFERENDUM.

(a) NEGOTIATIONS.—Following certification by the Governor as provided in section 2(d), then the process, involving representatives of the principal political party representing the status option selected, and in full consultation with the other two principal political parties, shall begin to develop implementing legislation encompassed within the principles as set forth in section 2(b), and in consultation with the Committee on Energy and Natural Resources of the United States Senate and the appropriate committees of jurisdiction in the United States House of Representatives. Such legislation shall, upon enactment, authorize a further referendum of the people of Puerto Rico to approve or disapprove the selected status as defined in the legislation. A change of status shall not be effective unless or until approved in such a referendum.

(b) TIME LIMIT.—The second referendum to approve or disapprove the selected status as defined in the legislation developed under this section shall occur no later than the end of the Congress which is in session

on the fourth anniversary of the date of the Governor's certification provided for under section 2(d), or as may be otherwise provided in such legislation.

S. 712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the United States of America recognizes the principle of self-determination and other applicable principles of international law with respect to Puerto Rico; and

(2) the United States is committed to a process of consultation and negotiation with the people of Puerto Rico leading to a referendum on the issue of political status to be conducted in a fair and equitable manner.

TITLE I

SEC. 2. REFERENDUM.

(a) IN GENERAL.—An island-wide referendum shall be held in Puerto Rico in which qualified voters of the Commonwealth of Puerto Rico shall be presented a choice of three status options for Puerto Rico as follows:

(1) statehood;

(2) independence; or

(3) commonwealth

as set forth in titles II, III, and IV of this Act.

(b) DATE OF REFERENDUM.—The first referendum shall occur on ———, 1991, or on a date as may be mutually agreed by the three principal political parties, and during the summer of calendar year 1991.

(c) RETURNS OF REFERENDUM.—The returns of the referendum held under this Act shall be made to the Governor of Puerto Rico, who shall cause them to be canvassed in the manner provided by law for the canvass of votes cast in general elections in the Commonwealth of Puerto Rico. If there is not a majority in favor of one of the three options, then there shall be, on ———, 1991, or on a date as may be mutually agreed by the three principal political parties, and during the summer of calendar year 1991, a runoff referendum between the two status options which had received the largest number of votes. Such referendum shall also include an option of "None of the Above". The Governor shall certify to the President and to the Congress of the United States that decision of the people of Puerto Rico which received a majority of the votes cast, if a majority is obtained.

(d) APPLICABLE ELECTION LAWS.—The election laws of the Commonwealth of Puerto Rico shall apply to the referendum held under this Act.

(e) Upon the effective date of this Act, the status option which has been certified by the Governor pursuant to subsection (c), shall go into effect in accordance with the appropriate title of this Act.

TITLE II—STATEHOOD

Whereas upon admission as a state, Puerto Rico would cease being a territory of the United States.

Whereas the Commonwealth of Puerto Rico would be admitted as a sovereign state of the Union, with its current Constitution, on an equal footing and in true permanent union with the other fifty states.

Whereas the new State of Puerto Rico shall be known as the Commonwealth of Puerto Rico; in Spanish it shall be known as "Estado Soberano de Puerto Rico".

Whereas admission to the Union has historically been a flexible and varied process which has been adapted to the individual circumstances of each new state.

Whereas Congress, has the constitutional power to facilitate the admission of new states.

Whereas Congress is willing to provide for a smooth process of adjustment from the tax structure of the territorial status to the federal fiscal system.

Whereas the Commonwealth of Puerto Rico assured of its reserved state right under the Constitution to continue to maintain both Spanish and English as its official languages, as well as of its right to preserve and enhance its particular cultural characteristics.

Whereas statehood creates the only permanent union with the United States that is consistent with the "more perfect union" of equal states established by the United States Constitution.

Whereas statehood entails fundamental political and economic betterment for the Commonwealth of Puerto Rico.

Whereas statehood entails economic self-reliance and social justice, including parity for its residents in those aspects of federal legislation that cover the residents of the several states.

Whereas statehood means political equality, and, specifically, the right to participate in the process of election of the President and Vice-President of the United States as well as the right to elect two (2) U.S. Senators and the corresponding number of members of the U.S. House of Representatives.

Whereas statehood means that all benefits and protections of the United States Constitution would be fully bestowed on the People of the Commonwealth of Puerto Rico together with the guarantee of full protection by the Federal judicial system.

Whereas statehood entails the immediate full extension of federal entitlements and legislation providing parity for the residents of Puerto Rico in all Federal programs.

Whereas the Commonwealth will assume all responsibilities of a State of the Union.

Whereas statehood is a political formula recognized by the international community through Resolution 1541 (XV) of the General Assembly of the United Nations and through Resolution 1469 (XIV) of that body, which has adopted upon the admission of the new states of Alaska and Hawaii.

Whereas statehood embodies the highest degree of autonomy and sovereignty in a true permanent union with the several states: Therefore: be it

Resolved:

SEC. 2. Subject to the provisions of this Act, and upon issuance of the proclamation required by section 7 of this Act, the Commonwealth of Puerto Rico (hereinafter referred to also as "the state") is declared to be a State of the United States of America, is declared admitted into the Union on an equal footing with the other States in all respects whatever, in compliance with the democratic mandate of the plebiscite held on — for the resolution of Puerto Rico's final political status. The Constitution adopted by a vote of the People of Puerto Rico in the election held on June 4, 1951, has been found by Congress to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and was accepted, ratified, and confirmed, through Public Law 447 of the 82nd Congress, March 3, 1952.

CONSTITUTION

SEC. 3. The constitution of the Commonwealth of Puerto Rico shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. The current Constitution of the Commonwealth of Puerto Rico is hereby accepted as the constitution of the state.

TERRITORY AND BOUNDARIES

SEC. 4. Subject to the provisions of this section, the State shall consist of all of the territory, together with the territorial waters, of the Commonwealth of Puerto Rico.

STATE TITLE TO LANDS AND PROPERTY

SEC. 5. (a) The State and its political subdivisions shall have and retain title to all property, real and personal, which it currently holds.

(b) Any lands and other properties that, as of the date of admission of Puerto Rico into the Union, are set aside pursuant to law for the use of the United States under and (A) Act of Congress, (B) Executive order, (C) proclamation of the President, or (D) proclamation of the Governor of the Commonwealth of Puerto Rico, shall remain the property of the United States; except that the Commonwealth of Puerto Rico (the state) shall have the exclusive right to explore, exploit, lease, possess and use all seabed, natural and mineral resources lying within the 200 mile economic zone continental shelf boundary around the waters of the Archipelago of Puerto Rico; however, all other rights of sovereignty in regards to the continental shelf and waters, shall belong to the United States except those already vested in Puerto Rico.

(c) Not later than five years after the date of admission of the Commonwealth of Puerto Rico as a state of the Union, each Federal agency having control over any land or property that is retained by the United States pursuant to this seciton shall submit a report to the President and the Congress concerning the need for such land or property. If the President determines that any such land or property is no longer needed by the Federal Government, it shall be forthwith conveyed to the Commonwealth of Puerto Rico.

(d) All laws of the United States reserving to the United States the free use or enjoyment of property which vests in or is conveyed to the Commonwealth of Puerto Rico or its political subdivisions pursuant to this section or reserving the right to alter, amend, or repeal laws relating thereto, shall cease to be effective upon the admission of the state into the Union.

COMPACT WITH THE UNITED STATES; CLAIMS TO FEDERAL LANDS AND PROPERTY

SEC. 6. (a) As a compact with the United States, the Commonwealth and its people recognize all rights and titles to any lands or other property not granted or conferred to the Commonwealth or its political subdivisions by or under the authority of this Act, the right or title to which is now held by the United States or subject to disposition by the United States.

(b)(1) Nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by applicable laws of the United States.

(2) Nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any applicable law authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the determination of the applicability of any law to any such claim shall be unaffected by anything in this Act.

(c) No taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States.

(d) Notwithstanding any other provision of this Act or any other provision of law, in compensation for the lands now held by the

United States, the Congress shall appropriate federal payments to be assigned to the Commonwealth of Puerto Rico, in the amount of —— annually, during the next —— years, for the sole purpose of assisting the state in the payment of its present public debt and liabilities.

ELECTIONS AND ADMISSION REFERENDUM

SEC. 7. (a)(1) Not more than sixty days after the date of certification by the Governor of the Commonwealth of Puerto Rico as provided by this act, the President of the United States shall certify the admission of Puerto Rico into the Union to the Governor of the Commonwealth of Puerto Rico. Not more than thirty days after such certification, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation for the election of two United States Senators and the corresponding number of the United States Representatives in Congress as provided in this act. The Governor of the State shall certify the election of the Senators and Representatives in the manner required by law. The Senators and Representatives elected shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of the other States in the Congress of the United States. The office of Resident Commissioner shall cease to exist upon the swearing in of the first member of the House so elected.

(2) In the first election of Senators from the State (pursuant to Section 7(a)(1)) the two senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No such identification or designation of either of the two senatorial officers shall refer to or be taken to refer to the terms of such offices, or in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

(b) Election returns shall be made and certified in such manner as provided by the electoral laws of Puerto Rico and in such a manner as the Commonwealth of Puerto Rico may prescribe. The Governor of the Commonwealth of Puerto Rico shall certify the results of such elections to the President of the United States.

(2) The constitution of the Commonwealth of Puerto Rico, ratified by the people at the referendum held on June 4, 1951, shall become the Constitution of the State of Puerto Rico. The new State of Puerto Rico shall be known as The Commonwealth of Puerto Rico.

(3) Any legal dispute or controversy arising out of the electoral processes conducted under this act shall be adjudicated by the United States District Court for the District of Puerto Rico, and the Appellate Federal Court System. The Courts of the Commonwealth of Puerto Rico shall not have jurisdiction to entertain any suit, appeal, writ of revision or legal action, arising out of these elections, plebiscites and referendums.

(4) The individuals holding legislative, executive, and judicial offices of the Commonwealth of Puerto Rico, shall continue to discharge the duties of their respective offices. Upon the issuance of the proclamation by the President of the United States and the admission of the Commonwealth of Puerto Rico as a state of the Union, the officers elected or appointed under the provisions of the constitution and laws of the Commonwealth shall proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of the State, as provided by the constitution and laws of the State.

SEC. 8. The Commonwealth of Puerto Rico upon its admission into the Union shall be entitled to — Representatives, until the taking effect of the next reapportionment, and such Representatives shall be in addition to the membership of the House of Representatives as now prescribed by law.

LAWS IN EFFECT

SEC. 9. Upon admission of the Commonwealth of Puerto Rico into the Union, all of the territorial laws then in force in the Commonwealth of Puerto Rico shall be and continue in force and effect throughout the state, until amended, modified or repealed by the Commonwealth. All of the laws of the United States shall have the same force and effect within the State as elsewhere in the United States.

CONTINUATION OF SUITS

SEC. 10. (a) No writ, action, indictment, cause, or proceeding pending in any court of the Commonwealth of Puerto Rico, shall abate by reason of the admission of the Commonwealth of Puerto Rico into the union, but shall proceed within such appropriate state courts as are now established under the Constitution of the Commonwealth, or shall continue in the United States District Court for the District of Puerto Rico, as the nature of the case may require.

(b) All civil causes of action and all criminal offenses which shall have arisen or been committed prior to the admission of the Commonwealth, but as to which no writ, action, indictment, or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropriate state courts or in the United States District Court for the District of Puerto Rico in like manner, to the same extent, and with like right of appellate review, as if such State had been created and such State courts had been established prior to the accrual of such causes of action or the commission of such offenses. The admission of the State shall effect no change in the procedural or substantive laws governing causes of action and criminal offenses which shall have arisen or been committed, and any such criminal offenses as shall have been committed against the laws of the Commonwealth of Puerto Rico, shall be tried and punished by the appropriate courts of the State, and any such criminal offenses as shall been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Puerto Rico.

APPEALS

SEC. 11. Parties shall have the same rights of judicial review of final decisions of the United States District Court for the District of Puerto Rico or the Supreme Court of the Commonwealth of Puerto Rico, in any case finally decided prior to the admission of the State of Puerto Rico into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission. The United States Court of Appeals for the First Circuit and the Supreme Court of the United States, shall have the same jurisdiction in such cases as by law provided prior to the admission of the State into the Union. Any mandate issued subsequent to the admission of the State, shall be to the United States District Court for the District of Puerto Rico or a court of the State, as appropriate. Parties shall have the same rights of appeal from and appellate reviews of all orders, judgments, and decrees of the United States District Court for the District of Puerto Rico and of the Supreme Court of Puerto Rico, in any case pending at the time of admission of the State into the Union, and the Supreme Court of the Commonwealth of Puerto Rico and the Supreme Court of the United States shall have the same jurisdiction therein, as by law provided in any case arising subsequent to the admission of the State into the Union.

MILITARY LANDS

SEC. 12. (a) Subject to the subsection (b) and notwithstanding the admission of the Commonwealth of Puerto Rico into the Union, authority is reserved in the United States for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of lands as, immediately prior to the admission of the State, are controlled or owned by the United States and held for defense or Coast Guard purposes.

(b)(1) The Commonwealth of Puerto Rico shall always have the right to serve civil or criminal process within such tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the State but outside of such tracts or parcels of land.

(2) The reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over such lands shall not operate to prevent such lands from being a part of the Commonwealth of Puerto Rico, or to prevent the State from exercising over or upon such lands, concurrently with the Federal government, any jurisdiction which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation or authority.

(3) The power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for defense or Coast Guard purposes, except that the United States shall continue to have sole and exclusive jurisdiction over such military installations as have been or may be determined to be critical areas as designated by the President of the United States or the Secretary of Defense.

UNITED STATES NATIONALITY

SEC. 13. No provision of this Act shall operate to confer United States nationality, to terminate nationality lawfully acquired, or to restore nationality terminated or lost under any law of the United States or under any treaty to which the United States is or was a party.

REPEAL AND AMMENDMENT OF INCONSISTENT LAWS

SEC. 14. All Acts or parts of Acts in conflict with the provisions of this Act, whether passed by the Legislature of the Commonwealth of Puerto Rico or by Congress, are hereby repealed or amended to conform with the provisions of this act.

NATIONAL FEDERAL LANDS AREA

SEC. 15. (a) The Federal Lands reserved for the United States government referred to in section 4 are those now held by the Federal government.

ECONOMIC ADJUSTMENT FROM TERRITORY TO STATE

SEC. 16. Congress adopts the following economic provisions to expedite the adjustment of the Commonwealth of Puerto Rico from the tax structure of the territory to the fiscal and economic system of the state.

(a) Provisions of the Internal Revenue Code concerning Federal Income Taxes shall immediately apply to Puerto Rico, provided that the proceeds of said taxes shall be transferred to the Treasury of Puerto

Rico in an amount to be diminished by — % of the monies collected each year for a — year period. Existing income tax laws of the Commonwealth shall stand repealed upon admission of the state.

(b) Provision shall be made by Congress so that economic and fiscal exceptions of the Internal Revenue Code, already granted, such as those allowed under Section 936 of said code, shall remain in full effect for — years and will be smoothly and gradually phased out thereafter, in such a way as to eliminate the prevalent uncertainty which impairs an orderly planning and which impedes the fulfillment of the job creation requirements for such credit, thus promoting investments and higher rate of employment, which will in turn reduce governmental and individual dependence while enhancing the economy of the state and the fiscal soundness of its government.

(c) Pursuant to Congress' powers under the Constitution, an omnibus act with multiple provisions shall be enacted to ensure that the people of Puerto Rico attain equal social and economic opportunities with the residents of the several states. Said omnibus act shall also provide for measures necessary to assure appropriate continuity in the treatment given to Puerto Rico as a principal coffee producer and in the treatment of alcohol excise taxes; and shall also continue to provide for the transfer to the Treasury of Puerto Rico, for a period of — years, of the proceeds of Federal customs and duties levied on imports coming from foreign sources to Puerto Rico.

[Detailed economic provisions, addressing the above proposals among others, will be furnished to the Committee as soon as final technical work is completed.]

TERMS AND CONDITIONS

SEC. 17. The Commonwealth of Puerto Rico is assured of its reserved state right under the Constitution to continue to maintain both Spanish and English as its official languages, as well as of its right to preserve and enhance its rich Hispanic cultural heritage. However, all records and proceedings of all agencies, departments, offices and courts of the United States Federal government operating in Puerto Rico, shall continue to be conducted and kept in the English language as heretofore. The Commonwealth of Puerto Rico's present Official Languages Act, 1 L.P.R.A. 51-55 (Laws of Puerto Rico, 1902), making Spanish and English official state languages is a state prerogative protected by the Constitution of the United States.

SEC. 18. The State shall never enact any law restricting or abridging the right of suffrage on account of race, color, previous condition of servitude, or ability to read, write, speak, and understand any language sufficiently; and the rights, privileges and immunities of citizens of the United States shall be respected in Puerto Rico according to the provisions of paragraph 1 section 2 of article IV of the Constitution of the United States.

TITLE III—INDEPENDENCE

Subtitle 1.—Statement of Purposes

First: The United States hereby recognizes that Puerto Rico is historically, socially and culturally a Latin American nation which has been under the sovereignty of the United States since 1898.

Second: The United States recognizes Puerto Rico's inalienable right to independence.

Third: In order to best promote Puerto Rico's development according to its needs and resources and within the framework of present day interdependence, the United States recognizes Puerto Rico's sovereignty as a means to provide Puerto Rico with the political powers and the flexibility necessary to achieve this objective.

Fourth: In order to insure lasting friendship, equitable economic relations, and the gradual elimination of the burden which Puerto Rico's extreme economic dependence represents for both nations, the United States declares its intention to guarantee all necessary conditions for a rational and mutually advantageous transition before and after independence.

Fifth: It is the purpose of this Title to recognize the independence of Puerto Rico as a sovereign and democratic nation, to provide the conditions necessary for an orderly transition from the present status to independence, and to guarantee the legitimate interests of both Puerto Rico and the United States.

Subtitle 2.—Transition Process Prior to Proclamation of Independence

SEC. 2.1. CONSTITUTIONAL CONVENTION.

(a) Should the results of the referendum provided for in Title I of this Act favor independence as a status alternative for Puerto Rico, the Legislative Assembly of the Commonwealth of Puerto Rico shall provide for the election of delegates to a Constitutional Convention to formulate and draft a Constitution for the Republic of Puerto Rico. The election of delegates must be held within six months after the celebration of the aforementioned referendum.

(b) Those qualified to vote in the election of delegates of the Constitutional Convention shall be: (1) all persons born and residing in Puerto Rico; (2) all persons residing in Puerto Rico and one of whose parents was born in Puerto Rico; (3) all persons who at the time of the adoption of this Act shall have resided in Puerto Rico for a period of twenty years or more; and (4) all persons who established their residence in Puerto Rico prior to attaining voting age and still reside in Puerto Rico; and (5) spouses of all persons included in (1), (2), (3) and (4) above.

(c) The laws of the Commonwealth of Puerto Rico relating to additional voter qualifications and the electoral process shall apply to this election.

(d) The Constitutional Convention shall meet within three (3) months of the election of delegates at such time and place as the Legislative Assembly of the Commonwealth of Puerto Rico shall determine.

(e) The Constitutional Convention shall exercise jurisdiction over all of the territory of Puerto Rico ceded to the United States by Spain by virtue of the Treaty of Paris the 10th day of December 1898.

SEC. 2.2. CHARACTER OF THE CONSTITUTION.

(a) The Constitutional Convention mandated under the previous Section shall formulate and draft a Constitution establishing a republican form of government which shall guarantee the protection of fundamental human rights.

(b) The fundamental human rights guaranteed by the aforementioned Constitution shall include such rights as due process and equal protection under the law, freedom of speech, press, assembly, association, and religion, as well as the rights of the accused, and economic, social and cultural rights such as the right to education, adequate nutrition, health services, adequate housing, and work or employment.

SEC. 2.3. RATIFICATION OF THE CONSTITUTION.

(a) The Constitution elaborated by the Constitutional Convention shall be submitted to the people of Puerto Rico for its ratification or rejection.

(b) The Legislative Assembly of the Commonwealth of Puerto Rico shall call for a special election for such ratification or rejection, to be held within three (3) months of the adoption of the Constitution elaborated by the Constitutional Convention.

(c) The special election providing all qualified voters the opportunity to cast a vote for or against the proposed Constitution shall be held in the manner prescribed by the Legislative Assembly of the Commonwealth of Puerto Rico.

(d) Those qualified to vote in this election shall be those possessing the qualifications established in Section 2.1 of this Title.

SEC. 2.4. ELECTION OF OFFICERS OF THE REPUBLIC.

(a) Within thirty (30) days of the ratification of the Constitution as provided for my Section 1.3 of this Title, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation calling for the election of such officers of the Republic of Puerto Rico as may be required by the ratified Constitution.

(b) The election of officers of the Republic shall be held not later than six (6) months after the date of ratification of the Constitution.

(c) The aforesaid election shall be held in accordance with the procedures and requirements established in the Constitution of the Republic of Puerto Rico.

(d) The Governor of the Commonwealth of Puerto Rico shall certify the results of the election to the President of the United States.

SEC. 2.5. JOINT TRANSITION COMMISSION.

(a) A Joint Transition Commission shall be appointed in equal numbers by the President of the United States and the Constitutional Convention of Puerto Rico as soon as the favorable results for the independence option in the referendum provided for in Title I of this Act are announced.

(b) The Joint Transition Commission shall be responsible for expediting the orderly transfer of all functions currently exercised by the Government of the United States in Puerto Rico, or in relation to Puerto Rico; including the recommendation of appropriate legislation.

(c) Any necessary task forces under the aegis of the Joint Transition Commission shall be constituted in the same manner as the Commission.

(d) The Government of the Commonwealth of Puerto Rico and the agencies of the Government of the United States shall collaborate with the Joint Transition Commission and subsequently with the new officers of the Republic of Puerto Rico, to provide for the orderly transfer of the functions of government.

(e) All members representing the Puerto Rican side on the Joint Transition Commission or on any task force shall be bona-fide supporters of Puerto Rican independence.

SEC. 2.6. RESOLUTION OF CONTROVERSIES PRIOR TO INDEPENDENCE.

(a) From the date of the referendum provided for in Title I of this Act, and until the date of proclamation of independence, the Supreme Court and all inferior courts of the United States shall have no jurisdiction over any case or controversy arising from the operation of this Act.

(b) Any question arising from the operation of this Act shall be referred to the Joint Transition Commission established in Section 2.5 for disposition through negotiation. Should the Commission be unable to reach a negotiated solution to a question, it shall submit all points in question to international arbitration.

Subtitle 3.—Proclamation of Independence

SEC. 3.1. PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES AND THE HEAD OF STATE OF THE REPUBLIC OF PUERTO RICO.

(a) Not later than one month after the official certification of the elected officers of the Republic of Puerto Rico under Section 2.4, the President of the United States shall by proclamation withdraw and surrender all rights of possession, supervision, jurisdiction, control or sovereignty then existing and exercised by the United States over the territory and people of Puerto Rico, and shall furthermore recognize on behalf of the United States of America the independence of the Republic of Puerto Rico and the authority of the government instituted by the People of Puerto Rico under the Constitution of their own adoption. The proclamation shall state that the effective date of withdrawal of the sovereignty of the United States and recognition of independence shall be the same as the date of the proclamation of independence, as provided in subsection (c).

(b) The President of the United States shall forward a copy of the proclamation issued by him to the presiding officer of the Constitutional Convention of Puerto Rico within a week after signature.

(c) Within one (1) week after receiving the presidential proclamation and with the advice of the officer elected as head of state of the Republic, the presiding officer of the Constitutional Convention shall determine the date in which the Government of the Republic shall take office, and shall so notify the Governor of the Commonwealth of Puerto Rico and the President of the United States.

(d) Upon taking office, the head of state of the Republic of Puerto Rico shall immediately issue a proclamation declaring: (1) that Puerto Rico has become a sovereign, independent nation; (2) that the Constitution of the Republic is thenceforth in effect; (3) that the Commonwealth of Puerto Rico and its Government have ceased to exist; and (4) that the Government of the Republic will henceforth exercise its powers and duties under its Constitution.

Subtitle 4.—Effects of the Proclamation of Independence

SEC. 4.1. ON LEGAL AND CONSTITUTIONAL PROVISION.

(a) Upon the proclamation of independence as provided in this Subtitle, and except as otherwise provided in this Title or in any separate agreements hereinafterwards concluded between the United States and the Republic of Puerto Rico,

(1) all property, rights and interests which the United States may have acquired over Puerto Rico by virtue of the Treaty of Paris of 1898, and thereafter by cession, purchase, or eminent domain, with the exception of such land and other property, rights, or interests as may have been sold or otherwise legally disposed of prior to the enactment of this Act, shall vest ipso facto on the Republic of Puerto Rico;

(2) all laws of the United States applicable to the Commonwealth of Puerto Rico immediately prior to the proclamation of independence shall no longer apply in the Republic of Puerto Rico; and

(3) all laws and regulations of the Commonwealth of Puerto Rico in force immediately before the proclamation of independence shall continue in force and shall be read with such modifications, adaptions, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution of the Republic of Puerto Rico until such time as they shall be replaced with the new legislation, provided that any provisions that may be incompatible with the sovereignty of the Republic of Puerto Rico shall be deemed invalid.

SEC. 4.2. ON JUDICIAL PRONOUNCEMENTS.

(a) The Republic of Puerto Rico shall recognize and give effect to all orders and judgments rendered by United States or Commonwealth courts prior to the proclamation of independence pursuant to the laws of the United States then applicable to the Commonwealth of Puerto Rico.

(b) All judicial proceedings pending in the courts of the Commonwealth of Puerto Rico prior to the proclamation of independence shall be continued in the corresponding courts under the Constitution of the Republic of Puerto Rico.

(c) Upon the proclamation of independence, the judicial power of the United States shall no longer extend to Puerto Rico. All proceedings pending in the United States District Court for the District of Puerto Rico shall be transferred to the corresponding Puerto Rican court of competence under the Constitution of the Republic of Puerto Rico for disposition in conformity with laws applicable at the time when the controversy in process arose. All proceedings pending in the United States Court of Appeals for the First Circuit, or in the Supreme Court of the United States, which may have initiated in the courts of the Commonwealth or in the United States District Court for the District of Puerto Rico shall continue until their final disposition and shall be submitted to the competent authority of the Republic of Puerto Rico for proper execution; provided that neither the United States nor any of its officers is a party, in which case any final judgment shall be properly executed by the competent authority of the United States.

Subtitle 5.—Transition Aspects Subsequent to Proclamation of Independence

SEC. 5.1 CITIZENSHIP AND MIGRATION.

(a) Every person who, having been born in Puerto Rico, is on proclamation of independence a citizen of the United States and a resident of Puerto Rico, shall become a citizen of the Republic of Puerto Rico on that date.

(b) Every person born in Puerto Rico after proclamation of independence, and subject to the jurisdiction thereof, shall be a citizen of the Republic of Puerto Rico.

(c) Every person born in Puerto Rico but not a resident thereof on proclamation of independence shall become a citizen of the Republic of Puerto Rico upon residing for six months and taking the oath of allegiance.

(d) Every person not born in Puerto Rico before or after proclamation of independence, and residing therein, shall become a citizen of the Republic of Puerto Rico if either of his parents becomes a citizen of the Republic of Puerto Rico pursuant to subsections (a), (b), and (c).

(e) Every person not born in Puerto Rico but married to a citizen of the Republic of Puerto Rico before or after proclamation of independence shall become a citizen of the Republic upon residing in Puerto Rico for six months and taking the oath of allegiance.

(f) All other persons not specified in subsections (a), (b), (c), (d) and (e) but residing in Puerto Rico shall be granted citizenship in accordance with the Constitution and laws of the Republic.

(g) (1) Every person who is a citizen of the United States and a citizen of the Republic of Puerto Rico in accordance with subsections (a), (b), (c), (d), (e), and (f) shall retain his United States citizenship and all rights, privileges, benefits and obligations pertaining thereto in an equal footing with all other United States citizens, provided that while residing in Puerto Rico that person shall not be subject under United States laws to compulsory military registration and service or to any other condition or obligation contrary to the sovereignty of the Republic of Puerto Rico.

(2) Every person specified in subsection (g) (1) shall retain his Puerto Rican citizenship and all rights, privileges and benefits pertaining thereto in an equal footing with all other Puerto Rican citizens, and shall retain all of his obligations as a Puerto Rican citizen, except that while residing in the United States that person shall not be subject under Puerto Rican laws to compulsory military registration and service or to any other condition or obligation contrary to the sovereignty of the United States.

(h) Every citizen of the United States who becomes a citizen of the Republic of Puerto Rico in accordance with subsections (a), (b), (c), (d), (e), and (f), can elect: (1) to relinquish his United States citizenship in accordance with United States laws; or (2) to relinquish his Puerto Rican citizenship in accordance with the laws of the Republic.

(i) United States citizens residing in Puerto Rico, but not citizens thereof shall be entitled to the fundamental rights and freedoms accorded to all persons in Puerto Rico but shall not be eligible for political office and shall not be entitled to vote. They shall also be entitled to be naturalized as citizens of the Republic in accordance with nondiscriminatory laws of the Republic.

(j) Citizens of the Republic of Puerto Rico residing in the United States but not citizens thereof shall be entitled to the fundamental rights and freedoms accorded to all persons in the United States but shall not be eligible for political office and shall not be entitled to vote in the United States. They shall also be entitled to be naturalized as citizens of the United States in accordance with nondiscriminatory laws of the United States.

(k) Citizens of the Republic of Puerto Rico who are not United States citizens may, for a period of twenty-five years after proclamation of independence, enter into, lawfully engage in occupations, and establish residence as immigrants in the United States. These immigrants may be subject to nondiscriminatory limitations as provided for by laws and regulations of the United States.

(l) Every resident of the United States born in Puerto Rico but not a citizen thereof, and his sons and daughters, may enter into, lawfully engage in occupations, and establish residence as immigrants in Puerto Rico subject to nondiscriminatory laws and regulations of the Republic.

(m) Every person lawfully admitted for permanent residence within the United States and who is a resident of Puerto Rico on proclamation of independence shall continue as resident and shall be entitled to be naturalized as citizens of the Republic of Puerto Rico in accordance with nondiscriminatory laws of the Republic.

SEC. 5.2. DEFENCE.

(a) The United States shall collaborate with the Republic of Puerto Rico towards the ultimate goal of disarmament, peace and international relations based on the principles of equality, mutual respect and interdependence. Furthermore, the United States recognizes the right of the People of Puerto Rico to strive towards the total demilitarization of its territory, with the purpose of gearing all its efforts and resources to the goals of economic and social development.

(b) The Republic of Puerto Rico shall be closed to any and all military forces of foreign nations. In furtherance of this policy, and to expedite the orderly and gradual transfer of properties presently under the control of the United States for military purposes in Puerto Rico, the governments of the United States and the Republic of Puerto Rico shall prescribe a separate agreement for a reasonable and mutually convenient period of transition.

(c) Negotiations leading to the eventual agreement provided in paragraph (b) shall begin in a special task force designated for such purposes by the President of the United States and the Constitutional Convention of Puerto Rico pursuant to Section 2.5 of this Title. Should this special task force be unable to reach an agreement prior to the proclamaiton of independence, the negotiations shall continue between representatives appointed by the United States and the Republic of Puerto Rico, until such time as an agreement may be reached.

(d) The Republic of Puerto Rico shall be a nuclear free zone. The United States and the Republic of Puerto Rico shall adhere and fully comply with the provisions of the Treaty for the Proscription of Nuclear Weapons in Latin America of 1967 (Treaty of Tlatelolco).

(e) The government of the Republic of Puerto Rico shall, as soon as may be practicable, seek integration into the Inter-American defense system by subscribing the provisions of the Treat of Mutual Defense of 1948 (Treaty of Rio de Janeiro).

SEC. 5.3. TRADE RELATIONS.

(a) Until proclamation of independence: (1) no trade barriers or quotas of any kind shall be imposed on merchandise and articles going into Puerto Rico from the United States or coming into the United States from Puerto Rico; and (2) trade relations shall be as currently provided by law.

(b) During the twenty years following the proclamation of independence, the United States shall not impose trade barriers or quotas of any kind on merchandise and articles coming into the United States from the Republic of Puerto Rico.

SEC. 5.4. TAXATION

(a) The tax credit currently allowed under Section 936 of the U.S. Internal Revenue Code shall remain in full effect upon proclamation of independence and during the fifteen years thereafter with respect to income derived by corporations that begin to fulfill or continue to fulfill the current requirements for such credit.

(b) On the tenth year after proclamation of independence, a Joint Commission on Taxation shall be appointed in equal numbers by the President of the United States and the head of state of the Republic of Puerto Rico to study and report on changes to be made, if any, to the tax credit allowed under subsection (a) at the expiration of the fifteen-year period. If no agreement is reached with respect to such changes, then all earning repatriations received by residents of the United States shall be subject to taxation by the United States, beginning on the sixteenth year after the proclamation of independence, at a rate that shall increase on a straight-line basis by ten percent of the regular United States corporate tax rate each year until it reaches one hundred percent of said regular rate in the twenty-fifth year after the proclamation of independence, provided that a tax credit will be allowed on such earning repatriations pursuant to subsection (e). If the regular corporate tax rate of the United States is changed before said twenty-fifth year, the difference between the rate to which the earning repatriations are subject during the year of said change and the new regular rate shall be divided, if the latter is higher, by the number of years remaining from the year which follows the year of said change until said twenty-fifth year, and the result of such division shall constitute the extent to which the rate applicable to the dividends shall increase every year from the year which follows the years of said change until said twenty-fifth year. If the new regular United States corporate tax rate is lower than the rate to which the earning repatriations are subject during the year of said change, then the new lower rate shall immediately apply to such repatriations. No other change shall occur before the expiration of said twenty-fifth year with respect to income derived by companies subject to this subsection.

(c) With respect to income not subject to subsections (a) or (b), the profits of an enterprise of either nation shall be taxable only in the nation of residence of said enterprise, unless the enterprise carries on business in the other nation through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other nation but only so much of them as is attributable to that permanent establishment.

(d) Each nation shall have taxing jurisdiction over income earned by individuals who are residents of either nation from sources within its territorial jurisdiction, property situated therein, including transfers of such property by gift or at death, and products consumed therein.

(e) Where a resident of either nation derives income from the other nation, the amount of tax payable in that other nation in respect to that income pursuant to subsections (c) and (d), and the amount of tax payable in the Republic of Puerto Rico that does not exceed for any specific year the amount of tax payable in the United States for that same year pursuant to subsection (b), shall be allowed as a credit against the tax payable in respect to that income in the nation of residence of the taxpayer. A withholding tax on dividends shall be considered a tax on income for these purposes. If the United States amends its laws concerning the provision of tax sparing credits or if the United States reaches an agreement on the provision of a tax sparing credit with any other nation, Puerto Rico shall *ipso facto* be granted the most favorable degree of tax sparing credit allowed under such amended laws or such agreement or agreements.

(f) The determination under this section of the residence of any taxpayer, the source of any income, the situs of any property or any other necessary definitions shall be made according to the terms of a joint treaty for the avoidance of double taxation to be entered into by both nations promptly upon the proclamation of the Republic of Puerto Rico. Negotiations leading to such treaty shall be initiated by a special task force designated pursuant to Section 2.5 of this Title. Until such treaty is executed, such determination shall be made according to the current tax laws of the United States and the Commonwealth of Puerto Rico.

SEC. 5.5. CURRENCY AND FINANCE.

(a) After proclamation of independence, the Republic of Puerto Rico shall have all powers concerning the issuance and control of currency and all powers concerning monetary and financial matters, provided that during the ten years following the proclamation of independence both United States currency and Puerto Rican currency shall be accepted as legal tender in all transactions in Puerto Rico.

(b) The current value of all stock bought by Puerto Rican banks in the Federal Reserve System, Federal Deposit Insurance Corporation and the Federal Home Loan Bank System will be transferred to the Republic of Puerto Rico, including the proportion held by U.S. national, Spanish and Canadian banks that correspond to the level of activities of their/its branches operating in Puerto Rico during the year immediately prior to the proclamation of independence.

(c) The monetary authority of the Republic of Puerto Rico shall establish an integrated system of insurance for deposits in Puerto Rico's financial institutions similar to the Federal Deposit Insurance Corporation. Negotiations will be undertaken with United States monetary authorities to obtain their assistance in the design and establishment of the insurance system, and to determine the extent of financial support to be provided for the system by United States insurance organizations in which Puerto Rico's financial institutions currently participate.

(d)(1) The guarantees provided by the government of the United States to investors in the secondary market for loans, particularly mortgage loans guaranteed by the Government National Mortgage Association (G.N.M.A.), the Federal National Mortgage Association (F.N.M.A.), the Federal Home Loan Mortgage Corporation (F.H.L.M.) and other United States government instrumentalities, shall be maintained for Puerto Rico-originated loans until maturity.

(2) Negotiations shall be carried out to ensure that after proclamation of independence Puerto Rico-originated loans, particularly housing mortgage loans, can continue to be guaranteed by G.N.M.A., F.N.M.A., F.H.L.M. and other United States government instrumentalities and can continue to be sold to investors in the United States secondary markets.

SEC. 5.6. PUBLIC DEBT.

(a) The debts, liabilities and obligations of the Commonwealth of Puerto Rico, its municipalities and instrumentalities, valid and outstanding upon proclamation of independence, shall be assumed by the Republic of Puerto Rico.

(b) After proclamation of independence the United States shall maintain full income tax exemption, as currently provided by law, on interest payments derived from debts of the Commonwealth of Puerto

Rico assumed by the Republic, as specified in subsection (a).

(c) During the twenty-five years following the proclamation of independence, the United States shall extend full income tax exemption, as currently provided by law, to interest payments derived from debts of the Republic of Puerto Rico.

SEC. 5.7. INDIVIDUAL RIGHTS TO ECONOMIC BENEFITS AND GRANTS TO THE REPUBLIC OF PUERTO RICO.

(a) All vested rights and benefits which accrue to residents of the Commonwealth of Puerto Rico under the laws of the United States from past services or contributions, such as rights and benefits for veterans or relatives of veterans of the armed forces of the United States, retired government employees, or beneficiaries of old age, disability of survivors' insurance benefits under the Social Security Act, shall not be interrupted after the proclamation of independence but will continue until such time as said rights and benefits are completely extinguished according to the applicable laws of the United States. All services which must be rendered as part of these rights and benefits shall be made available through the Government of the Republic of Puerto Rico in accordance with agreements reached by the two nations.

(b) Notwithstanding the provisions in subsection (a), all contributions made by employees and employers in Puerto Rico to the Social Security System with respect to persons who, upon the proclamation of independence, are residents of the Republic of Puerto Rico and are not yet eligible for old age, disability, or survivors' insurance benefits under the system, shall be transferred to the government of the Republic of Puerto Rico once said government establishes its own social security system. The government of the Republic of Puerto Rico may not use these funds for any purpose other than the establishment and operation of a social security system. Upon the tansfer described herein, the obligations of the United States Government under the Social Security Act with respect to such residents of the Republic of Puerto Rico shall cease.

(c) All other Federal transfer payments to individuals and to the Government of the Commonwealth of Puerto Rico shall be maintained in the form of annual block grant to be used discretionally by the government of the Republic of Puerto Rico.

'(1) During the ten fiscal years following the proclamation of independence, the annual block grants shall amount to the annual aggregate funding of all programs which currently extend as the Commonwealth of Puerto Roco, or of all programs which shall have been extended to the Commonwealth of Puerto Rico during the fiscal year immediately prior to the proclamation of independence, whichever shall be greater.

(2) The annual block grants shall decrease thereafter on a straight-line basis, at the rate of ten percent each year, beginning on the eleventh fiscal year after the proclamation of independence. At any time during the aforementioned transition period the terms of this subsection may be modified by agreement between the United States and the Republic of Puerto Rico.

Subtitle 6.—Relations Between the United States and the Republic of Puerto Rico

Sec. 6.1. Treaty of Friendship and Cooperation

To insure that all provisions of this Title which shall have effect after the proclamation of independence will in effect be binding, the United States and the Republic of Puerto Rico shall embody said provisions in a treaty of friendship and cooperation.

TITLE IV—COMMONWEALTH

Subpart 1.—Statement of Purposes

In 1952 the Congress of the United States, fully recognizing the principle of government by consent, and the People of Puerto Rico, in the exercise of their right to self-determination, entered upon a compact which established a Commonwealth relationship between Puerto Rico and the United States.

Under the compact the People of Puerto Rico adopted in their own sovereign right their own Constitution and formed an autonomous political community in permanent union with the United States of America based on the irreversible bond of American citizenship.

In 1953 the General Assembly of the United Nations recognized the creation of the Commonwealth and removed Puerto Rico from the list of nonself-governing territories. This association has enabled the People of Puerto Rico to advance their enonomic and social development and to preserve their distinct historical heritage and cultural personality.

As inherent in all political relationships freely entered upon, it was based on the understanding that it would evolve and develop within its particular political nature upon mutually agreeable terms.

It is the purpose of this Act to provide for the enhancement of the Commonwealth relationship by enlarging the scope of self-government of the Puerto Rican people upon the approval of a proposition to that effect by a majority of the eligible voters of the Commonwealth of Puerto Rico.

Subpart 2.—Referendum Proposition: Commonwealth

The referendum proposition regarding Commonwealth, to be presented to, and voted upon, by the People of Puerto Rico shall be as follows: "The Commonwealth association with the United States shall be enhanced to enable the People of Puerto Rico to accelerate their economic and social development and attain maximum cultural and political autonomy within permanent union with the United States based on the irreversible bond of American citizenship, a common defense, a common market, and a common currency."

The proposition will appear in the ballot, in Spanish, as follows: "El Estado Libre Asociado se fortalecerá para acelerar el desarrollo económico y social y alcanzar la máxima autonomía cultural y política del pueblo de Puerto Rico en su unión permanente con los Estados Unidos sobre los pilares de común defensa, común mercado, común moneda, y el vínculo indisoluble de la ciudadanía americana."

Subpart 3.—Principles of Commonwealth

Section 1 of the Puerto Rico Federal Relations Act, 39 Stat. 954, as amended, 48 U.S.C. Section 731, shall be repealed, and replaced by the following:

"(1) The provisions of this Act shall apply to the Commonwealth of Puerto Rico, an autonomous body politic joined in permanent union with the United States on the basis of common citizenship, common defense, common market and common currency.

(2) The policy of the United States shall be to enhance the Commonwealth relationship enjoyed by the Commonwealth of Puerto Rico and the United States to enable the People of Puerto Rico to accelerate their economic and social development and attain maximum cultural and political autonomy within permanent union with the United States, to secure more equitable participation for the People of the Commonwealth of Puerto Rico in all federal programs that provide grants or services to citizens of the United States as individuals, to secure increased participation by the People of Puerto Rico in U.S. governmental decisions affecting them, to safeguard the distinct cultural identity of the People of Puerto Rico, and to protect the bilateral nature of the relationship between the Commonwealth of Puerto Rico and the United States.

Subpart 4.—Implementation of Federal Policy

Section 9 of the Federal Relations Act, 39 Stat. 954, as amended, 48 U.S.C. Section 734, is amended by inserting at the beginning thereof the term "(a)" and by adding at the end thereof the following:

"(b) A federal statutory law, or provision of such law, is locally inapplicable unless it is consistent with the policy established under subpart 3 and unless such federal statutory law has proper regard for the economic, cultural, ecological, geographic, demographic and other local conditions of the Commonwealth of Puerto Rico. The subsection shall not apply to:

(i) any federal statutory law in the Congress makes a specific finding that there is an overriding national interest that such law should apply to the Commonwealth of Puerto Rico, or

(ii) any federal statutory law, or provision thereof, establishing directly or indirectly grants and/or services to citizens of the United States as individuals, or

(iii) any federal statutory law or provision thereof relating to citizenship, or

(iv) any federal statutory law or provision thereof pertaining to the foreign relations, defense or national security of the United States that requires uniform applicability throughout the United States, including the Commonwealth of Puerto Rico, to achieve its intended purposes,

(c) In addition to judicial determinations of the inapplicability of federal laws under subsection (b), the Governor of the Commonwealth of Puerto Rico may certify from time to time to the Speaker of the House of Representatives, the President of the Senate, and the President of the United States, that a federal statutory law or provision thereof, other than one excluded from the operation of subsection (b), is inconsistent with a Puerto Rican statute and the policy established under subsection (b). Unless, within 60 days of the receipt of such certification, a statute is enacted embodying the finding required under subsection (b)(i), the President shall issue a proclamation that such federal statutory law or provision thereof identified in the Governor's certification is not applicable in Puerto Rico.

(d)(i) The Commonwealth of Puerto Rico may continue to enter in its own name into international cultural, commercial, educational and sports agreements, and other agreements of like nature.

(ii) In addition, the Governor of the Commonwealth of Puerto Rico may take any official action to promote the international interests of Puerto Rico that requires the consent of the United States Government and is not expressly prohibited by law. The Governor of the Commonwealth of Puerto Rico shall provide written notice to the President of the United States of any official action he contemplates taking pursuant to the authorization of this part of this subsection and not pursuant to any other authorization or consent. The President may, within 30 days of his receipt of such notice, sign and transmit to the Governor of the Commonwealth of Puerto Rico a document expressing his determination that the contemplated official action would imperil the foreign relations or national defense of the

United States, in which case the authorization hereby granted shall be withdrawn as regards such contemplated official action.

(e) All departments and agencies of the Government of the United States shall be guided by the policy stated in subpart 3 when carrying out their duties under federal statutory laws and federal regulations applicable in or affecting the Commonwealth of Puerto Rico. Every such department or agency shall, before taking any major federal action applicable in or affecting the Commonwealth of Puerto Rico, separately evaluate the consistency of such action with such policy and shall state, in a document accompanying the major federal action, the extent, nature and result of its consideration.

(f) Any rule, as defined in 5 U.S.C. sec. 551(4), issued by an agency, as defined in 5 U.S.C. sec. 551(1), shall apply in the Commonwealth of Puerto Rico only to the extent that is consistent with the policy set forth in Subsection (b). After the effective date of this amendment, when any such rule, other than a rule issued after notice and hearing required by statute, that does not in terms provide that it is inapplicable in the Commonwealth of Puerto Rico is published in the Federal Register, the Governor of the Commonwealth of Puerto Rico may submit to the agency within 30 days in writing (or such longer period as the agency may have prescribed as the period between publication of the rule and its effectiveness) the Governor's determination that such rule is inconsistent with the policy stated in subsection (b). Thereupon, the agency shall reconsider the question of consistency of the rule with the policy stated in Subsection (b) and shall, within 45 days of its receipt of the Governor's determination, publish in the Federal Register its finding either that there is an overriding national interest that the rule be applicable in the Commonwealth of Puerto Rico, in which case the rule, whether or not previously applicable in the Commonwealth of Puerto Rico, shall thereafter be so applicable, or that the rule is not compatible with such policy, in which event such rule, whether or not previously applicable in the Commonwealth of Puerto Rico, shall not be so applicable. Unless the agency for good casue finds that a rule that is the subject of such determination by the Governor of Puerto Rico as is described in this subsection shall be applicable to the Commonwealth of Puerto Rico pending its consideration of such determination, and publishes such finding in the Federal Register, such rule, whether or not previously applicable in the Commonwealth of Puerto Rico, shall not be so applicable pending such consideration. An agency's decision to make a rule applicable or inapplicable in Puerto Rico shall be subject to judicial review.

(g) The laws, rules and regulations of the United States applicable in the Commonwealth of Puerto Rico when the new federal policy is established in accordance with subpart 3 shall continue in effect except to the extent repealed or modified by this Act, or inconsistent with it, and except as hereafter modified, suspended or repealed in accordance with law.

Subpart 5.—Aviation

Section 1102 of the Federal Aviation Act is amended by adding a new Section (e) to read as follow:

"(e)(i). The Government of the Commonwealth of Puerto Rico shall have authority to negotiate on its own behalf air transportation agreements governing the operation of air services by United States and foreign air carriers between the Commonwealth and foreign points. Such agreements may also include authorization of service by United States and foreign air carriers to use any point in the Commonwealth as an intermediate or beyond point on routes between points in the United States and foreign nations for which the carrier holds certificate or foreign air carrier operating authority from the Department of Transportation. Such agreements may authorize such carriers to engage in common carriage of persons and property between such authorized points in the United States and the Commonwealth, notwithstanding the provisions of sections 416(6)(7) and 1108 of this Act.

(ii) Operating rights contained in Commonwealth bilateral air transportation agreements shall be subject to the grant of necessary operating authority by the Department of Transportation and the Administrator. The responsibilities of the Department and the Administrator under subsection (a) of this section shall extend to such bilateral agreements.

(iii) Operating authority issued by the Department of Transportation in implementation of bilateral agreements negotiated by the Government of the Commonwealth of Puerto Rico shall be subject to the President's right of disappoval as contained in section 801(a) of this Act.

(iv) The officials of the Federal Aviation Administration of the United States are directed to assist and cooperate with the appropriate officials of the Commonwealth of Puerto Rico in the implementation of any air transportation agreement entered into pursuant to the authority herein established."

Subpart 6.—Development of Tourism

Section 4a(1) of the Coastal Barrier Resources Act of 1982, 16 U.S.C. Section 3503(a)(1), is amended by adding to the end of the subsection: "Notwithstanding the foregoing, no area within the Commonwealth of Puerto Rico shall be included within the Coastal Barrier Resources System."

Subpart 7.—International Trade

(a) Section 2 of the Act of April 12, 1900, 48 U.S.C. 739, is amended by inserting the following subsection:

"1. To the extent consistent with the international obligations of the United States, the Commonwealth of Puerto Rico is authorized to impose tariff duties on foreign origin products imported into Puerto Rico. Such tariff duties shall be in addition to the general tariff duties applicable to products imported into the customs territory of the United States."

(b) Section 1102 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. § 2902, is amended by adding a new subsection (e) as follows:

"(e) During the negotiation of any trade agreement affecting Puerto Rico under subsections (a), (b), and (c), the President shall seek the participation of the Commonwealth of Puerto Rico in the negotiation process, and shall consult with the Governor of the Commonwealth of Puerto Rico concerning the potential impact of any proposed tariff rate change on the economy of Puerto Rico.

The Government of the United States shall seek to obtain favorable treatment from foreign countries for exports from the Commonwealth of Puerto Rico and shall encourage other countries to consider Puerto Rico as a developing area for purposes of their respective General Systems of Trade Preferences, and any such regional systems of trade preferences."

Subpart 8.—Maritime

(a) Section 9 of the Puerto Rican Federal Relations Act, 48 U.S.C. Section 744, is amended to add at the end of the provision: "except that those provisions of the Shipping Act, 1916, administered by the Federal Maritime Commission shall not be applicable to the trade between Puerto Rico and the States of the United States. The Commonwealth of Puerto Rico is authorized to establish its own maritime commission which, when established in accordance with Puerto Rico law shall exercise exclusive jurisdiction over service, rates, fares, and practices governing the trade between Puerto Rico and the states of the United States."

(b) Section 1 of the Shipping Act, 1916, as amended, 46 U.S.C. App. Section 801, is amended by inserting after the second "possession of the United States" and at the end of the provision, the following phrase: "not including the Commonwealth of Puerto Rico."

Subpart 9.—Jurisdiction Over Maritime Resources

(a) Amend Section 3(21) of the Magnuson Fishery Conservation and Management Act, as amended, 16 U.S.C. 1802(21) to read as follows:

"(21) The term 'State' means each of the several States, the District of Columbia, American Samoa, the Virgin Islands, Guam, and any other territory or possession of the United States, but does not include the Commonwealth of Puerto Rico."

(b) Amend the first sentence of Section 2(6) of the Magnuson Fishery Conservation and Management Act, as amended, 16 U.S.C. 1802(6) to read as follows: "The term 'exclusive economic zone' means the zone established by Proclamation Numbered 5030, dated March 10, 1983, except that such zone shall not include zones contiguous to the territorial sea of the Commonwealth of Puerto Rico, provided that the Commonwealth of Puerto Rico shall take no action that would purport to restrict or charge fees to vessels of the United States for the right to fish for highly migratory species of fish within any fishing jurisdiction the Commonwealth of Puerto Rico may establish beyond its territorial waters."

Subpart 10.—Intellectual Property

(a) Section 101 of Title 17 of the United States Code is amended as follows:

(1) By inserting the following new definitions in alphabetical order:

"The 'design of a useful article,' hereinafter referred to in this Title as a 'design,' consists of those aspects or elements of the article, including its two dimensional or three dimensional features of shape and surface, which make up the appearance of the article, and shall include a 'typeface' as herein defined.

A design is 'of Puerto Rican origin' (a) if more than 50 percent of its development costs have been incurred within the Commonwealth of Puerto Rico, irrespective of whether such design is fixed in a useful article in the Commonwealth of Puerto Rico; or (B) if it is first fixed in the Commonwealth of Puerto Rico in a useful ariticle intended to be distributed to the public for commercial purposes.

A 'typeface' consists of a set of letters, numbers, or other symbolic characters, whose forms are related by repeating design elements consistently applied in a notational system, to the extent that the repeating design elements in the combination employed in a notational system are (A) original, (B) distinct, and (C) incorporated in a useful article whose normal use is in composing text or other cognizable combination of characters."

(2) By adding, after the semicolon in the second sentence of the definition of "Pictorial, graphic, and sculptural works," the fol-

lowing: "except where a design of Puerto Rican origin is involved,".

(b) Section 102 of Title 17 of the United States Code is amended by adding a new subsection 102(a)(8) as follows:

"(8) designs of useful articles, where such designs are of Puerto Rican origin."

(c) Section 113 of Title 17 of the United States Code is amended by adding a new subsection (d) as follows:

"(d) In the case of a design of Puerto Rican origin, the scope of exclusive rights in a copyrighted work does not extend to a design that is (i) staple or commonplace, such as a standard geometric figure, familiar symbol, emblem, or motif, or other shape, pattern, or configuration which has become common, prevalent, or ordinary; (ii) different from a design excluded by (i) hereof only in insignificant details or in elements which are variants commonly used in the relevant trades; (iii) dictated primarily by a utilitarian function of the article in which it is fixed; (iv) composed of three-dimensional features of shape and surface with respect to men's, women's, and children's apparel; or (v) fixed in a semi-conductor chip product that is protected under Chapter 9 of this title. Notwithstanding the foregoing, the scope of exclusive rights shall not be limited by the employment in the design of subject matter excluded under (i) through (iii) hereof, if the design is a substantial revision, adaptation, or rearrangement of said subject matter: *provided*, however, that such exclusive rights shall be available for a design employing subject matter protected under Chapters 1 through 8 of this title, or Title 35 of the United States Code, only if such protected subject matter is employed with the consent of the proprietor thereof. Such protecion shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any rights to subject matter excluded from protection or as extending any subsisting protection."

(d) Chapter 3 of Title 17 of the United States Code is amended by the addition of new Section 306 as follows:

"§ 306. DESIGNS OF PUERTO RICAN ORIGIN

(a) The provisions of Section 302 through 305 of this Chapter shall not apply to copyrights in design of Puerto Rican origin.

(b) Copyright in a design of Puerto Rican origin subsists from its creation and endures for a period of ten years.

(c) A term of copyright provided by this section shall run to the end of the calendar year in which it would otherwise expire."

(e) Section 407 of Title 17 of the United States Code is amended by adding the following language before the semicolon in Section 401(b)(1): ",or, in the case of a design of Puerto Rican origin, the symbol D (the letter D in a circle), or the words 'Design Copyright,' or the abbreviation 'Dex. Copr.'."

(f) Section 407 of Title 17 of the United States Code is amended by striking the period at the end of Section 407(c) and adding the following language: ",or the work is a design of Puerto Rican origin."

(g) Section 901(a) of Title 17 of the United States Code is amended by adding a new subsection (10) as follows:

"(10) a mask work is 'of Puerto Rican origin' (a) if more than 50% of its development costs have been incurred within the Commonwealth of Puerto Rico, irrespective of whether such mask work is fixed in a computer chip in the Commonwealth of Puerto Rico; or (B) if it is first fixed in the Commonwealth of Puerto Rico in a computer chip intended to be distributed to the public for commercial purposes."

(h) Section 906 of Title 17 of the United States Code is amended by adding at the end thereof the following:

"(c) The limitations on exclusive rights provided under subsections (a) and (b) of this section shall not apply to mask works of Puerto Rican origin."

(i) The foregoing Sections (a) through (h) shall apply after the date of enactment to all acts of manufacture or distribution that occur in the United States after such date, to all acts of importation into the United States that occur after such date, and to all violations of the exclusive rights of the copyright's owner under of Title 17, United States Code that occur after such date.

Subpart 11.—Federal Programs

(a) CONSOLIDATION OF GRANT-IN-AID PROGRAMS.—The Puerto Rico Federal Relations Act is amended by inserting a new Section 59, as follows:

"SEC. 59.—In order to minimize the burden caused by existing application and reporting procedures for grant-in-aid programs available to the Commonwealth of Puerto Rico it is hereby declared to be the policy of the Congress, notwithstanding any provision of law to the contrary, that:

(a) At the request of the Governor of the Commonwealth, any department or agency of the government of the United States which administers any Act of Congress which specifically provides for making grants to the Commonwealth under which payments received may be used by the Commonwealth only for certain specified purposes (other than direct payments to classes of individuals, but not limited to, Aid to Families with Dependent Children, Title IV-A of the Social Security Act, 42 U.S.C. 601; Medicaid, Title XIX of the Social Security Act, 42 U.S.C. 2396; Supplemental Security Income, Title XVI of the Social Security Act, 42 U.S.C. 1381; Foster Care, Title IV-E of the Social Security Act, 42 U.S.C. 670; and Nutrition Assistance Program, 7 U.S.C. 2028) shall, acting through appropriate administrative authorities of such department or agency, consolidate any or all grants made to the Commonwealth for any fiscal year or years;

(b) Any consolidated grant for the Commonwealth shall not be less than the sum of all grants which the Commonwealth would otherwise be entitled to receive for such year;

(c) The funds received under a consolidated grant shall be expended in furtherance of the programs and purposes authorized for any of the grants which are being consolidated, which are authorized under any of the Acts administered by the department or agency making the grant, and which would be applicable to grants for such programs and purposes in the absence of the consolidation, but the Commonwealth shall determine the proportion of the funds granted which shall be allocated to such programs and purposes; and

(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which the Commonwealth may submit: (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated grant shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications, and (ii) a single report to such department or agency with respect to each such consolidated grant: *Provided*, That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receiving benefits from any consolidated grant. The administering authority of any department or agency, in its direction, may (i) waive any requirement for matching funds otherwise required by law to be provided by the Commonwealth and (ii) waive the requirements that the Commonwealth submit an application or report in writing with respect to any consolidated grant.

(b) EQUITABLE TREATMENT IN SOCIAL PROGRAMS. The Puerto Rican Federal Relations Act is amended by inserting a new Section 60 as follows:

"SEC. 60.—(a) It is the policy of the United States that the allocations to the Commonwealth of Puerto Rico of the following programs shall achieve full parity with the States of the Union as soon as possible but in no event later than the fifth anniversary of the date of enactment hereof with allocations to States of the Union in the following programs or their successor thereof: Nutrition Assistance Program (NAP); Aid to Families with Dependent Children (AFDC); and Medicaid; and in no event later than the ninth anniversary of the date of enactment hereof with allocations to States of the Union for the Supplemental Security Income (SSI) program, or its successor.

Subpart 12.—Protection of Workers

(a) Amend Section 3 of the Labor Management Act, as amended, 29 U.S.C. § 153(b), by adding after the first sentence:

"; with the exception of cases arising under the jurisdiction of the Commonwealth of Puerto Rico which are hereby exclusively delegated to the Labor Relations Board of Puerto Rico. Decisions of the Labor Relations Board of Puerto Rico may be appealed to the Federal Court of Appeals for the First Circuit.

(b) The Puerto Rican Federal Relations Act is amended by adding a new section 61, as follows:

"Puerto Rico shall maintain exclusive jurisdiction over employee benefits, other than the benefits currently covered under the Fair Labor Standards Act, the Employee Retirement Income Security Act, and the Occupational Safety and Health Act. Puerto Rico's exclusive jurisdiction shall include, but not be limited to Christmas bonuses, sick and vacation pay, worksman's compensation, and any other benefits not covered under the current aforementioned federal legislation."

Subpart 13.—Puerto Rico Participation in Federal Appointments

Section 301 of Title 3, is amended by inserting at the beginning thereof the term "(a)" and by adding at the end thereof the following:

"(b) The highest ranking federal officer serving in the Commonwealth of Puerto Rico for any federal department and agency, or division thereof, and any other appointment in the Commonwealth of Puerto Rico subject to Senate confirmation, shall be appointed by the President from a list of eligible candidates recommended by the Governor of the Commowealth of Puerto Rico."

Subpart 14.—Representation in United States Senate.

Section 36 of the Puerto Rican Federal Relations Act, 48 U.S.C. Section 891-895, is amended as follows:

"SUBCHAPTER V. RESIDENT COMMISSIONERS.

SEC. 891. RESIDENT COMMISSIONERS; ELECTION.

The qualified electors of Puerto Rico shall choose a Resident Commissioner to the United States Senate and a Resident Commissioner to the United States House of Representatives at each general election, whose terms of the office shall be four years from the 3d of January following such general election, and who shall be entitled to receive official recognition as such commissioner by all of the departments of the Government of the United States, upon presentation, through the Department of State, of a certificate of election of the Governor of Puerto Rico.

SEC. 892. QUALIFICATIONS OF COMMISSIONERS; APPOINTMENT TO FILL VACANCY.

No person shall be eligible to election as a Resident Commissioner who is not a bona fide citizen of the United States and who is not more than twenty-five years of age, and who does not read and write the English language. In case of a vacancy in either office of Resident Commissioner by death, resignation, or otherwise, the Governor by and with the advice and consent of the Senate of the Commonwealth of Puerto Rico shall appoint a Resident Commissioner to fill the vacancy, who shall serve until the next general election and until his successor is elected and qualified.

SEC. 893. SALARY OF COMMISSIONERS; ALLOWANCES, FRANKING PRIVILEGE.

The Resident Commissioners shall receive a salary payable monthly by the United States. The Resident Commissioners shall be allowed the same sum for stationary and for the pay of necessary clerk hire as is allowed Members of the Senate of the United States and Members of the House of Representatives of the United States. The Resident Commissioners shall be allowed the franking privilege granted Members of Congress.

SEC. 894. SALARY AND TRAVELING EXPENSES; PAYMENT.

The salary and traveling expenses of the Resident Commissioners from Puerto Rico to the United States shall be paid in the same manner as the salaries of the Members of the Senate and the House of Representatives are paid.

SEC. 895. OTHER PRIVILEGES.

The appropriate sections of Title 2 of the United States Codes and any other statutory law that relates to the privileges afforded United States Senators shall be amended to include the Resident Commissioner from the Commonwealth of Puerto Rico to the United States Senate."

Subpart 15.—Judiciary

Section 42 of the Puerto Rico Federal Relations Act, 48 U.S.C. Section 864, is amended by deleting the last sentence and inserting the following paragraph:

"Notwithstanding any other provision of law:

(1) The District Court shall not undertake to construe a theretofore unconstrued Puerto Rico statute or regulation or decide a theretofore undecided point of substantive Puerto Rico nonstatutory law without having given the Supreme Court of Puerto Rico the opportunity to construe such statute or regulation or to rule upon such point of Puerto Rico law.

(2) The proceedings of the U.S. District Court for the District of Puerto Rico shall be conducted in the Spanish language upon the request of any party to the proceedings.

(3) Any issue of law arising under the Puerto Rico Federal Relations Act in any action or controversy brought in federal court shall be certified to the District of Columbia Court of Appeals. In addition, the Commonwealth of Puerto Rico, its departments, agencies and instrumentalities, as well as officials and agents, in both their official and personal capacity, may transfer any action brought against them in the District Court for Puerto Rico to the District Court for the District of Columbia.

Subpart 16.—Passports

(a) Section 211a of Title 22, is amended by adding after the provision "by the chief or other executive officer of the insular possessions of the United States,": "and the Governor of the Commonwealth of Puerto Rico,".

(b) The following new section shall be added to Title 22 as Section 211b:

"SEC. 211b. U.S. PASSPORT OFFICE IN PUERTO RICO

The Secretary of State shall establish a Passport Office for the Caribbean located in San Juan, Puerto Rico and shall authorize the Governor of the Commonwealth to administer such office as required by law."

(c) Section 212 of the Immigration and Nationality Act, 8 U.S.C. Section 1182 is amended by adding a new subsection (m) as follows:

"(M) COMMONWEALTH OF PUERTO RICO; WAIVER OF REQUIREMENTS; NONIMMIGRANT VISITORS

(1) The requirement of paragraph 26(B) of subsection (a) of this section shall be waived by the Attorney General upon the request of the Government of the Commonwealth of Puerto Rico, in the case of an alien applying for admission as a nonimmigrant visitor at the invitation of the Government of the Commonwealth and solely for entry into and stay in the Commonwealth of Puerto Rico for a period not to exceed thirty days. The District Office for Puerto Rico of the Immigration and Nationality Service shall issue the special temporary entry visit visas, as well as other entry visas.

(2) If adequate appropriated funds to carry out this subsection are not otherwise available, the Director of the Immigration and Nationality Service is authorized to accept from the Government of the Commonwealth of Puerto Rico such funds as may be tendered to cover all or any part of the cost of administration and enforcement of this subsection."

Subpart 17.—Law Enforcement

Section 287 of the Immigration and Nationality Act, 8 U.S.C. Section 1357, is amended as follows: "(a) Any officer or employee of the Service authorized under regulations proscribed by the Attorney General, and any officer of employee of and within the Commonwealth of Puerto Rico authorized by the Governor of the Commonwealth of Puerto Rico shall have the power without warrant . . ."

Subpart 18.—Historic Sites and Conservation Lands

Section 8 of the Puerto Rico Federal Relations Act, 48 U.S.C. Section 749 is amended by redesignating it Section 8A and enacting a new Section 8B:

"SEC. 8B.—(a)(i) Lands. Title to all lands, buildings, and interests in lands, and other property now owned by the United States and within the territorial limits of the Commonwealth of Puerto Rico, and the harbor areas and navigable streams and bodies of water and submerged lands underlying the same in and around the island of Puerto Rico and the adjacent islands and waters, owned by the United States, which may have been acquired in Puerto Rico by the United States under the cession of Spain in the treaty of peace entered into on December 10, 1898, and the lands owned by the United States, and administered under the Caribbean National Forest, is hereby conveyed to the people of Puerto Rico and placed under the control of the Government of the Commonwealth of Puerto Rico: *provided*, That the United States and the Commonwealth of Puerto Rico may negotiate to establish mutually agreed terms and conditions for the continued use and administration of such lands and properties.

(ii) The conveyance described in subsection (i) of this section shall be effective thirty days after the enactment of this section and the Legislature of the Commonwealth of Puerto Rico shall have the authority to legislate as it shall deem advisable with respect to all such Crown Lands conveyed under this section.

Subpart 19.—Community Values

The Puerto Rican Federal Relations Act is amended by inserting a new Section 61 as follows:

"SEC. 61. (a) Definitions

(1) The term 'antitrust laws' has the same meaning given such term in the first section of the Clayton Act, 15 U.S.C. Section 12, and shall also include section 5 of the Federal Trade Commission Act, 15 U.S.C. Section 45.

(2) The term 'person in the entertainment industry' means any organization, or an individual connected with any organization, that produces, distributes, transmits, or exhibits any form of audio or visual entertainment; and

(3) The term "audio or visual entertainment" includes:

(i) video, audio, or mixed programs transmitted via electromagnetic waves of any frequency, whether transmitted to all receivers of a given type within transmission range, or to only selected receivers on the basis of a subscription fee or any other criteria.

(ii) programs transmitted by cable systems as defined in section 602(5)-(6) of the Cable Communications Policy Act of 1984, 47 U.S.C. Section 522 (5)-(6), except that reference in 47 U.S.C. Section 522(6) to "video" shall be read as "video or audio" and references in 47 U.S.C. Section 522(6) to 'television' shall be read as 'television or radio', and

(iii) motion pictures, which include entertainment, using film, videotapes, videocassettes, compact discs, or any other functionally substantially equivalent medium, if admission is generally charged for such entertainment, or if such entertainment is generally made available to the public on a rental or purchase basis for private viewing.

The term 'audio or visual entertainment' does not include printed or otherwise written material unless such printed or otherwise written material is used in any form of audio or visual entertainment described above.

(b) Upon declaration by the Governor of Puerto Rico (the Governor) and publication of such declaration in the official register of the Commonwealth of Puerto Rico, the antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the entertainment industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate the negative impact of violence, pornography, alcohol and drugs in all audio or visual entertainment in Puerto Rico, or in any subset of audio or visual entertainment in Puerto Rico as the Governor may designate in any declaration under this section, provided that

(1) no declaration by the Governor under this section shall operate to exempt from the antitrust laws any joint discussion, con-

sideration, review, action, or agreement that results in a boycott of any person, and

(2) no declaration by the Governor under this section shall operate to exempt from the antitrust laws any activities conducted more than 36 months after such declaration by the Governor. The Governor may limit the effect of any such declaration to a shorter period if he or she does so in the declaration itself.

(c) A declaration by the Governor under section 2 concerning any forms of audio or visual entertainment shall not limit his or her authority to make future declarations concerning those forms of audio or visual entertainment.

Subpart 20.—Assumption of Budgetary Responsibilities and Transfer of Federal Functions.

The Puerto Rican Federal Relations Act is amended by inserting a new Section 63, as follows:

The Commonwealth of Puerto Rico shall assume the expenses inherent in all governmental authority transferred pursuant to this Act. The Government of the United States, or any agency thereof, may from time to time delegate to the Commonwealth of Puerto Rico the total or partial performance of functions vested in the United States, including the administration of such federal laws and programs on the island, as may be mutually agreed.

Subpart 21

The enhancements to the Commonwealth relationship adopted pursuant to this Act shall form part of the Compact entered upon by the Congress and the People of Puerto Rico in 1952. It may be amended in the same manner as entered upon in order to provide for the continuing enhancement of the Commonwealth relationship.

TIME LIMITATION AGREEMENT, BUDGET CONFERENCE REPORT

Mr. WIRTH. Mr. President, I ask unanimous consent that when the Senate considers the budget conference report, House Concurrent Resolution 106, the time be limited to 1 hour, to be equally divided in the usual form, with an additional 15 minutes under Senator ARMSTRONG's control.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 103. John E. Robson to be Deputy Secretary of the Treasury,

Calendar 118. H. Lawrence Garrett III, to be Secretary of the Navy,

Calendar 119, 120, and 121. Promotions in the Army,

Calendar 122 and 123. Promotions in the Navy, and

All nominations placed on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy.

Mr. President, I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF THE TREASURY

John E. Robson, of Georgia, to be Deputy Secretary of the Treasury.

DEPARTMENT OF DEFENSE

H. Lawrence Garrett III, of Virginia, to be Secretary of the Navy.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Henry Doctor, Jr., 251-44-7213, U.S. Army.

The U.S. Army National Guard Officers named herein for appointment in the grades indicated below, under the provisions of title 10, United States Code, sections 593(a), 3385, and 3392:

To be major general of the line

Brig. Gen. David H. Lueck, 468-28-4660.

Brig. Gen. Wafford H. Merrell, Jr., 428-66-1399.

Brig. Gen. Averill E. Hawkins, 571-42-6467.

ADJUTANT GENERAL'S CORPS

To be major general

Brig. Gen. John W. Shaeffer, Jr., 574-10-9379.

To be brigadier general of the line

Brig. Gen. Raymond F. Rees, 541-42-1616.

Brig. Gen. Joseph C. Boyersmith, 200-28-1394.

Col. Fred H. Casey, 424-42-3899.
Col. Richard C. Friess, 098-28-4341.
Col. Joseph P. O'Leary, 128-28-4504.
Col. Robert J. Poirot, 458-54-6684.
Col. James D. Polk, 426-90-1718.
Col. George W. Schuler, 183-34-2974.
Col. Harold J. Sykora, 504-40-0416.
Col. Richard J. Valente, 039-24-7918.
Col. James F. Campbell, Jr., 267-44-2434.
Col. Wallace W. Farragut, 427-58-2471.
Col. Roscoe Lindsay, Jr., 248-60-4745.
Col. Joseph Perugino, 206-28-6982.
Col. Robert E. Schulte, 504-28-3994.
Col. Jackie D. Stephenson, 462-54-6331.

To be brigadier general of the line

Col. Harold A. Uttley, 026-26-0377.

ADJUTANT GENERAL'S CORPS

To be brigadier general

Col. Leslie J. Custer, 499-32-1586.
Col. Edward G. Perez, 294-36-0897.
Col. Harold Roberts, 441-34-7787.
Col. Haruo Shigezawa, 575-32-3254.
Col. James H. Burns, 428-56-7743.
Col. Tebbs S. Moore, 401-50-7646.

The following-named Army Medical Corps officers for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624(c):

To be permanent major general

Brig. Gen. Richard D. Cameron, 521-42-3760, U.S. Army.

Brig. Gen. Girard Seitter, III, 196-28-6222, U.S. Army.

To be permanent brigadier general

Col. James E. Hastings, 551-44-6774, U.S. Army.

IN THE NAVY

The following-named Captains in the Line of the United States Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER

Don Wilson Baird.
Brent Martin Bennitt.
Steven Russell Briggs.
Philip James Coady, Jr.
Jon Suber Coleman.
Philip Alphonse Dur.
George Williams Emery.
David Maxwell Goebel.
Howard W. Habermeyer, Jr.
George Arthur Huchting.
Robert Charles Jones.
Wesley Earl Jordan, Jr.
Douglas Jeffrey Katz.
James Anthony Lair.
Theodore Charles Lockhart.
Thomas Joseph Lopez.
Anthony Ray Maness.
Larry Roy Marsh.
William Walter Mathis.
William Rankin McGowen.
William Edward Newman.
Lafayette Ferguson Norton.
John Davis Pearson.
Joseph Wilson Prueher.
Merrill Wythe Ruck.
Robert Johnson Spane.
George Rudolph Sterner.
Thomas Edward Stone.
Louise Currie Wilmot.
Richard Alexander Wilson.

ENGINEERING DUTY OFFICER

Edward Stillman McGinley, II.
Ray Cowden Witter.

AERONAUTICAL ENGINEERING DUTY OFFICER

Donald Richard Eaton.

SPECIAL DUTY OFFICER (PUBLIC AFFAIRS)

Brent Baker.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be admiral

Adm. James B. Busey, 332-26-3214/1230, U.S. Navy.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning John E. Hill, and ending Clay M. Nichols, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1989.

Air Force nominations beginning Major Patrick J. Belanger, 545-68-5555, and ending Major Betty J. Kupp, 201-40-3858, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 18, 1989.

Army nominations beginning John S. Cooke, and ending Alexander M. Walczak, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 12, 1989.

Army nominations beginning Timothy F. Abbott, and ending Samuel Sayson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 12, 1989.

Army nominations beginning *Juan M. Rico, and ending *Raymond J. Struth, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 18, 1989.

Marine Corps nominations beginning Joseph T. Anderson, and ending Joseph C. Yannessa, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 4, 1989.

101ST CONGRESS
1ST SESSION

S. 712

To provide for a referendum on the political status of Puerto Rico.

IN THE SENATE OF THE UNITED STATES

APRIL 5 (legislative day, JANUARY 3), 1989

Mr. JOHNSTON (for himself, Mr. MCCLURE, and Mr. SIMON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To provide for a referendum on the political status of Puerto Rico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the United States of America recognizes the principle of self-determination and other applicable principles of international law with respect to Puerto Rico; and

(2) the United States is committed to a process of consultation and negotiation with the people of Puerto

Rico leading to a referendum on the issue of political status to be conducted in a fair and equitable manner.

TITLE I

SEC. 2. REFERENDUM.

(a) IN GENERAL.—An island-wide referendum shall be held in Puerto Rico in which qualified voters of the Commonwealth of Puerto Rico shall be presented a choice of three status options for Puerto Rico as follows:

(1) statehood;

(2) independence; or

(3) commonwealth

as set forth in titles II, III, and IV of this Act.

(b) DATE OF REFERENDUM.—The first referendum shall occur on , 1991, or on a date as may be mutually agreed by the three principal political parties, and during the summer of calendar year 1991.

(c) RETURNS OF REFERENDUM.—The returns of the referendum held under this Act shall be made to the Governor of Puerto Rico, who shall cause them to be canvassed in the manner provided by law for the canvass of votes cast in general elections in the Commonwealth of Puerto Rico. If there is not a majority in favor of one of the three options, then there shall be, on , 1991, or on a date as may be mutually agreed by the three principal political parties, and during the summer of calendar year 1991, a runoff

referendum between the two status options which had received the largest number of votes. Such referendum shall also include an option of "None of the Above". The Governor shall certify to the President and to the Congress of the United States that decision of the people of Puerto Rico which received a majority of the votes cast, if a majority is obtained.

(d) APPLICABLE ELECTION LAWS.—The election laws of the Commonwealth of Puerto Rico shall apply to the referendum held under this Act.

(e) Upon the effective date of this Act, the status option which has been certified by the Governor pursuant to subsection (c), shall go into effect in accordance with the appropriate title of this Act.

TITLE II—STATEHOOD

Whereas: Upon admission as a State, Puerto Rico would cease being a territory of the United States.

Whereas: The Commonwealth of Puerto Rico would be admitted as a sovereign State of the Union, with its current Constitution, on an equal footing and in true permanent union with the other fifty States.

Whereas: The new State of Puerto Rico shall be known as the Commonwealth of Puerto Rico; in Spanish it shall be known as "Estado Soberano de Puerto Rico".

Whereas: Admission to the Union has historically been a flexible and varied process which has been adapted to the individual circumstances of each new State.

Whereas: Congress, has the constitutional power to facilitate the admission of new States.

Whereas Congress is willing to provide for a smooth process of adjustment from the tax structure of the territorial status to the Federal fiscal system.

Whereas: The Commonwealth of Puerto Rico assured of its reserved state right under the Constitution to continue to maintain both Spanish and English as its official languages, as well as of its right to preserve and enhance its particular cultural characteristics.

Whereas: Statehood creates the only permanent union with the United States that is consistent with the "more perfect union" of equal States established by the United States Constitution.

Whereas: Statehood entails fundamental political and economic betterment for the Commonwealth of Puerto Rico.

Whereas: Statehood entails economic self-reliance and social justice, including parity for its residents in those aspects of Federal legislation that cover the residents of the several States.

Whereas: Statehood means political equality, and, specifically, the right to participate in the process of election of

the President and Vice-President of the United States as well as the right to elect two United States Senators and the corresponding number of Members of the United States House of Representatives.

Whereas: Statehood means that all benefits and protections of the United States Constitution would be fully bestowed on the People of the Commonwealth of Puerto Rico together with the guarantee of full protection by the Federal judicial system.

Whereas: Statehood entails the immediate full extension of Federal entitlements and legislation providing parity for the residents of Puerto Rico in all Federal programs.

Whereas: The Commonwealth will assume all responsibilities of a State of the Union.

Whereas: Statehood is a political formula recognized by the international community through Resolution 1541 (XV) of the General Assembly of the United Nations and through Resolution 1469 (XIV) of that body, which was adopted upon the admission of the new States of Alaska and Hawaii.

Whereas: Statehood embodies the highest degree of autonomy and sovereignty in a true permanent union with the several States.

Therefore: *Be it resolved:*

SEC. 2. Subject to the provisions of this Act, and upon issuance of the proclamation required by section 7 of this

Act, the Commonwealth of Puerto Rico (hereinafter referred to also as "the State") is declared to be a State of the United States of America, is declared admitted into the Union on an equal footing with the other States in all respects whatever, in compliance with the democratic mandate of the plebiscite held on for the resolution of Puerto Rico's final political status. The Constitution adopted by a vote of the People of Puerto Rico in the election held on June 4, 1951, has been found by Congress to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and was accepted, ratified, and confirmed, through Public Law 447 of the 82nd Congress, March 3, 1952.

CONSTITUTION

SEC. 3. The Constitution of the Commonwealth of Puerto Rico shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. The current Constitution of the Commonwealth of Puerto Rico is hereby accepted as the constitution of the State.

TERRITORY AND BOUNDARIES

SEC. 4. Subject to the provisions of this section, the State shall consist of all of the territory, together with the territorial waters, of the Commonwealth of Puerto Rico.

STATE TITLE TO LANDS AND PROPERTY

SEC. 5. (a) The State and its political subdivisions shall have and retain title to all property, real and personal, which it currently holds.

(b) Any lands and other properties that, as of the date of admission of Puerto Rico into the Union, are set aside pursuant to law for the use of the United States under any (A) Act of Congress, (B) Executive order, (C) proclamation of the President, or (D) proclamation of the Governor of the Commonwealth of Puerto Rico, shall remain the property of the United States; except that the Commonwealth of Puerto Rico (the State) shall have the exclusive right to explore, exploit, lease, possess and use all seabed, natural, and mineral resources lying within the two hundred mile economic zone continental shelf boundary around the waters of the Archipelago of Puerto Rico; however, all other rights of sovereignty in regards to the continental shelf and waters, shall belong to the United States except those already vested in Puerto Rico.

(c) Not later than five years after the date of admission of the Commonwealth of Puerto Rico as a State of the Union, each Federal agency having control over any land or property that is retained by the United States pursuant to this section shall submit a report to the President and the Congress concerning the need for such land or property. If

the President determines that any such land or property is no longer needed by the Federal Government, it shall be forthwith conveyed to the Commonwealth of Puerto Rico.

(d) All laws of the United States reserving to the United States the free use or enjoyment of property which vests in or is conveyed to the Commonwealth of Puerto Rico or its political subdivisions pursuant to this section or reserving the right to alter, amend, or repeal laws relating thereto, shall cease to be effective upon the admission of the State into the Union.

COMPACT WITH THE UNITED STATES: CLAIMS TO FEDERAL LANDS AND PROPERTY

SEC. 6. (a) As a compact with the United States, the Commonwealth and its people recognize all rights and titles to any lands or other property not granted or conferred to the Commonwealth or its political subdivisions by or under the authority of this Act, the right or title to which is now held by the United States or subject to disposition by the United States.

(b)(1) Nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by applicable laws of the United States.

(2) Nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any applicable law authorizes, establishes, recognizes, or

confirms the validity or invalidity of any such claim, and the determination of the applicability of any law to any such claim shall be unaffected by anything in this Act.

(c) No taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States.

(d) Nothwithstanding any other provisions of this Act or any other provision of law, in compensation for the lands now held by the United States, the Congress shall appropriate Federal payments to be assigned to the Commonwealth of Puerto Rico, in the amount of annually, during the next years, for the sole purpose of assisting the State in the payment of its present public debt and liabilities.

ELECTIONS AND ADMISSION REFERENDUM

SEC. 7. (a)(1) Not more than sixty days after the date of certification by the Governor of the Commonwealth of Puerto Rico as provided by this Act, the President of the United States shall certify the admission of Puerto Rico into the Union to the Governor of the Commonwealth of Puerto Rico. Not more than thirty days after such certification, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation for the election of two United States Senators and the corresponding number of the United States Representatives in Congress as provided in this Act. The Governor of the State shall certify the election of the Senators and Repre-

sentatives in the manner required by law. The Senators and Representatives elected shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of the other States in the Congress of the United States. The office of Resident Commissioner shall cease to exist upon the swearing in of the first Member of the House so elected.

(2) In the first election of Senators from the State (pursuant to section 7(a)(1)) the two senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No such identification or designation of either of the two senatorial officers shall refer to or be taken to refer to the terms of such offices, or in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

(b) Election returns shall be made and certified in such manner as provided by the electoral laws of Puerto Rico and in such a manner as the Commonwealth of Puerto Rico may prescribe. The Governor of the Commonwealth of Puerto Rico shall certify the results of such elections to the President of the United States.

(2) The constitution of the Commonwealth of Puerto Rico, ratified by the people at the referendum held on June 4, 1951, shall become the Constitution of the State of Puerto

Rico. The new State of Puerto Rico shall be known as The Commonwealth of Puerto Rico.

(3) Any legal dispute or controversy arising out of the electoral processes conducted under this act shall be adjudicated by the United States District Court for the District of Puerto Rico, and the Appellate Federal Court System. The Courts of the Commonwealth of Puerto Rico shall not have jurisdiction to entertain any suit, appeal, writ of revision or legal action, arising out of these elections, plebiscites and referendums.

(4) The individuals holding legislative, executive, and judicial offices of the Commonwealth of Puerto Rico, shall continue to discharge the duties of their respective offices. Upon the issuance of the proclamation by the President of the United States and the admission of the Commonwealth of Puerto Rico as a State of the Union, the officers elected or appointed under the provisions of the constitution and laws of the Commonwealth shall proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of the States, as provided by the constitution and laws of the State.

SEC. 8. The Commonwealth of Puerto Rico upon its admission into the Union shall be entitled to Representatives, until the taking effect of the next reapportionment, and

such Representatives shall be in addition to the membership of the House of Representatives as now prescribed by law.

LAWS IN EFFECT

SEC. 9. Upon admission of the Commonwealth of Puerto Rico into the Union, all of the territorial laws then in force in the Commonwealth of Puerto Rico shall be and continue in force and effect throughout the State, until amended, modified or repealed by the Commonwealth. All of the laws of the United States shall have the same force and effect within the State as elsewhere in the United States.

CONTINUATION OF SUITS

SEC. 10. (a) No writ, action, indictment, cause, or proceeding pending in any court of the Commonwealth of Puerto Rico, shall abate by reason of the admission of the Commonwealth of Puerto Rico into the Union, but shall proceed within such appropriate State courts as are now established under the Constitution of the Commonwealth, or shall continue in the United States District Court for the District of Puerto Rico, as the nature of the case may require.

(b) All civil causes of action and all criminal offenses, which shall have arisen or been committed prior to the admission of the Commonwealth, but as to which no writ, action, indictment, or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropiate State courts or in the United States District Court for the District of Puerto Rico in like manner, to the same

extent, and with like right of appellate review, as if such State had been created and such State courts had been established prior to the accrual of such causes of action or the commission of such offenses. The admission of the State shall effect no change in the procedural or substantive laws governing causes of action and criminal offenses which shall have arisen or been committed, and any such criminal offenses as shall have been committed against the laws of the Commonwealth of Puerto Rico, shall be tried and punished by the appropriate courts of the State, and any such criminal offenses as shall been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Puerto Rico.

APPEALS

SEC. 11. Parties shall have the same rights of judicial review of final decisions of the United States District Court for the District of Puerto Rico or the Supreme Court of the Commonwealth of Puerto Rico, in any case finally decided prior to the admission of the State of Puerto Rico into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission. The United States Court of Appeals for the First Circuit and the Supreme Court of the United States, shall have the same jurisdiction in such cases as by law provided prior to the admission of the State into the Union. Any mandate issued subsequent to the admission of the State, shall be to the United States District Court for

the District of Puerto Rico or a court of the State, as appropriate. Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Puerto Rico and of the Supreme Court of Puerto Rico, in any case pending at the time of admission of the State into the Union, and the Supreme Court of the Commonwealth of Puerto Rico and the Supreme Court of the United States shall have the same jurisdiction therein, as by law provided in any case arising subsequent to the admission of the State into the Union.

MILITARY LANDS

SEC. 12. (a) Subject to the subsection (b) and notwithstanding the admission of the Commonwealth of Puerto Rico into the Union, authority is reserved in the United States for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of lands as, immediately prior to the admission of the State, are controlled or owned by the United States and held for defense or Coast Guard purposes.

(b)(1) The Commonwealth of Puerto Rico shall always have the right to serve civil or criminal process within such tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes

committed within the State but outside of such tracts or parcels of land.

(2) The reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over such lands shall not operate to prevent such lands from being a part of the Commonwealth of Puerto Rico, or to prevent the State from exercising over or upon such lands, concurrently with the Federal Government, any jurisdiction which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation or authority.

(3) The power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for defense on Coast Guard purposes, except that the United States shall continue to have sole and exclusive jurisdiction over such military installations as have been or may be determined to be critical areas as designated by the President of the United States or the Secretary of Defense.

UNITED STATES NATIONALITY

SEC. 13. No provision of this Act shall operate to confer United States nationality, to terminate nationality lawfully acquired, or to restore nationality terminated or lost under

any law of the United States or under any treaty to which the United States is or was a party.

REPEAL AND AMENDMENT OF INCONSISTENT LAWS

SEC. 14. All Acts or parts of Acts in conflict with the provisions of this Act, whether passed by the Legislature of the Commonwealth of Puerto Rico or by Congress, are hereby repealed or amended to conform with the provisions of this Act.

NATIONAL FEDERAL LANDS AREA

SEC. 15. (a) The Federal Lands reserved for the United States Government referred to in section 4 are those now held by the Federal Government.

ECONOMIC ADJUSTMENT FROM TERRITORY TO STATE

SEC. 16. Congress adopts the following economic provisions to expedite the adjustment of the Commonwealth of Puerto Rico from the tax structure of the territory to the fiscal and economic system of the State.

(a) Provisions of the Internal Revenue Code concerning Federal Income Taxes shall immediately apply to Puerto Rico, provided that the proceeds of said taxes shall be transferred to the Treasury of Puerto Rico in an amount to be diminished by percent of the monies collected each year for a year period. Existing income tax laws of the Commonwealth shall stand repealed upon admission of the State.

(b) Provision shall be made by Congress so that economic and fiscal exceptions of the Internal Revenue Code, already granted, such as those allowed under section 936 of said code, shall remain in full effect for years and will be smoothly and gradually phased out thereafter, in such a way as to eliminate the prevalent uncertainty which impairs an orderly planning and which impedes the fulfillment of the job creation requirements for such credit, thus promoting investments and higher rate of employment, which will in turn reduce governmental and individual dependence while enhancing the economy of the State and the fiscal soundness of its government.

(c) Pursuant to Congress, powers under the Constitution, an omnibus act with multiple provisions shall be enacted to ensure that the people of Puerto Rico attain equal social and economic opportunities with the residents of the several States. Said omnibus act shall also provide for measures necessary to assure appropriate continuity in the treatment given to Puerto Rico as a principal coffee producer and in the treatment of alcohol excise taxes; and shall also continue to provide for the transfer to the Treasury of Puerto Rico, for a period of years, of the proceeds of Federal cus-

toms and duties levied on imports coming from foreign sources to Puerto Rico.

[Detailed economic provisions, addressing the above proposals among others, will be furnished to the committee as soon as final technical work is completed.]

TERMS AND CONDITIONS

SEC. 17. The Commonwealth of Puerto Rico is assured of its reserved State right under the Constitution to continue to maintain both Spanish and English as its official languages, as well as of its right to preserve and enhance its rich Hispanic cultural heritage. However, all records and proceedings of all agencies, departments, offices and courts of the United States Federal Government operating in Puerto Rico, shall continue to be conducted and kept in the English language as heretofore. The Commonwealth of Puerto Rico's present Official Languages Act, 1 L.P.R.A. 51–55 (Laws of Puerto Rico, 1902), making Spanish and English official State languages is a State prerogative protected by the Constitution of the United States.

SEC. 18. The State shall never enact any law restricting or abridging the right of suffrage on account of race, color, previous condition of servitude, or ability to read, write, speak, and understand any language sufficiently; and the rights, privileges and immunities of citizens of the United States shall be respected in Puerto Rico according to the

provisions of paragraph 1 section 2 of article IV of the Constitution of the United States.

TITLE III—INDEPENDENCE

SUBTITLE 1—STATEMENT OF PURPOSES

First: The United States hereby recognizes that Puerto Rico is historically, socially and culturally a Latin American nation which has been under the sovereignty of the United States since 1898.

Second: The United States recognizes Puerto Rico's inalienable right to independence.

Third: In order to best promote Puerto Rico's development according to its needs and resources and within the framework of present day interdependence, the United States recognizes Puerto Rico's sovereignty as a means to provide Puerto Rico with the political powers and the flexibility necessary to achieve this objective.

Fourth: In order to insure lasting friendship, equitable economic relations, and the gradual elimination of the burden which Puerto Rico's extreme economic dependence represents for both nations, the United States declares its intention to guarantee all necessary conditions for a rational and mutually advantageous transition before and after independence.

Fifth: It is the purpose of this title to recognize the independence of Puerto Rico as a sovereign and democratic nation, to provide the conditions necessary for an orderly

transition from the present status to independence, and to guarantee the legitimate interests of both Puerto Rico and the United States.

SUBTITLE 2—TRANSITION PROCESS PRIOR TO PROCLAMATION OF INDEPENDENCE

SEC. 2.1. CONSTITUTIONAL CONVENTION.

(a) Should the results of the referendum provided for in title I of this Act favor independence as a status alternative for Puerto Rico, the Legislative Assembly of the Commonwealth of Puerto Rico shall provide for the election of delegates to a Constitutional Convention to formulate and draft a Constitution for the Republic of Puerto Rico. The election of delegates must by held within six months after the celebration of the aforementioned referendum.

(b) Those qualified to vote in the election of delegates to the Constitutional Convention shall be: (1) all persons born and residing in Puerto Rico; (2) all persons residing in Puerto Rico and one of whose parents was born in Puerto Rico; (3) all persons who at the time of the adoption of this Act shall have resided in Puerto Rico for a period of twenty years or more; and (4) all persons who established their residence in Puerto Rico prior to attaining voting age and still reside in Puerto Rico; and (5) spouses of all persons included in (1), (2), (3), and (4) above.

(c) The laws of the Commonwealth of Puerto Rico relating to additional voter qualifications and the electoral process shall apply to this election.

(d) The Constitutional Convention shall meet within three months of the election of delegates at such time and place as the Legislative Assembly of the Commonwealth of Puerto Rico shall determine.

(e) The Constitutional Convention shall exercise jurisdiction over all of the territory of Puerto Rico ceded to the United States by Spain by virtue of the Treaty of Paris the 10th day of December 1898.

SEC. 2.2. CHARACTER OF THE CONSTITUTION.

(a) The Constitutional Convention mandated under the previous section shall formulate and draft a Constitution establishing a republican form of government which shall guarantee the protection of fundamental human rights.

(b) The fundamental human rights guaranteed by the aforementioned Constitution shall include such rights as due process and equal protection under the law, freedom of speech, press, assembly, association, and religion, as well as the rights of the accused, and economic, social and cultural rights such as the right to education, adequate nutrition, health services, adequate housing, and work or employment.

SEC. 2.3. RATIFICATION OF THE CONSTITUTION.

(a) The Constitution elaborated by the Constitutional Convention shall be sumitted to the people of Puerto Rico for its ratification or rejection.

(b) The Legislative Assembly of the Commonwealth of Puerto Rico shall call for a special election for such ratification or rejection, to be held within three months of the adoption of the Constitution elaborated by the Constitutional Convention.

(c) The special election providing all qualified voters the opportunity to cast a vote for or against the proposed Constitution shall be held in the manner prescribed by the Legislative Assembly of the Commonwealth of Puerto Rico.

(d) Those qualified to vote in this election shall be those possessing the qualifications established in section 2.1 of this title.

SEC. 2.4. ELECTION OF OFFICERS OF THE REPUBLIC.

(a) Within thirty days of the ratification of the Constitution as provided for by section 1.3 of this title, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation calling for the election of such officers of the Republic of Puerto Rico as may be required by the ratified Constitution.

(b) The election of officers of the Republic shall be held not later than six months after the date of ratification of the Constitution.

(c) The aforesaid election shall be held in accordance with the procedures and requirements established in the Constitution of the Republic of Puerto Rico.

(d) The Governor of the Commonwealth of Puerto Rico shall certify the results of the election to the President of the United States.

SEC. 2.5. JOINT TRANSITION COMMISSION.

(a) A Joint Transition Commission shall be appointed in equal numbers by the President of the United States and the Constitutional Convention of Puerto Rico as soon as the favorable results for the independence option in the referendum provided for in title I of this Act are announced.

(b) The Joint Transition Commission shall be responsible for expediting the orderly transfer of all functions currently exercised by the Government of the United States in Puerto Rico, or in relation to Puerto Rico; including the recommendation of appropriate legislation.

(c) Any necessary task forces under the aegis of the Joint Transition Commission shall be constituted in the same manner as the Commission.

(d) The Government of the Commonwealth of Puerto Rico and the agencies of the Government of the United States shall collaborate with the Joint Transition Commission and subsequently with the new officers of the Republic

of Puerto Rico, to provide for the orderly transfer of the functions of government.

(e) All members representing the Puerto Rican side on the Joint Transition Commission or on any task force shall be bona-fide supporters of Puerto Rican independence.

SEC. 2.6 RESOLUTION OF CONTROVERSIES PRIOR TO INDEPENDENCE.

(a) From the date of the referendum provided for in title I of this Act, and until the date of proclamation of independence, the Supreme Court and all inferior courts of the United States shall have no jurisdiction over any case or controversy arising from the operation of this Act.

(b) Any question arising from the operation of this Act shall be referred to the Joint Transition Commission established in section 2.5 for disposition through negotiation. Should the Commission be unable to reach a negotiated solution to a question, it shall submit all points in question to international arbitration.

SUBTITLE 3—PROCLAMATION OF INDEPENDENCE

SEC. 3.1. PROCLAMATIONS BY THE PRESIDENT OF THE UNITED STATES AND THE HEAD OF STATE OF THE REPUBLIC OF PUERTO RICO.

(a) Not later than one month after the official certification of the elected officers of the Republic of Puerto Rico under section 2.4, the President of the United States shall by

proclamation withdraw and surrender all rights of possession, supervision, jurisdiction, control or sovereignty then existing and exercised by the United States over the territory and people of Puerto Rico, and shall furthermore recognize on behalf of the United States of America the independence of the Republic of Puerto Rico and the authority of the government instituted by the People of Puerto Rico under the Constitution of their own adoption. The proclamation shall state that the effective date of withdrawal of the sovereignty of the United States and recognition of independence shall be the same as the date of the proclamation of independence, as provided in subsection (c).

(b) The President of the United States shall forward a copy of the proclamation issued by him to the presiding officer of the Constitutional Convention of Puerto Rico within a week after signature.

(c) Within one week after receiving the presidential proclamation and with the advice of the officer elected as head of state of the Republic, the presiding officer of the Constitutional Convention shall determine the date in which the Government of the Republic shall take office, and shall so notify the Governor of the Commonwealth of Puerto Rico and the President of the United States.

(d) Upon taking office, the head of state of the Republic of Puerto Rico shall immediately issue a proclamation declar-

ing: (1) that Puerto Rico has become a sovereign, independent nation; (2) that the Constitution of the Republic is thenceforth in effect; (3) that the Commonwealth of Puerto Rico and its Government have ceased to exist; and (4) that the Government of the Republic will henceforth exercise its powers and duties under its Constitution.

SUBTITLE 4—EFFECTS OF THE PROCLAMATION OF INDEPENDENCE

SEC. 4.1. ON LEGAL AND CONSTITUTIONAL PROVISIONS.

(a) Upon the proclamation of independence as provided in this subtitle, and except as otherwise provided in this title or in any separate agreements hereinafterwards concluded between the United States and the Republic of Puerto Rico—

(1) all property, rights and interests which the United States may have acquired over Puerto Rico by virtue of the Treaty of Paris of 1898, and thereafter by cession, purchase, or eminent domain, with the exception of such land and other property, rights, or interests as may have been sold or otherwise legally disposed of prior to the enactment of this Act, shall vest ipso facto on the Republic of Puerto Rico;

(2) all laws of the United States applicable to the Commonwealth of Puerto Rico immediately prior to

the proclamation of independence shall no longer apply in the Republic of Puerto Rico; and

(3) all laws and regulations of the Commonwealth of Puerto Rico in force immediately before the proclamation of independence shall continue in force and shall be read with such modifications, adaptions, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution of the Republic of Puerto Rico until such time as they shall be replaced with the new legislation: *Provided,* That any provisions that may be incompatible with the sovereignty of the Republic of Puerto Rico shall be deemed invalid.

SEC. 4.2. ON JUDICIAL PRONOUNCEMENTS.

(a) The Republic of Puerto Rico shall recognize and give effect to all orders and judgments rendered by United States or Commonwealth courts prior to the proclamation of independence pursuant to the laws of the United States then applicable to the Commonwealth of Puerto Rico.

(b) All judicial proceedings pending in the courts of the Commonwealth of Puerto Rico prior to the proclamation of independence shall be continued in the corresponding courts under the Constitution of the Republic of Puerto Rico.

(c) Upon the proclamation of independence, the judicial power of the United States shall no longer extend to Puerto

Rico. All proceedings pending in the United States District Court for the District of Puerto Rico shall be transferred to the corresponding Puerto Rican courts of competence under the Constitution of the Republic of Puerto Rico for disposition in conformity with laws applicable at the time when the controversy in process arose. All proceedings pending in the United States Court of Appeals for the First Circuit, or in the Supreme Court of the United States, which may have initiated in the courts of the Commonwealth or in the United States District Court for the District of Puerto Rico shall continue until their final disposition and shall be submitted to the competent authority of the Republic of Puerto Rico for proper execution: *Provided,* That neither the United States nor any of its officers is a party, in which case any final judgment shall be properly executed by the competent authority of the United States.

SUBTITLE 5—TRANSITION ASPECTS SUBSEQUENT TO PROCLAMATION OF INDEPENDENCE

SEC. 5.1. CITIZENSHIP AND MIGRATION.

(a) Every person who, having been born in Puerto Rico, is on proclamation of independence a citizen of the United States and a resident of Puerto Rico, shall become a citizen of the Republic of Puerto Rico on that date.

(b) Every person born in Puerto Rico after proclamation of independence, and subject to the jurisdiction thereof, shall be a citizen of the Republic of Puerto Rico.

(c) Every person born in Puerto Rico but not a resident thereof on proclamation of independence shall become a citizen of the Republic of Puerto Rico upon residing for six months and taking the oath of allegiance.

(d) Every person not born in Puerto Rico before or after proclamation of independence, and residing therein, shall become a citizen of the Republic of Puerto Rico if either of his parents becomes a citizen of the Republic of Puerto Rico pursuant to subsections (a), (b), and (c).

(e) Every person not born in Puerto Rico but married to a citizen of the Republic of Puerto Rico before or after proclamation of independence shall become a citizen of the Republic upon residing in Puerto Rico for six months and taking the oath of allegiance.

(f) All other persons not specified in subsections (a), (b), (c), (d), and (e) but residing in Puerto Rico shall be granted citizenship in accordance with the Constitution and laws of the Republic.

(g)(1) Every person who is a citizen of the United States and a citizen of the Republic of Puerto Rico in accordance with subsections (a), (b), (c), (d), (e), and (f) shall retain his United States citizenship and all rights, privileges, benefits

and obligations pertaining thereto in an equal footing with all other United States citizens: *Provided,* That while residing in Puerto Rico that person shall not be subject under United States laws to compulsory military registration and service or to any other condition or obligation contrary to the sovereignty of the Republic of Puerto Rico.

(2) Every person specified in subsection (g)(1) shall retain his Puerto Rican citizenship and all rights, privileges and benefits pertaining thereto in an equal footing with all other Puerto Rican citizens, and shall retain all of his obligations as a Puerto Rican citizen, except that while residing in the United States that person shall not be subject under Puerto Rican laws to compulsory military registration and service or to any other condition or obligation contrary to the sovereignty of the United States.

(h) Every citizen of the United States who becomes a citizen of the Republic of Puerto Rico in accordance with subsections (a), (b), (c), (d), (e), and (f), can elect: (1) to relinquish his United States citizenship in accordance with United States laws; or (2) to relinquish his Puerto Rican citizenship in accordance with the laws of the Republic.

(i) United States citizens residing in Puerto Rico, but not citizens thereof shall be entitled to the fundamental rights and freedoms accorded to all persons in Puerto Rico but shall not be eligible for political office and shall not be entitled to

vote. They shall also be entitled to be naturalized as citizens of the Republic in accordance with nondiscriminatory laws of the Republic.

(j) Citizens of the Republic of Puerto Rico residing in the United States but not citizens thereof shall be entitled to the fundamental rights and freedoms accorded to all persons in the United States but shall not be eligible for political office and shall not be entitled to vote in the United States. They shall also be entitled to be naturalized as citizens of the United States in accordance with nondiscriminatory laws of the United States.

(k) Citizens of the Republica of Puerto Rico who are not United States citizens may, for a period of twenty-five years after proclamation of independence, enter into, lawfully engage in occupations, and establish residence as immigrants in the United States. These immigrants may be subject to nondiscriminatory limitations as provided for by laws and regulations of the United States.

(l) Every resident of the United States born in Puerto Rico but not a citizen thereof, and his sons and daughters, may enter into, lawfully engage in occupations, and establish residence as immigrants in Puerto Rico subject to nondiscriminatory laws and regulations of the Republic.

(m) Every person lawfully admitted for permanent residence within the United States and who is a resident of

Puerto Rico on proclamation of independence shall continue as resident and shall be entitled to be naturalized as citizen of the Republic of Puerto Rico in accordance with nondiscriminatory laws of the Republic.

SEC. 5.2. DEFENSE.

(a) The UnitedStates shall collaborate with the Republic of Puerto Rico toward the ultimate goal of disarmament, peace, and international relations based on the principles of equality, mutual respect and interdependence. Furthermore, the United States recognizes the right of the People of Puerto Rico to strive toward the total demilitarization of its territory, with the purpose of gearing all its efforts and resources to the goals of economic and social development.

(b) The Republic of Puerto Rico shall be closed to any and all military forces of foreign nations. In furtherance of this policy, and to expedite the orderly and gradual transfer of properties presently under the control of the United States for military purposes in Puerto Rico, the Governments of the United States and the Republic of Puerto Rico shall subscribe a separate agreement for a reasonable and mutually convenient period of transition.

(c) Negotiations leading to the eventual agreement provided in paragraph (b) shall begin in a special task force designated for such purposes by the President of the United States and the Constitutional Convention of Puerto Rico pursuant to section 2.5 of this title. Should this special task, force be unable to reach an agreement prior to the proclamation of independence, the negotiations shall continue between representatives appointed by the United States and the Republic of Puerto Rico, until such time as an agreement may be reached.

(d) The Republic of Puerto Rico shall be a nuclear free zone. The United States and the Republic of Puerto Rico shall adhere and fully comply with the provisions of the Treaty for the Proscription of Nuclear Weapons in Latin America of 1967 (Treaty of Tlatelolco).

(e) The Government of the Republic of Puerto Rico shall, as soon as may be practicable, seek integration into the Inter-American defense system by subscribing the provisions of the Treaty of Mutual Defense of 1948 (Treaty of Rio de Janeiro).

SEC. 5.3. TRADE RELATIONS.

(a) Until proclamation of independence: (1) no trade barriers or quotas of any kind shall be imposed on merchandise and articles going into Puerto Rico from the United States or coming into the United States from Puerto Rico; and (2) trade relations shall be as currently provided by law.

(b) during the twenty years following the proclamation of independence, the United States shall not impose trade barriers or quotas of any kind on merchandise and articles

coming into the United States from the Republic of Puerto Rico.

SEC. 5.4. TAXATION.

(a) The tax credit currently allowed under section 936 of the United States Internal Revenue Code shall remain in full effect upon proclamation of independence and during the fifteen years thereafter with respect to income derived by corporations that begin to fulfill or continue to fulfill the current requirements for such credit.

(b) On the tenth year after proclamation of independence, a Joint Commission on Taxation shall be appointed in equal numbers by the President of the United States and the head of state of the Republic of Puerto Rico to study and report on changes to be made, if any, to the tax credit allowed under subsection (a) at the expiration of the fifteen-year period. If no agreement is reached with respect to such changes, then all earning repatriations received by residents of the United States shall be subject to taxation by the United States, beginning on the sixteenth year after the proclamation of independence, at a rate that shall increase on a straight-line basis by 10 percent of the regular United States corporate tax rate each year until it reaches 100 percent of said regular rate in the twenty-fifth year after the proclamation of independence, provided that a tax credit will be allowed on such earning repatriations pursuant to subsection

(e). If the regular corporate tax rate of the United States is changed before said twenty-fifth year, the difference between the rate to which the earning repatriations are subject during the year of said change and the new regular rate shall be divided, if the latter is higher, by the number of years remaining from the year which follows the year of said change until said twenty-fifth year, and the result of such division shall constitute the extent to which the rate applicable to the dividends shall increase every year from the year which follows the year of said change until said twenty-fifth year. If the new regular United States corporate tax rate is lower than the rate to which the earning repatriations are subject during the year of said change, then the new lower rate shall immediately apply to such repatriations. No other change shall occur before the expiration of said twenty-fifth year with respect to income derived by companies subject to this subsection.

(c) With respect to income not subject to subsections (a) or (b), the profits of an enterprise of either nation shall be taxable only on the nation of residence of said enterprise, unless the enterprise carrier on business in the other nation through a permanent establishment situated therein. If the enterprise carriers on business as aforesaid, the profits of the enterprise may be taxed in the other nation but only so much of them as is attributable to that permanent establishment.

(d) Each nation shall have taxing jurisdiction over income earned by individuals who are residents of either nation from sources within its territorial jurisdiction, property situated therein, including transfers of such property by gift or at death, and products consumed therein.

(e) Where a resident of either nation derives income from the other nation, the amount of tax payable in that other nation in respect to that income pursuant subsections (c) and (d), and the amount of tax payable in the Republic of Puerto Rico that does not exceed for any specific year the amount of tax payable in the United States for that same year pursuant to subsection (b), shall be allowed as a credit against the tax payable in respect to that income in the nation of residence of the taxpayer. A withholding tax on dividends shall be considered a tax on income for these purposes. If the United States amend its laws concerning the provision of tax sparing credits or if the United States reaches an agreement on the provision of a tax sparing credit with any other nation, Puerto Rico shall ipso facto be granted the most favorable degree of tax sparing credit allowed under such amended laws or under such agreement or agreements.

(f) The determination under this section of the residence of any taxpayer, the source of any income, the situs of any property or any other necessary definitions shall be made according to the terms of a joint treaty for the avoidance of double taxation to be entered into by both nations promptly upon the proclamation of the Republic of Puerto Rico. Negotiations leading to such treaty shall be initiated by a special task force designated pursuant to section 2.5 of this title. Until such treaty is executed, such determination shall be made according to the current tax laws of the United States and the Commonwealth of Puerto Rico.

SEC. 5.5 CURRENCY AND FINANCE.

(a) After proclamation of independence, the Republic of Puerto Rico shall have all powers concerning the issuance and control of currency and all powers concerning monetary and financial matters, provided that during the ten years following the proclamation of independence both United States currency and Puerto Rican currency shall be accepted as legal tender in all transactions in Puerto Rico.

(b) The current value of all stock bought by Puerto Rican banks in the Federal Reserve System, Federal Deposit Insurance Corporation and the Federal Home Loan Bank System will be transferred to the Republic of Puerto Rico, including the proportion held by United States national, Spanish and Canadian banks that correspond to the level of their activities of its branches operating in Puerto Rico during the year immediately prior to the proclamation of independence.

(c) The monetary authority of the Republic of Puerto Rico shall establish an integrated system of insurance for deposits in Puerto Rico's financial institutions similar to the Federal Deposit Insurance Corporation. Negotiations will be undertaken with United States monetary authorities to obtain their assistance in the design and establishment of the insurance system, and to determine the extent of financial support to be provided for the system by United States insurance organizations in which Puerto Rico's financial institutions currently participate.

(d)(1) The guarantees provided by the Government of the United States to investors in the secondary market for loans, particularly mortgage loans guaranteed by the Government National Mortgage Association (G.N.M.A.), the Federal National Mortgage Association (F.N.M.A.), the Federal Home Loan Mortgage Corporation (F.H.L.M.) and other United States Government instrumentalities, shall be maintained for Puerto Rico-originated loans until maturity.

(2) Negotiations shall be carried out to ensure that after proclamation of independence Puerto Rico-originated loans, particularly housing mortage loans, can continue to be guaranteed by G.N.M.A., F.N.M.A., F.H.L.M. and other United States Government instrumentalities and can continue to be sold to investors in the United States secondary markets.

SEC. 5.6. PUBLIC DEBT.

(a) The debts, liabilities, and obligations of the Commonwealth of Puerto Rico, its municipalities and instrumentalities, valid and outstanding upon proclamation of independence, shall be assumed by the Republic of Puerto Rico.

(b) After proclamation of independence the United States shall maintain full income tax exemption, as currently provided by law, on interest payments derived from debts of the Commonwealth of Puerto Rico assumed by the Republic, as specified in subsection (a).

(c) During the twenty-five years following the proclamation of independence, the United States shall extend full income tax exemption, as currently provided by law, to interest payments derived from debts of the Republic of Puerto Rico.

SEC. 5.7. INDIVIDUAL RIGHTS TO ECONOMIC BENEFITS AND GRANTS TO THE REPUBLIC OF PUERTO RICO.

(a) All vested rights and benefits which accrue to residents of the Commonwealth of Puerto Rico under the laws of the United States from past services or contributions, such as rights and benefits for veterans or relatives of veterans of the Armed Forces of the United States, retired Government employees, or beneficiaries of old age, disability of survivors' insurance benefits under the Social Security Act, shall not be interrupted after the proclamation of independence but will continue until such time as said rights and benefits are com-

pletely extinguished according to the applicable laws of the United States. All services which must be rendered as part of these rights and benefits shall be made available through the Government of the Republic of Puerto Rico in accordance with agreements reached by the two nations.

(b) Notwithstanding the provisions in subsection (a), all contributions made by employees and employers in Puerto Rico to the Social Security System with respect to persons who, upon the proclamation of independence, are residents of the Republic of Puerto Rico and are not yet eligible for old age, disability, or survivors' insurance benefits under the system, shall be transferred to the Government of the Republic of Puerto Rico once said Government establishes its own social security system. The Government of the Republic of Puerto Rico may not use these funds for any purpose other than the establishment and operation of a social security system. Upon the transfer described herein, the obligations of the United States Government under the Social Security Act with respect to such residents of the Republic of Puerto Rico shall cease.

(c) All other Federal transfer payments to individuals and to the Government of the Commonwealth of Puerto Rico shall be maintained in the form of annual block grants to be used discretionally by the Government of the Republic of Puerto Rico—

(1) During the ten fiscal years following the proclamation of independence, the annual block grants shall amount to the annual aggregate funding of all programs which currently extend to the Commonwealth of Puerto Rico, or of all programs which shall have been extended to the Commonwealth of Puerto Rico during the fiscal year immediately prior to the proclamation of independence, whichever shall be greater.

(2) The annual block grants shall decrease thereafter on a straight-line basis, at the rate of ten percent each year, beginning on the eleventh fiscal year after the proclamation of independence. At any time during the aforementioned transition period the terms of this subsection may be modified by agreement between the United States and the Republic of Puerto Rico.

SUBTITLE 6—RELATIONS BETWEEN THE UNITED STATES AND THE REPUBLIC OF PUERTO RICO

SEC. 6.1. TREATY OF FRIENDSHIP AND COOPERATION.

To insure that all provisions of this title which shall have effect after the proclamation of independence will in effect be binding, the United States and the Republic of Puerto Rico shall embody said provisions in a treaty of friendship and cooperation.

TITLE IV—COMMONWEALTH

SUBPART 1. STATEMENT OF PURPOSES

In 1952 the Congress of the United States, fully recognizing the principle of government by consent, and the People of Puerto Rico, in the exercise of their right to self-determination, entered upon a compact which established a Commonwealth relationship between Puerto Rico and the United States.

Under the compact the People of Puerto Rico adopted in their own sovereign right their own Constitution and formed an autonomous political community in permanent union with the United States of America based on the irreversible bond of American citizenship.

In 1953 the General Assembly of the United Nations recognized the creation of the Commonwealth and removed Puerto Rico from the list of non-self-governing territories. This association has enabled the People of Puerto Rico to advance their economic and social development and to preserve their distinct historical heritage and cultural personality.

As inherent in all political relationships freely entered upon, it was based on the understanding that it would evole and develop within its particular political nature upon mutually agreeable terms.

It is the purpose of this Act to provide for the enhancement of the Commonwealth relationship by enlarging the scope of self-government of the Puerto Rican people upon the approval of a proposition to that effect by a majority of the eligible voters of the Commonwealth of Puerto Rico.

SUBPART 2. REFERENDUM PROPOSITION: COMMONWEALTH

The referendum proposition regarding Commonwealth, to be presented to, and voted upon, by the People of Puerto Rico shall be as follows:

"The Commonwealth association with the United States shall be enhanced to enable the People of Puerto Rico to accelerate their economic and social development and attain maximum cultural and political autonomy within permanent union with the United States based on the irreversible bond of American citizenship, a common defense, a common market, and a common currency."

The proposition will appear in the ballot, in Spanish, as follows:

"El Estado Libre Asociado se fortalecerá para acelerar el desarrollo económico y social y alcanzar la máxima autonomía cultural y política del pueblo de Puerto Rico en su unión permanente con los Estados Unidos sobre los pilares de común defensa, común mer-

cado, común moneda, y el vinculo indisoluble de la ciudadanía americana."

SUBPART 3. PRINCIPLES OF COMMONWEALTH

Section 1 of the Puerto Rico Federal Relations Act, 39 Stat. 954, as amended, 48 U.S.C. section 731, shall be repealed, and replaced by the following:

"(1) The provisions of this Act shall apply to the Commonwealth of Puerto Rico, an autonomous body politic joined in permanent union with the United States on the basis of common citizenship, common defense, common market and common currency.

(2) The policy of the United States shall be to enhance the Commonwealth relationship enjoyed by the Commonwealth of Puerto Rico and the United States to enable the People of Puerto Rico to accelerate their economic and social development and attain maximum cultural and political autonomy within permanent union with the United States, to secure more equitable participation for the People of the Commonwealth of Puerto Rico in all Federal programs that provide grants or services to citizens of the United States as individuals, to secure increased participation by the People of Puerto Rico in United States governmental decisions affecting them, to safeguard the distinct cultural identity of the People of Puerto Rico, and to protect the bilateral nature of the relationship between the Commonwealth of Puerto Rico and the United States.

SUBPART 4. IMPLEMENTATION OF FEDERAL POLICY

Section 9 of the Federal Relations Act, 39 Stat. 954, as amended, 48 U.S.C. section 734, is amended by inserting at the beginning thereof the term "(a)" and by adding at the end thereof the following:

"(b) A Federal statutory law, or provision of such law, is locally inapplicable unless it is consistent with the policy established under subpart 3 and unless such Federal statutory law has proper regard for the economic, cultural, ecological, geographic, demographic and other local conditions of the Commonwealth of Puerto Rico. This subsection shall not apply to:

(i) any Federal statutory law in which the Congress makes a specific finding that there is an overriding national interest that such law should apply to the Commonwealth of Puerto Rico, or

(ii) any Federal satutory law, or provision thereof, establishing directly or indirectly grants and/or services to civilizen of the United States as individuals, or

(iii) any Federal statutory law or provision thereof relating to citizenship, or

(iv) any Federal statutory law or provision thereof pertaining to the foreign relations, defense or national security of the United States that requires uniform applicability throughout the United States, including the Commonwealth of Puerto Rico, to achieve its intended purposes.

(c) In addition to judicial determinations of the inapplicability of Federal laws under subsection (b), the Governor of the Commonwealth of Puerto Rico may certify from time to time to the Speaker of the House of Representatives, the President of the Senate, and the President of the United States, that a Federal statutory law or provision thereof, other than one excluded from the operation of subsection (b), is inconsistent with a Puerto Rican statute and the policy established under subsection (b). Unless within sixty days of the receipt of such certification, a statute is enacted embodying the finding required under subsection (b)(i), the President shall issue a proclamation that such Federal statutory law or provision thereof identified in the Governor's certification is not applicable in Puerto Rico.

(d)(i) The Commonwealth of Puerto Rico may continue to enter in its own name into international cultural, commercial, educational and sports agreements, and other agreements of like nature.

(ii) In addition, the Governor of the Commonwealth of Puerto Rico may take any official action to promote the international interests of Puerto Rico that requires the consent of the United States Government and is not expressly prohibited by law. The Governor of the Commonwealth of Puerto Rico shall provide written notice to the President of the United States of any official action he contemplates taking pursuant to the authorization of this part of this subsection and not pursuant to any other authorization of consent. The President may, within thirty days of his receipt of such notice, sign and transmit to the Governor of the Commonwealth of Puerto Rico a document expressing his determination that the contemplated official action would imperil the foreign relations or national defense of the United States, in which case the authorization hereby granted shall be withdrawn as regards such contemplated official action.

(e) All departments and agencies of the Government of the United States shall be guided by the policy stated in subpart 3 when carrying out their duties under Federal statutory laws and Federal regulations applicable in or affecting the Commonwealth of Puerto Rico. Every such department or agency shall, before taking any major Federal action applicable in or affecting the Commonwealth of Puerto Rico, separately evaluate the consistency of such action with such policy and shall state, in a document accompanying the major

Federal action, the extent, nature, and result of its consideration.

(f) Any rule, as defined in 5 U.S.C. section 551(4), issued by an agency, as defined in 5 U.S.C. section 551(1), shall apply in the Commonwealth of Puerto Rico only to the extent that it is consistent with the policy set forth in subsection (b). After the effective date of this amendment, when any such rule, other than a rule issued after notice and hearing required by statute, that does not in terms provide that it is inapplicable in the Commonwealth of Puerto Rico is published in the Federal Register, the Governor of the Commonwealth of Puerto Rico may submit to the agency within thirty days in writing (or such longer period as the agency may have prescribed as the period between publication of the rule and its effectiveness) the Governor's determination that such rule is inconsistent with the policy stated in subsection (b). Thereupon, the agency shall reconsider the question of consistency of the rule with the policy stated in subsection (b) and shall, within forty-five days of its receipt of the Governor's determination, publish in the Federal Register its finding either that there is an overriding national interest that the rule be applicable in the Commonwealth of Puerto Rico, in which case the rule, whether or not previously applicable in the Commonwealth of Puerto Rico, shall thereafter be so applicable, or that the rule is not compatible with such policy,

in which event such rule, whether or not previously applicable in the Commonwealth of Puerto Rico, shall not be so applicable. Unless the agency for good cause finds that a rule that is the subject of such determination by the Governor of Puerto Rico as is described in this subsection shall be applicable to the Commonwealth of Puerto Rico pending its consideration of such determination, and publishes such finding in the Federal Register, such rule, whether or not previously applicable in the Commonwealth of Puerto Rico, shall not be so applicable pending such consideration. An agency's decision to make a rule applicable or inapplicable in Puerto Rico shall be subect to judicial review.

(g) The laws, rules and regulations of the United States applicable in the Commonwealth of Puerto Rico when the new Federal policy is established in accordance with subpart 3 shall continue in effect except to the extent repealed or modified by this Act, or inconsistent with it, and except as hereafter modified, suspended or repealed in accordance with law.

SUBPART 5. AVIATION

Section 1102 of the Federal Aviation Act is amended by adding a new section (e) to read as follows:

"(e)(i) The Government of the Commonwealth of Puerto Rico shall have authority to negotiate on its own behalf bilateral air transportation agreements governing the operation of

air services by United States and foreign air carriers between the Commonwealth and foreign points. Such agreements may also include authorization of service by United States and foreign air carriers to use any point in the Commonwealth as an intermediate or beyond point on routes between points in the United States and foreign nations for which the carrier holds certificate or foreign air carrier operating authority from the Department of Transportation. Such agreements may authorize such carriers to engage in common carriage of persons and property between such authorized points in the United States and the Commonwealth, notwithstanding the provisions of sections 416(6)(7) and 1108 of this Act.

"(ii) Operating rights contained in Commonwealth bilateral air transportation agreements shall be subject to the grant of necessary operating authority by the Department of Transportation and the Administrator. The responsibilities of the Department and the Administrator under subsection (a) of this section shall extend to such bilateral agreements.

"(iii) Operating authority issued by the Department of Transportation in implementation of bilateral agreements negotiated by the Government of the Commonwealth of Puerto Rico shall be subject to the President's right of disapproval as contained in section 801(a) of this Act.

"(iv) The officials of the Federal Aviation Administration of the United States are directed to assist and cooperate

with the appropriate officials of the Commonwealth of Puerto Rico in the implementation of any air transportation agreement entered into pursuant to the authority herein established.".

SUBPART 6. DEVELOPMENT OF TOURISM

Section 4a(l) of the Coastal Barrier Resources Act of 1982, 16 U.S.C. section 3503(a)(l), is amended by adding to the end of the subsection: "Notwithstanding the foregoing, no area within the Commonwealth of Puerto Rico shall be included within the Coastal Barrier Resources System.".

SUBPART 7. INTERNATIONAL TRADE

(a) Section 2 of the Act of April 12, 1900, 48 U.S.C. 739, is amended by inserting the following subsection.

"1. To the extent consistent with the international obligations of the United States, the Commonwealth of Puerto Rico is authorized to impose tariff duties on foreign origin products imported into Puerto Rico. Such tariff duties shall be in addition to the general tariff duties applicable to products imported into the customs territory of the United States.".

(b) Section 1102 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. 2902, is amended by adding a new subsection (e) as follows:

"(e) During the negotiation of any trade agreement affecting Puerto Rico under subsections (a), (b), and (c), the

President shall seek the participation of the Commonwealth of Puerto Rico in the negotiation process, and shall consult with the Governor of the Commonwealth of Puerto Rico concerning the potential impact of any proposed tariff rate change on the economy of Puerto Rico.

The Government of the United States shall seek to obtain favorable treatment from foreign countries for exports from the Commonwealth of Puerto Rico and shall encourage other countries to consider Puerto Rico as a developing area for purposes of their respective General Systems of Trade Preferences, and any such regional systems of trade preferences.".

SUBPART 8. MARITIME

(a) Section 9 of the Puerto Rican Federal Relations Act, 48 U.S.C. section 744, is amended to add at the end of the provision: "except that those provisions of the Shipping Act, 1916, administered by the Federal Maritime Commission shall not be applicable to the trade between Puerto Rico and the States of the United States. The Commonwealth of Puerto Rico is authorized to establish its own maritime commission which, when established in accordance with Puerto Rico law shall exercise exclusive jurisdiction over service, rates, fares, and practices governing the trade between Puerto Rico and the states of the United States."

(b) Section 1 of the Shipping Act, 1916, as amended, 46 U.S.C. App. section 801, is amended by inserting after the second "possession of the United States" and at the end of the provision, the following phrase: "not including the Commonwealth of Puerto Rico.".

SUBPART 9. JURISDICTION OVER MARITIME RESOURCES

(a) Amend section 3(21) of the Magnuson Fishery Conservation and Management Act, as amended, 16 U.S.C. 1802(21) to read as follows:

"(21) The term 'State' means each of the several States, the District of Columbia, American Samoa, the Virgin Islands, Guam, and any other territory or possession of the United States, but does not include the commonwealth of Puerto Rico.".

(b) Amend the first sentence of section 2(6) of the Magnuson Fishery Conservation and Management Act, as amended, 16 U.S.C. 1802(6) to read as follows: "The term 'exclusive economic zone' means the zone established by Proclamation Numbered 5030, dated March 10, 1983, except that such zone shall not include zones contiguous to the territorial sea of the Commonwealth of Puerto Rico, provided that the Commonwealth of Puerto Rico shall take no action that would purport to restrict or charge fees to vessels of the United States for the right to fish for highly migratory spe-

cies of fish within any fishing jurisdiction the 'Commonwealth of Puerto Rico may establish beyond its territorial waters.".

SUBPART 10. INTELLECTUAL PROPERTY

(a) Section 101 of title 17 of the United States Code is amended as follows:

(1) By inserting the following new definitions in alphabetical order:

"The 'design of a useful article,' hereinafter referred to in this Title as a 'design,' consists of those aspects or elements of the article, including its two dimensional or three dimensional features of shape and surface, which make up the appearance of the article, and shall include a 'typeface' as herein defined.

"A design is 'of Puerto Rican origin' (a) if more than 50 percent of its development costs have been incurred within the Commonwealth of Puerto Rico, irrespective of whether such design is fixed in a useful article in the Commonwealth of Puerto Rico; or (B) if it is first fixed in the Commonwealth of Puerto Rico in a useful article intended to be distributed to the public for commercial purposes.

"A 'typeface' consists of a set of letters, numbers, or other symbolic characters, whose

forms are related by repeating design elements consistently applied in a national system, to the extent that the repeating design elements in the combination employed in a notational system are (A) original, (B) distinct, and (C) incorporated in a useful article whose normal use is in composing text or other cognizable combination of characters.".

(2) By adding, after the semicolon in the second sentence of the definition of "Pictorial, graphic, and sculptural works," the following: "except where a design of Puerto Rican origin is involved,".

(b) Section 102 of title 17 of the United States Code is amended by adding a new subsection 102 (a)(8) as follows:

"(8) designs of useful articles, where such designs are of Puerto Rican origin.".

(c) Section 113 of title 17 of the United States Code is amended by adding a new subsection (d) as follows:

"(d) In the case of a design of Puerto Rican origin, the scope of exclusive rights in a copyrighted work does not extend to a design that is (i) staple or commonplace, such as a standard geometric figure, familiar symbol, emblem, or motif, or other shape, pattern, or configuration which has become common, prevalent, or ordinary; (ii) different from a design excluded by (i) hereof only in insignificant details or in

elements which are variants commonly used in the relevant trades; (iii) dictated primarily by a utilitarian function of the article in which it is fixed, (iv) composed of three-dimensional features of shape and surface with respect to men's, women's, and children's apparel; or (v) fixed in a semiconductor chip product that is protected under chapter 9 of this title. Notwithstanding the foregoing, the scope of exclusive rights shall not be limited by the employment in the design of subject matter excluded under (i) through (iii) hereof, if the design is a substantial revision, adaptation, or rearrangement of said subject matter: *Provided, however,* That such exclusive rights shall be available for a design employing subject matter protected under chapters 1 through 8 of this title or title 35 of the United States Code, only if such protected subject matter is employed with the consent of the proprietor thereof. Such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any rights to subject matter excluded from protection or as extending any subsisting protection."

(d) Chapter 3 of title 17 of the United States Code is amended by the addition of a new section 306 as follows:

"§ 306. **Designs of Puerto Rican origin**

(a) The provisions of section 302 through 305 of this chapter shall not apply to copyrights in designs of Puerto Rican origin.

(b) Copyright in a design of Puerto Rican origin subsists from its creation and endures for a period of ten years.

(c) A term of copyright provided by this section shall run to the end of the calendar year in which in would otherwise expire.".

(e) Section 407 of title 17 of the United States Code is amended by adding the following language before the semicolon in section 401(b)(1): ", or, in the case of a design of Puerto Rican origin, the symbol D (the letter D in a circle), or the words "Design Copyright,' or the abbreviation 'Des. Copr.'.".

(f) Section 407 of title 17 of the United States Code is amended by striking the period the end of section 407 (c) and adding the following language: ", or the work is a design of Puerto Rican origin.".

(g) Section 901 (a) of title 17 of the United States Code is amended by adding a new subsection (10) as follows:

"(10) a mask work is 'of Puerto Rican origin' (a) if more than 50 percent of its development costs have been incurred within the Commonwealth of Puerto Rico, irrespective of whether such mask work is fixed in a computer chip in the Commonwealth of Puerto

Rico; or (B) if it is first fixed in the Commonwealth of Puerto Rico in a computer chip intended to be distributed to the public for commercial purposes.".

(h) Section 906 of title 17 of the United States Code is amended by adding at the end thereof the following:

"(c) The limitations on exclusive rights provided under subsections (a) and (b) of this section shall not apply to mask works of Puerto Rican origin.".

(i) The foregoing sections (a) through (h) shall apply after the date of enactment to all acts of manufacture or distribution that occur in the United States after such date, to all acts of importation into the United States that occur after such date, and to all violations of the exclusive rights of the copyright's owner under of title 17, United States Code that occur after such date.

SUBPART 11. FEDERAL PROGRAMS

(a) CONSOLIDATION OF GRANT-IN-AID PROGRAMS.—The Puerto Rico Federal Relations Act is amended by inserting a new section 59, as follows:

SECTION 59.

In order to minimize the burden caused by existing application and reporting procedures for grant-in-aid programs available to the Commonwealth of Puerto Rico it is hereby declared to be the policy of the Congress, notwithstanding any provision of law to the contrary, that:

"(a) At the request of the Governor of the Commonwealth, any department or agency of the Government of the United States which administers any Act of Congress which specifically provides for making grants to the Commonwealth under which payments received may be used by the Commonwealth only for certain specified purposes (other than direct payments to classes of individuals, including, but not limited to, Aid to Families with Dependent Children, title IV–A of the Social Security Act, 42 U.S.C. 601; Medicaid, title XIX of the Social Security Act, 42 U.S.C. 2396; Supplemental Security Income, title XVI of the Social Security Act, 42 U.S.C. 1381; Foster Care, title IV–E of the Social Security Act, 42 U.S.C. 670; and Nutrition Assistance Program, 7 U.S.C. 2028) shall, acting through appropriate administrative authorities of such department of agency, consolidate any or all grants made to the Commonwealth for any fiscal year or years.

"(b) Any consolidated grant for the Commonwealth shall not be less than the sum of all grants which the Commonwealth would otherwise be entitled to receive for such year.

"(c) The funds received under a consolidated grant shall be expended in furtherance of the programs and purposes authorized for any of the grants which are being consolidated, which are authorized under any of the Acts administered by

the department or agency making the grant, and which would be applicable to grants for such programs and purposes in the absence of the consolidation, but the Commonwealth shall determine the proportion of the funds granted which shall be allocated to such programs and purposes.

"(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which the Commonwealth may submit: (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated grant shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications, and (ii) a single report to such department or agency with respect to each such consolidated grant: *Provided,* That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receiving benefits from any consolidated grant. The administering authority of any department or agency, in its discretion, may (i) waive any requirement for matching funds otherwise required by law to be provided by the Commonwealth and (ii) waive the requirement that the Commonwealth submit an application or report in writing with respect to any consolidated grant.

(b) EQUITABLE TREATMENT IN SOCIAL PROGRAMS.—The Puerto Rican Federal Relations Act is amended by inserting a new section 60 as follows:

"SECTION 60.

"(a) It is the policy of the United States that the allocations to the Commonwealth of Puerto Rico of the following programs shall achieve full parity with the States of the Union as soon as possible but in no event later than the fifth anniversary of the date of enactment hereof with allocations to States of the Union in the following programs or their successor thereof: Nutrition Assistance Program (NAP); Aid to Families with Dependent Children (AFDC); and Medicaid; and in no event later than the ninth anniversary of the date of enactment hereof with allocations to States of the Union for the Supplemental Security Income (SSI) program, or its successor.".

SUBPART 12. PROTECTION OF WORKERS

(a) Amend section 3 of the Labor Management Act, as amended, (29 U.S.C. 153(b)), by adding after the first sentence: "; with the exception of cases arising under the jurisdiction of the Commonwealth of Puerto Rico which are hereby exclusively delegated to the Labor Relations Board of Puerto Rico. Decisions of the Labor Relations Board of

Puerto Rico may be appealed to the Federal Court of Appeals for the First Circuit.".

(b) The Puerto Rican Federal Relations Act is amended by adding a new section 61, as follows:

"Puerto Rico shall maintain exclusive jurisdiction over employee benefits, other than the benefits currently covered under the Fair Labor Standards Act, the Employee Retirement Income Security Act, and the Occupational Safety and Health Act. Puerto Rico's exclusive jurisdiction shall include, but not be limited to Christmas bonuses, sick and vacation pay, worksman's compensation, and any other benefits not covered under the current aforementioned Federal legislation.".

SUBPART 13. PUERTO RICO PARTICIPATION IN FEDERAL APPOINTMENTS

Section 301 of title 3, is amended by inserting at the beginning thereof the term "(a)" and by adding at the end thereof the following:

"(b) The highest ranking Federal officer serving in the Commonwealth of Puerto Rico for any Federal department and agency, or division thereof, and any other appointment in the Commonwealth of Puerto Rico subject to Senate confirmation, shall be appointed by the President from a list of eligible candidates recommended by the Governor of the Commonwealth of Puerto Rico.".

SUBPART 14. REPRESENTATION IN UNITED STATES SENATE

Section 36 of the Puerto Rican Federal Relations Act, 48 U.S.C. section 891–895, is amended as follows:

"SUBCHAPTER V. RESIDENT COMMISSIONERS

SECTION 891. RESIDENT COMMISSIONERS: ELECTION.

"The qualified electors of Puerto Rico shall choose a Resident Commissioner to the United States Senate and a Resident Commissioner to the United States House of Representatives at each general election, whose terms of office shall be four years from the 3rd of January following such general election, and who shall be entitled to receive official recognition as such commissioner by all of the departments of the Government of the United States, upon presentation, through the Department of States, of a certificate of election of the Governor of Puerto Rico.

"SECTION 892. QUALIFICATIONS OF COMMISSIONERS; APPOINTMENT TO FILL VACANCY.

"No person shall be eligible to election as a Resident Commissioner who is not a bona fide citizen of the United States and who is not more than twenty-five years of age, and who does not read and write the English language. In case of a vacancy in either office of Resident Commissioner by death, resignation, or otherwise, the Governor by and with the advice and consent of the Senate of the Commonwealth of Puerto Rico shall appoint a Resident Commissioner

to fill the vacancy, who shall serve until the next general election and until his successor is elected and qualified.

"SECTION 893. SALARY OF COMMISSIONERS; ALLOWANCES, FRANKING PRIVILEGE.

"The Resident Commissioners shall receive a salary payable monthly by the United States. The Resident Commissioners shall be allowed the same sum for stationary and for the pay of necessary clerk hire as is allowed Members of the Senate of the United States and Members of the House of Representatives of the United States. The Resident Commissioners shall be allowed the franking privilege granted Members of Congress.

"SECTION 894. SALARY AND TRAVELING EXPENSES; PAYMENT.

"The salary and traveling expenses of the Resident Commissioners from Puerto Rico to the United States shall be paid in the same manner as the salaries of the Members of the Senate and the House of Representatives are paid.

"SECTION 895. OTHER PRIVILEGES.

"The appropriate sections of title 2 of the United States Codes and any other statutory law that relates to the privileges afforded United States Senators shall be amended to include the Resident Commissioner from the Commonwealth of Puerto Rico to the United States Senate.".

SUBPART 15. JUDICIARY

Section 42 of the Puerto Rico Federal Relations Act, 48 U.S.C. section 864, is amended by deleting the last sentence and inserting the following paragraph:

"Notwithstanding any other provision of law:

"(1) The District Court shall not undertake to construe a theretofore unconstrued Puerto Rico statute or regulation or decide a theretofore undecided point of substantive Puerto Rico nonstatutory law without having given the Supreme Court of Puerto Rico the opportunity to construe such statute or regulation or to rule upon such point of Puerto Rico law.

"(2) The proceedings of the United States District Court for the District of Puerto Rico shall be conducted in the Spanish language upon the request of any party to the proceedings.

"(3) Any issue of law arising under the Puerto Rico Federal Relations Act in any action or controversy brought in federal court shall be certified to the District of Columbia Court of Appeals. In addition, the Commonwealth of Puerto Rico, its departments, agencies and instrumentalities, as well as officials and agents, in both their official and personal capacity, may transfer any action brought against them in the District Court for Puerto Rico to the District Court for the District of Columbia.".

SUBPART 16. PASSPORTS

(a) Section 211a of title 22, is amended by adding after the provision "by the chief or other executive officer of the insular possessions of the United States,"; "and the Governor of the Commonwealth of Puerto Rico,".

(b) The following new section shall be added to title 22 as section 211b:

"SECTION 211b. UNITED STATES PASSPORT OFFICE IN PUERTO RICO.

"The Secretary of State shall establish a Passport Office for the Caribbean located in San Juan, Puerto Rico and shall authorize the Governor of the commonwealth to administer such office as required by law.".

(c) Section 212 of the Immigration and Nationality Act, 8 U.S.C. section 1182 is amended by adding a new subsection (m) as follows:

"(m) COMMONWEALTH OF PUERTO RICO; WAIVER OF REQUIREMENTS; NONIMMIGRANT VISITORS.—

"(1) The requirement of paragraph 26(B) of subsection (a)—of this section shall be waived by the Attorney General upon the request of the Government of the Commonwealth of Puerto Rico, in the case of an alien applying for admission as a nonimmigrant visitor at the invitation of the Government of the Commonwealth and solely for entry into and stay in the Commonwealth of Puerto Rico for a period not to exceed

thirty days. The District Office for Puerto Rico of the Immigration and Nationality Service shall issue the special temporary entry visit visas, as well as other entry visas.

"(2) If adequate appropriated funds to carry out this subsection are not otherwise available, the Director of the Immigration and Nationality Service is authorized to accept from the Government of the Commonwealth of Puerto Rico such funds as may be tendered to cover all or any part of the costs of administration and enforcement of this subsection.".

SUBPART 17. LAW ENFORCEMENT

Section 287 of the Immigration and Nationality Act, 8 U.S.C. section 1357, is amended as follows:

"(a) Any officer or employee of the Service authorized under regulations proscribed by the Attorney General, and any officer or employee of and within the Commonwealth of Puerto Rico authorized by the Governor of the Commonwealth of Puerto Rico shall have the power without warrant.".

SUBPART 18. HISTORIC SITES AND CONSERVATION LANDS

Section 8 of the Puerto Rico Federal Relations Act, 48 U.S.C. section 749 is amended by redsignating it section 8A and enacting a new Section 8B:

"SECTION 8b.

"(a)(i) Lands. Title to all lands, buildings, and interests in lands, and other property now owned by the United States and within the territorial limits of the Commonwealth of Puerto Rico, and the harbor areas and navigable streams and bodies of water and submerged lands underlying the same in and around the island of Puerto Rico and the adjacent islands and waters, owned by the United States, which may have been acquired in Puerto Rico by the United States under the cession of Spain in the treaty of peace entered into on December 10, 1898, and the lands owned by the United States, and administered under the Caribbean National Forest, is hereby conveyed to the people of Puerto Rico and placed under the control of the Government of the Commonwealth of Puerto Rico; *Provided*, That the United States and the Commonwealth of Puerto Rico may negotiate to establish mutually agreed terms and conditions for the continued use and administration of such lands and properties.

(ii) The conveyance described in subsection (i) of this section shall be effective thirty days after the enactment of this section and the Legislature of the commonwealth of Puerto Rico shall have the authority to legislate as it shall deem advisable with respect to all such Crown Lands conveyed under this section.".

SUBPART 19. COMMUNITY VALUES

The Puerto Rican Federal Relations Act is amended by inserting a new section 61 as follows:

"SECTION 61.

"(a) DEFINITIONS.—

"(1) The term 'antitrust laws' has the same meaning given such term in the first section of the Clayton Act, 15 U.S.C. section 12, and shall also include section 5 of the Federal Trade Commission Act, 15 U.S.C. section 45.

"(2) The term 'person in the entertainment industry' means any organization, or an individual connected with any organization, that produces, distributes, transmits, or exhibits any form of audio or visual entertainment.

"(3) The term 'audio or visual entertainment' includes:

"(i) video, audio, or mixed programs transmitted via electromagnetic waves of any frequency, whether transmitted to all receivers of a given type within transmission range, or to only selected receivers on the basis of a subscription fee or any other criteria;

"(ii) programs transmitted by cable systems as defined in section 602(5)–(6) of the Cable Communications Policy Act of 1984, 47 U.S.C. sec-

tion 522(5)–(6), except that reference in 47 U.S.C. section 522(6) to 'video' shall be read as 'video or audio' and references in 47 U.S.C. section 522(6) to 'television' shall be read as 'television or radio'; and

"(iii) motion pictures, which include entertainment, using film, videotapes, videocassettes, compact discs, or any other functionally substantially equivalent medium, if admission is generally charged for such entertainment, or if such entertainment is generally made available to the public on a rental or purchase basis for private viewing.

"The term 'audio or visual entertainment' does not include printed or otherwise written material unless such printed or otherwise written material is used in any form of audio or visual entertainment described above.

"(b) Upon declaration by the Governor of Puerto Rico (the Governor) and publication of such declaration in the official register of the Commonwealth of Puerto Rico, the antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the entertainment industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate the negative impact of violence, pornography, alcohol and drugs in all audio or visual entertainment in Puerto Rico, or in any subset of audio or visual entertainment in Puerto Rico as the Governor may designate in any declaration under this section, provided that

"(1) no declaration by the Governor under this section shall operate to exempt from the antitrust laws any joint discussion, consideration, review, action, or agreement that results in a boycott of any person; and

"(2) no declaration by the Governor under this section shall operate to exempt from the antitrust laws any activities conducted more than 36 months after such declaration by the Governor. The Governor may limit the effect of any declaration to a shorter period if he or she does so in the declaration itself.

"(c) A declaration by the Governor under section 2 concerning any forms of audio or visual entertainment shall not limit his or her authority to make future declarations concerning those forms of audio or visual entertainment."

SUBPART 20. ASSUMPTION OF BUDGETARY RESPONSIBILITIES AND TRANSFER OF FEDERAL FUNCTIONS

The Puerto Rican Federal Relations Act is amended by inserting a new section 63, as follows:

"The Commonwealth of Puerto Rico shall assume the expenses inherent in all governmental authority transferred

pursuant to this Act. The Government of the United States, or any agency thereof; may from time to time delegate to the Commonwealth of Puerto Rico the total or partial performance of functions vested in the United States, including the administration of such Federal laws and programs on the island, as may be mutually agreed.".

SUBPART 21.

The enhancements to the Commonwealth relationship adopted pursuant to this Act shall form part of the Compact entered upon by the Congress and the People of Puerto Rico in 1952. It may be amended in the same manner as entered upon in order to provide for the continuing enhancement of the Commonwealth relationship.

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Calendar No. 228

101ST CONGRESS
1st Session

SENATE

REPORT
101–120

PUERTO RICO STATUS REFERENDUM ACT

SEPTEMBER 6, 1989.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 712]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 712) to provide for a referendum on the political status of Puerto Rico, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That—

(1) the United States of America recognizes the principle of self-determination and other applicable principles of international law with respect to Puerto Rico; and

(2) the United States is committed to a process of consultation and negotiation with the people of Puerto Rico leading to a referendum on the issue of political status to be conducted in a fair and equitable manner.

SEC. 2. This Act may be cited as the "Puerto Rico Status Referendum Act".

TITLE I

SEC. 101. REFERENDUM.

(a) IN GENERAL.—An islandwide referendum shall be held in Puerto Rico in which qualified voters of the Commonwealth of Puerto Rico shall be presented a choice of three status options for Puerto Rico. The options shall appear on the ballot as follows:

(1) Statehood as set forth in title II of the Puerto Rico Status Referendum Act;

★ 29–010

(2) Independence as set forth in title III of the Puerto Rico Status Referendum Act; and

(3) Commonwealth as set forth in title IV of the Puerto Rico Status Referendum Act.

(b) DATE OF REFERENDUM.—The first referendum shall occur on June 4, 1991, or on a date during the summer of calendar year 1991 as may be mutually agreed by the three principal political parties of Puerto Rico.

(c) RETURNS OF REFERENDUM.—The returns of the referendum held under this Act shall be made to the Governor of Puerto Rico, who shall cause them to be canvassed in the manner provided by law for the canvass of votes cast in general elections for Federal office in the Commonwealth of Puerto Rico. If there is not a majority in favor of one of the three options, then there shall be, on August 6, 1991, or on a date during the summer of calendar year 1991 as may be mutually agreed by the three principal political parties, a runoff referendum between the two status options which had received the largest number of votes. Such referendum shall also include an option of "None of the Above". The Governor shall certify to the President and to the Congress of the United States that decision of the people of Puerto Rico which received a majority of the votes cast, if a majority is obtained.

(d) APPLICABLE ELECTION LAWS.—The election laws of the Commonwealth of Puerto Rico for a general election for the election of a Federal officer, and as in effect on July 15, 1989, shall apply to the referendum held under this Act, except as otherwise specifically provided in this Act, and as necessarily modified to recognize that it is a referendum on status options. The Attorney General of the United States shall provide for adequate monitoring of the referendum by United States marshals.

(e) JUDICIAL REVIEW.—Any legal dispute or controversy arising out of this referendum shall be adjudicated in accordance with local laws and procedures, except that:

(1)(A) Any aggrieved person (including, without limitation, and political party), within sixty days after the certification by the Governor of the results of the referendum pursuant to title I, section 101(c), may institute an action to challenge the choice certified by the Governor on the basis that (1) an electoral irregularity or irregularities had occurred, and (2) that the irregularity or irregularities were so significant as to affect the outcome of the referendum and call into question the choice certified by the Governor.

(B) The three-judge court provided for in paragraph (2) shall have exclusive jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the aggrieved shall have exhausted any administrative or other remedies provided by Federal law or the law of Puerto Rico.

(C) In any proceeding instituted pursuant to this paragraph of this subsection, if the court finds that there has been an electoral irregularity or irregularities so significant as to affect the outcome of the referendum and call into question the choice certified by the Governor, the court is empowered to grant appropriate relief, including nullification of the entire referendum, ordering a recount or recounts, or any other relief deemed appropriate to preserve the integrity of the electoral process.

(D) The Attorney General of the United States is empowered to intervene at the request of the court in any proceeding brought under this section in order to assist in the gathering and presentation of evidence. Any aggrieved person with a Federal constitutional or Federal statutory claim arising out of the same factual nexus as an action brought under this section may intervene in that action in a manner deemed timely by the court in its discretion. Failure of such an aggrieved person to timely intervene will result in foreclosure of that person's Federal constitutional or statutory claim.

(E) The court may give such weight as it deems appropriate to the determination of the Commonwealth Elections Commission, the courts of the Commonwealth and any other local authority or tribunal. The court is not required to provide de novo review of any and all claims of irregularities already determined by a local authority or tribunal, except as it deems necessary.

(2)(A) Any claim brought under the United States Constitution or a Federal statute, or any claim brought to challenge the result certified by the Governor, whether brought under this Act or under the law of the Commonwealth of Puerto Rico, shall be heard by a three-judge court which shall have exclusive jurisdiction over all such claims.

(B) The court shall receive evidence and hear argument, as it deems necessary. The provisions of section 2284(b)(3) of title 28, United States Code, shall apply to proceedings of the three-judge court. It shall be the duty of the Chief Judge of the First Circuit Court of Appeals, with proper authorization by the Chief Justice of the United States under section 291(a) of title 28, United States Code, where necessary, to designate three judges, of whom at least one shall be a circuit judge and the remaining judge or judges shall be district court judges, to hear and determine any such claim. No judge resident in Puerto Rico shall be designated. Hearings of the three-judge court shall be conducted in Puerto Rico. An appeal from a final judgment of the three-judge court will lie to the Supreme Court of the United States by way of certiorari.

(f) IMPLEMENTATION.—The procedures for implementing the status option which has been certified by the Governor pursuant to subsection (c), shall go into effect on October 1, 1991, in accordance with the appropriate title of this Act.

(g) REFERENDUM INFORMATION OFFICER.—The President shall appoint, from a list provided by the three principal political parties of Puerto Rico, a Referendum Information Officer to be responsible for the translation and distribution of information and educational materials on the referendum. If the President is not satisfied with the qualifications of those persons on the initial list, the political parties shall submit such additional lists as may be necessary until an appointment is made. There are authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

TITLE II—STATEHOOD

SEC. 201. PROCLAMATION.

Should statehood be certified, under section 101 of this Act, as having obtained a majority of the votes cast in the referendum, and upon the certification of the election of the officers required to be elected as provided in section 206 of this Act, the President shall issue his proclamation announcing the results of said election as so ascertained. Upon the issuance of said proclamation, the Commonwealth of Puerto Rico (hereinafter referred to also as "the State") shall be declared to be a State of the United States of America, and shall be declared admitted into the Union on an equal footing with the other States.

SEC. 202. CONSTITUTION.

The Constitution of the Commonwealth of Puerto Rico shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. The Constitution adopted by a vote of the people of Puerto Rico in the election held on June 4, 1951, has been found by Congress to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and was accepted, ratified, and confirmed, through Public Law 447 of the Eighty-second Congress, March 3, 1952. The current Constitution of the Commonwealth of Puerto Rico as ratified by the people at the referendum held on June 4, 1951, is hereby accepted as the Constitution of the State.

SEC. 203. TERRITORY AND BOUNDARIES.

The State shall consist of all of the territory, together with the waters included in the seaward boundary, of the Commonwealth of Puerto Rico.

SEC. 204. STATE TITLE TO LANDS AND PROPERTY.

(a) The State and its political subdivisions shall have and retain title to all property, real and personal, which it currently holds, including, but not limited to, title to submerged lands heretofore granted to Puerto Rico.

(b) Any lands and other properties that, as of the date of admission of Puerto Rico into the Union, are set aside pursuant to law for the use of the United States under any (A) Act of Congress, (B) Executive order, (C) proclamation of the President, or (D) proclamation of the Governor of the Commonwealth of Puerto Rico, shall remain the property of the United States.

(c) Not later than five years after the date of admission of the Commonwealth of Puerto Rico as a State of the Union, each Federal agency having control over any land or property that is retained by the United States pursuant to this section shall submit a report to the President and the Congress concerning the continued need for such land or property. If the President determines that any such land or property, or portion thereof, or any interest therein, is no longer needed by the Federal Government, it shall be conveyed to the Commonwealth of Puerto Rico at no cost. This section does not authorize the transfer of any interest in the Caribbean National Forest or the San Juan Historic Site.

(d) All laws of the United States: (1) reserving to the United States the free use or enjoyment of property which vest in or is conveyed to the Commonwealth of Puerto

Rico or its political subdivisions pursuant to this section; or (2) reserving the right to alter, amend, or repeal laws relating to the ownership of such land; shall cease to be effective upon the conveyance of the land.

SEC. 205. CLAIMS TO FEDERAL LANDS AND PROPERTY.

(a) As a compact with the United States, the Commonwealth and its people recognize all rights and titles to any lands or other property not granted or conferred to the Commonwealth or its political subdivisions by or under the authority of this Act, the right or title to which is now held by the United States or subject to disposition by the United States.

(b)(1) Nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by applicable laws of the United States.

(2) Nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any applicable law authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the determination of the applicability of any law to any such claim shall be unaffected by anything in this Act.

(c) No taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States.

SEC. 206. ELECTIONS AND ADMISSION REFERENDUM.

(a)(1) Within thirty days after the date of the certification of the results of the referendum under title I of this Act, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation for the election of two United States Senators and for such number of United States Representatives in Congress as provided in this Act. The Governor of the Commonwealth shall certify the election of the Senators and Representatives in the manner required by law. The Senators and Representatives elected shall be entitled, upon the proclamation issued under section 201, to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of the other States in the Congress of the United States. The Office of Resident Commissioner shall cease to exist upon the swearing in of the first Member of the House of Representatives so elected.

(2) In the first election of Senators from the State, the two senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No such identification or designation of either of the two senatorial officers shall refer to or be taken to refer to the terms of such offices, or in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

(b)(1) Election returns shall be made and certified in such manner as provided by the electorial laws of Puerto Rico and in such a manner as the Commonwealth of Puerto Rico may prescribe. The Governor of the Commonwealth of Puerto Rico shall certify the results of such elections to the President of the United States.

(2) The new State of Puerto Rico shall be known as the Commonwealth of Puerto Rico.

(3) The individuals holding legislative, executive, and judicial offices of the Commonwealth of Puerto Rico, shall continue to discharge the duties of their respective offices, pending the issuance of the proclamation by the President of the United States and the admission of the Commonwealth of Puerto Rico as a State of the Union. The officers elected or appointed under the provisions of the constitution and laws of the Commonwealth shall thereupon proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of the State, as provided by the constitution and laws of the State.

SEC. 207. CONGRESSIONAL REPRESENTATION.

The Commonwealth of Puerto Rico upon its admission into the Union, and until the next reapportionment, shall be entitled to such additional Representatives as would be provided based upon the 1990 census. The permanent membership of the House of Representatives as now prescribed by law, is hereby increased from four hundred and thirty-five to four hundred and thirty-five plus the number of additional Representatives to which the Commonwealth of Puerto Rico is entitled.

SEC. 208. LAWS IN EFFECT.

(a) Upon admission of the Commonwealth of Puerto Rico into the Union, all of the local laws then in force in the Commonwealth of Puerto Rico shall be and continue in force and effect throughout the State, except as modified or changed by this Act, and shall be subject to repeal or amendment by the legislature of the Commonwealth. All of the laws of the United States shall have the same force and effect within the State as on the date immediately prior to the date of admission of the

State of Puerto Rico, except as otherwise provided in section 213 or elsewhere in this Act, and except for any provisions of law which provide for grants or other assistance to States or other units of local government or individuals and for which the Commonwealth of Puerto Rico or residents thereof are either excluded or whose eligibility is less than that provided on a uniform basis to other States. Any regulatory or other provision of law, other than grants and other assistance, which does not apply to Puerto Rico solely on the basis of particular geography, especially if such provision does not also apply to either Alaska or Hawaii, shall continue to not apply unless specifically extended by Congress.

(b) Within sixty days of the certification of a majority vote for statehood in the referendum, the President shall appoint a Commission on Federal Laws to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not applicable to the Commonwealth of Puerto Rico should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner. The Commission will consist of seven persons (at least four of whom will be residents of Puerto Rico who are and have been for at least five years domiciled continuously in Puerto Rico at the time of their appointments) who will be representative of the Federal, local, private and public interests in the applicability of laws of the United States to the Commonwealth of Puerto Rico. The Commission will make its final report by January 1, 1994, and before that time will make such interim reports and recommendations to the Congress as it considers appropriate. In formulating its recommendations the Commission will take into consideration the potential effect of each law on local conditions within the Commonwealth of Puerto Rico, the policies embodied in the law and the provisions and purposes of this title. The United States will bear the cost of the work of the Commission. There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

SEC. 209. CONTINUATION OF SUITS.

(a) No writ, action, indictment, cause, or proceeding pending in any court of the Commonwealth of Puerto Rico, shall abate by reason of the admission of the Commonwealth of Puerto Rico into the Union, but shall proceed within such appropriate State courts as are now established under the Constitution of the Commonwealth, or shall continue in the United States District Court for the District of Puerto Rico, as the nature of the case may require.

(b) All civil causes of action and all criminal offenses, which shall have arisen or been committed prior to the admission of the Commonwealth, but as to which no writ, action, indictment, or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Puerto Rico in like manner, to the same extent, and with like right of appellate review, as if such State had been created and such State courts had been established prior to the accrual of such causes of action or the commission of such offenses. The admission of the State shall effect no change in the procedural or substantive laws governing causes of action and criminal offenses which shall have arisen or been committed, and any such criminal offenses as shall have been committed against the laws of the Commonwealth of Puerto Rico, shall be tried and punished by the appropriate courts of the State, and any such criminal offenses as shall have been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Puerto Rico.

SEC. 210. APPEALS.

Parties shall have the same rights of judicial review of final decisions of the United States District Court for the District of Puerto Rico or the Supreme Court of the Commonwealth of Puerto Rico, in any case finally decided prior to the admission of the State of Puerto Rico into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission. The United States Court of Appeals for the First Circuit and the Supreme Court of the United States, shall have the same jurisdiction in such cases as by law provided prior to the admission of the State into the Union. Any mandate issued subsequent to the admission of the State, shall be to the United States District Court for the District of Puerto Rico or a court of the State, as appropriate. Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Puerto Rico and of the Supreme Court of Puerto Rico, in any case pending at the time of admission of the State into the Union, and the Supreme Court of the Commonwealth of Puerto Rico and the Supreme Court of the

United States shall have the same jurisdiction therein, as by law provided in any case arising subsequent to the admission of the State into the Union.

SEC. 211. MILITARY LANDS.

(a) Subject to subsection (b) and notwithstanding the admission of the Commonwealth of Puerto Rico into the Union, authority is reserved in the United States for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of land as, immediately prior to the admission of the State, are controlled or owned by the United States and held for defense or Coast Guard purposes.

(b)(1) The Commonwealth of Puerto Rico shall always have the right to serve civil or criminal process within such tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the State but outside of such tracts or parcels of land.

(2) The reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over such lands shall not operate to prevent such lands from being a part of the Commonwealth of Puerto Rico, or to prevent the State from exercising over or upon such lands, concurrently with the Federal Government, any jurisdiction which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation or authority.

(3) The power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for defense or Coast Guard purposes, except that the United States shall continue to have sole and exclusive jurisdiction over such military installations as have been or may be determined to be critical areas as designated by the President of the United States or the Secretary of Defense.

SEC. 212. UNITED STATES NATIONALITY.

No provision of this title shall operate to confer United States nationality, to terminate nationality lawfully acquired, or to restore nationality terminated or lost under any law of the United States or under any treaty to which the United States is or was a party.

SEC. 213. ECONOMIC ADJUSTMENT.

The following provisions are enacted pursuant to Congress's power to admit new States, in recognition of the unique Federal tax provisions and programs affecting the Commonwealth of Puerto Rico which differ from those which applied to any other newly admitted State, and solely for the purposes of effecting a smooth and fair transition for the new State with a minimum of economic dislocation and to permit Federal agencies to assume or expand responsibilities for the administration and enforcement of Federal taxes and programs affecting the citizens residing in the new State.

(a) APPLICATION OF EXCISE TAXES.—Effective on the date of admission of the State of Puerto Rico, all Federal excise taxes not heretofore applicable to the former Commonwealth of Puerto Rico are hereby extended to the State in the same manner as otherwise applicable in the several States.

(b) APPLICATION OF FEDERAL LAWS.—Effective upon the certification of the results of the referendum, the heads of all Federal agencies are directed, as a priority matter, to examine the application of all programs within the jurisdiction of their respective agencies and, after consultation with the Governor of Puerto Rico, to recommend to the President, and to the Commission established under section 208(b), what changes, if any, and what additional administrative requirements, if any, will be needed to properly achieve the application of Federal laws in or to the new State with proper regard for the economic, geographic, and cultural circumstances of the new State.

(c) TRANSITION FOR CERTAIN ENTITLEMENTS.—Except as otherwise provided in this subsection, effective on the date of admission of the State of Puerto Rico, all Federal programs which provide assistance to or on behalf of individuals, including, but not limited to, Aid to Families with Dependent Children, Medicaid, Medicare, Foster Care and Adoption Assistance, Social Services block grant, and the Food Stamp Program, shall apply in the Commonwealth of Puerto Rico as they apply within the several States: *Provided*, That, reimbursements under Medicare shall not exceed the actual cost of providing equivalent health care to the levels of care provided in the several contiguous States: *Provided further*, That the Secretary of Agriculture may, with the consent and agreement of the Governor of Puerto Rico continue to obligate the amount of funds for which Puerto Rico becomes eligible under the Food Stamp

Program as a block grant rather than as coupons as a pilot program until October 1, 1997, unless otherwise provided by Congress. Solely for the purposes of transition and as a matter of administrative necessity, to enable the Secretary of Health and Human Services to properly administer and provide benefits under the Supplemental Security Income Program, such program shall not commence until January 1, 1994. Until such date, the present Program for Aid to the Aged, Blind and Disabled is continued.

(d) TRANSITION FOR TAX.—The current tax treatment applicable to Puerto Rico is continued until January 1, 1994. Effective upon the certification of the results of the referendum, the Secretary of the Treasury shall consult with the Governor of Puerto Rico on the transition of the new State from a foreign tax jurisdiction. The Secretary is authorized, on a nonreimbursable basis, to provide such technical and other assistance as the Governor may require to reform the present revenue situation of Puerto Rico prior to January 1, 1994. The heads of all Federal agencies are directed to assist the Secretary and to provide such support as the Secretary may request. Effective January 1, 1994, the Federal internal revenue laws shall apply within the State of Puerto Rico as within the several States subject to such transitional rules or other provisions as Congress may have enacted prior to such date: *Provided*, That, the credit previously allowed under section 936 of the Internal Revenue Code with respect to income or investments from activity in Puerto Rico shall be reduced to 80 per centum for taxable years beginning in 1994, 60 per centum for taxable years beginning in 1995, 40 per centum for taxable years beginning in 1996, 20 per centum for taxable years beginning in 1997, and shall not be available with respect to such income or investments thereafter. Congress explicitly reserves authority to enact appropriate transitional rules regarding the implementation of the above credit reductions and the tax treatment of corporations with respect to which an election under Internal Revenue Code section 936 is in effect during the transition period, and the Secretary of the Treasury is authorized to promulgate and implement such regulations as are necessary therefore.

(e) STATEHOOD GRANTS AND ASSISTANCE.—

(1) The current payment provided by permanent indefinite appropriations of customs duties and equivalency payments on alcohol are hereby continued as a statehood grant.

(2) Until otherwise provided by law, all revenues derived from excise taxes which became applicable in the State pursuant to subsection (a) of this section, or any new excise taxes which become applicable thereafter, shall be deposited into the Treasury of Puerto Rico. As a compact with the State of Puerto Rico, no alteration in the transfer of funds under this paragraph and paragraph (1) above may be made until after October 1, 1998. The prohibition under section 7652(d)(2) of the Internal Revenue Code shall apply to such funds.

(3) As a transitional statehood grant to the new State to assist in maintenance of government services and to provide for maintenance of infrastructure, and to minimize the impact on local revenues from the transition from being a foreign tax jurisdiction, all revenues derived from the application of the Federal internal revenue laws in 1994 and 1995 within the State of Puerto Rico shall be deposited into the Treasury of Puerto Rico. The measure of the amount of income which is so derived will be determined according to such transitional rules or other provisions as Congress may have enacted prior to January 1, 1994.

TITLE III—INDEPENDENCE

SEC. 301. CONSTITUTIONAL CONVENTION.

(a) Should independence be certified, under section 101 of this Act, as having obtained a majority of the votes cast in the referendum, then the Legislative Assembly of the Commonwealth of Puerto Rico shall provide, within two months, for the election of delegates to a Constitutional Convention to serve until the proclamation of independence and to draft a Constitution for the Republic of Puerto Rico. The election of delegates must be held within six months after such referendum.

(b) Those qualified to vote in the election of delegates to the Constitutional Convention shall be (1) All persons born and residing in Puerto Rico; (2) all persons residing in Puerto Rico and one of whose parents was born in Puerto Rico; (3) all persons who at the time of the adoption of this Act shall have resided in Puerto Rico for a period of twenty years or more; (4) all persons who established their residence in Puerto Rico prior to attaining voting age and still reside in Puerto Rico; and (5) spouses of all persons included in (1), (2), (3), and (4) above.

(c) The laws of the Commonwealth of Puerto Rico relating to additional voter qualifications and the electoral process shall apply to this election.

(d) The Constitutional Convention shall meet within three months of the election of delegates at such time and place as the Legislative Assembly of the Commonwealth of Puerto Rico shall determine.

(e) The Constitutional Convention shall exercise jurisdiction over all of the territory of Puerto Rico ceded to the United States by Spain by virtue of the Treaty of Paris the tenth day of December 1898.

SEC. 302. CHARACTER OF THE CONSTITUTION.

(a) The Constitutional Convention mandated under the previous section shall formulate and draft a constitution establishing a republican form of government which shall guarantee the protection of fundamental human rights.

(b) The fundamental human rights guaranteed by the aforementioned constitution shall include such rights as due process and equal protection under the law, freedom of speech, press, assembly, association, and religion, as well as the rights of the accused, and economic, social, and cultural rights such as the right to education, adequate nutrition, health services, adequate housing, and work or employment and the right to own private property and to just compensation for the taking thereof.

(c) The property rights of the United States and Puerto Rico shall be promptly adjusted and settled, and all existing property rights of citizens or corporations of the United States shall be acknowledged, respected, and safeguarded to the same extent as property rights of citizens of Puerto Rico.

SEC. 303. RATIFICATION OF THE CONSTITUTION.

(a) The Constitution adopted by the Constitutional Convention shall be submitted to the people of Puerto Rico for its ratification or rejection.

(b) The Legislative Assembly of the Commonwealth of Puerto Rico shall call for a special election for such ratification or rejection, to be held within three months of the adoption of the Constitution by the Constitutional Convention.

(c) The special election providing all qualified voters the opportunity to cast a vote for or against the proposed Constitution shall be held in the manner prescribed by the Legislative Assembly of the Commonwealth of Puerto Rico. In the event such Constitution is not approved in the election, it shall be resubmitted to the convention for further consideration and resubmission to the voters as provided in this section.

(d) Those qualified to vote in this election shall be those possessing the qualifications established in section 301 of this title.

SEC. 304. ELECTION OF OFFICERS OF THE REPUBLIC.

(a) Within thirty days of the ratification of the Constitution as provided for by section 303 of this title, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation calling for the election of such officers of the Republic of Puerto Rico as may be required by the ratified Constitution.

(b) The election of officers of the Republic shall be held not later than six months after the date of ratification of the Constitution.

(c) The aforesaid election shall be held in accordance with the procedures and requirements established in the Constitution of the Republic of Puerto Rico.

(d) The Governor of the Commonwealth of Puerto Rico shall certify the results of the election to the President of the United States.

SEC. 305. JOINT TRANSITION COMMISSION.

(a) A Joint Transition Commission shall be appointed in equal numbers by the President of the United States and the Presiding Officer of the Constitutional Convention of Puerto Rico.

(b) The Joint Transition Commission shall be responsible for expediting the orderly transfer of all functions currently exercised by the Government of the United States in Puerto Rico, or in relation to Puerto Rico; including the recommendation of appropriate legislation to the appropriate officials of each government.

(c) Any necessary task forces established by the Joint Transition Commission shall be constituted in the same manner as the Commission.

(d) The Government of the Commonwealth of Puerto Rico and the agencies of the Government of the United States shall cooperate with the Joint Transition Commission and subsequently with the new officers of the Republic of Puerto Rico, to provide for the orderly transfer of the functions of government.

(e) The costs of the Transition Commission shall be evenly divided between the United States and Puerto Rico, and there is hereby authorized to be appropriated such sums as are necessary for the United States share of these costs. Agencies of

the United States Government shall provide technical assistance to the Joint Transition Commission on a reimbursable basis.

SEC. 306. RESOLUTION OF CONTROVERSIES PRIOR TO INDEPENDENCE.

Except as provided in title I of this Act and beginning on the date of the certification provided for in title I of this Act, and until the date of proclamation of independence, any action arising from this title filed in courts of the United States shall be stayed and referred to the Joint Transition Commission for resolution within a reasonable period of time.

SEC. 307. PROCLAMATIONS BY THE PRESIDENT OF THE UNITED STATES AND THE HEAD OF STATE OF THE REPUBLIC OF PUERTO RICO.

(a) Not later than one month after the official certification of the elected officers of the Republic of Puerto Rico under section 304, and the approval, in accordance with the constitutional processes of Puerto Rico and the United States, of the agreements set forth in sections 312 and 313, the President of the United States shall by proclamation withdraw and surrender all rights of possession, supervision, jurisdiction, control or sovereignty then existing and exercised by the United States over the territory and people of Puerto Rico, and shall furthermore recognize on behalf of the United States of America the independence of the Republic of Puerto Rico and the authority of the government instituted by the people of Puerto Rico under the Constitution of their own adoption. The proclamation shall state that the effective date of withdrawal of the sovereignty of the United States and the recognition of independence shall be the same as the date of the proclamation of independence, as provided in subsection (d).

(b) The President of the United States shall forward a copy of the proclamation issued by him to the presiding officer of the Constitutional Convention of Puerto Rico within a week after signature.

(c) Within one week after receiving the Presidential proclamation and with the advice of the officer elected as head of state of the Republic, the presiding officer of the Constitutional Convention shall determine the date on which the Government of the Republic shall take office, and shall so notify the Governor of the Commonwealth of Puerto Rico and the President of the United States.

(d) Upon taking office, the head of state of the Republic of Puerto Rico shall immediately issue a proclamation declaring (1) that Puerto Rico has become a sovereign, independent nation; (2) that the Constitution of the Republic is thenceforth in effect; (3) that the Commonwealth of Puerto Rico and its Government have ceased to exist; and (4) that the Government of the Republic will henceforth exercise its powers and duties under its Constitution.

SEC. 308. EFFECTS OF THE PROCLAMATION OF INDEPENDENCE ON LEGAL AND CONSTITUTIONAL PROVISIONS.

(a) Upon the proclamation of independence as provided in section 307, and except as otherwise provided in this title or in any separate agreements hereinafterwards concluded between the United States and the Republic of Puerto Rico—

(1) all property, rights, and interests which the United States may have acquired over Puerto Rico by virtue of the Treaty of Paris of 1898, and thereafter by cession, purchase, or eminent domain, with the exception of such land and other property, rights, or interests as may have been sold or otherwise legally disposed of prior to the enactment of this Act, shall vest in the Republic of Puerto Rico;

(2) all laws of the United States applicable to the Commonwealth of Puerto Rico immediately prior to the proclamation of independence shall no longer apply in the Republic of Puerto Rico; and

(3) all laws and regulations of the Commonwealth of Puerto Rico in force immediately before the proclamation of independence shall continue in force and shall be read with such modifications, adaptions, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution of the Republic of Puerto Rico until such time as they shall be replaced with new legislation: *Provided*, That any provisions that may be incompatible with the sovereignty of the Republic of Puerto Rico shall be deemed invalid.

SEC. 309. EFFECTS OF THE PROCLAMATION OF INDEPENDENCE ON JUDICIAL PRONOUNCEMENTS.

Unless otherwise agreed by the Governments of the United States and Puerto Rico in accordance with their respective constitutional processes:

(a) The Republic of Puerto Rico shall recognize and give effect to all orders and judgments rendered by United States or Commonwealth courts prior to the proclamation of independence pursuant to the laws of the United States then applicable to the Commonwealth of Puerto Rico.

(b) All judicial proceedings pending in the courts of the Commonwealth of Puerto Rico prior to the proclamation of independence shall be continued in the corresponding courts under the Constitution of the Republic of Puerto Rico.

(c) Upon the proclamation of independence, the judicial power of the United States shall no longer extend to Puerto Rico. All proceedings pending in the United States District Court for the District of Puerto Rico shall be transferred to the corresponding Puerto Rican courts of competence under the Constitution of the Republic of Puerto Rico for disposition in conformity with laws applicable at the time when the controversy in process arose. All proceedings pending in the United States Court of Appeals for the First Circuit, or in the Supreme Court of the United States, which may have initiated in the courts of the Commonwealth or in the United States District Court for the District of Puerto Rico shall continue until their final disposition and shall be submitted to the competent authority of the Republic of Puerto Rico for proper execution: *Provided,* That neither the United States nor any of its officers is a party, in which case any final judgment shall be properly executed by the competent authority of the United States.

SEC. 310. STATE SUCCESSION.

(a) The Government of the Republic of Puerto Rico shall be deemed successor to the Government of the Commonwealth of Puerto Rico and of all the rights and obligations thereof.

(b) Upon proclamation of independence the President of the United States shall notify the governments with which the United States is in diplomatic correspondence, to the United Nations Organization, and to the Organization of American States, that—

(1) the United States has recognized the independence of the Republic of Puerto Rico; and

(2) all obligations and responsibilities of the Government of the United States which arise from any valid bilateral or multilateral international instruments affecting Puerto Rico, insofar as said instruments may be held to have consequences for the United States because of their application to or in respect to Puerto Rico, shall cease: *Provided,* That such obligations and responsibilities may be assumed by the Government of the Republic of Puerto Rico in a manner to be determined and proclaimed by the appropriate officer of the Republic of Puerto Rico in accordance with its Constitution.

SEC. 311. CITIZENSHIP AND MIGRATION.

(a) All matters pertaining to Puerto Rican citizenship shall be regulated pursuant to the Constitution and laws of the Republic of Puerto Rico.

(b) Upon the certification of the referendum under section 101(c) of this Act, Puerto Rico shall no longer be deemed to be a part of the United States for the purposes of acquiring citizenship of the United States by place of birth. Provisions of the Jones Act and Immigration and Nationality Act declaring Puerto Rico to be a part of the United States for the purpose of extending citizenship to persons born in Puerto Rico are repealed or modified, as appropriate, to delete any reference to Puerto Rico and Puerto Rico shall not be considered to be a part of the United States for such purposes: *Provided,* That nothing in this section shall affect the citizenship of any person born prior to the date of the certification of the referendum.

(c) Notwithstanding any other provision of law, no person born outside of the United States after the Proclamation of Independence shall be a citizen of the United States at birth if the parents of such person acquired citizenship in the United States solely by virtue of being born in Puerto Rico prior to the Proclamation of Independence pursuant to the provisions of the Jones Act and the Immigration and Nationality Act.

(d) Every person who is not a citizen of the United States and becomes a citizen of the Republic of Puerto Rico upon proclamation of Independence, or becomes a citizen of the Republic by birth after the proclamation of Independence, or is a naturalized citizen of the Republic who has been an actual resident of Puerto Rico for not less than five years, may, after proclamation of Independence, enter into, lawfully engage in occupations, and establish residence as immigrants in the United States, as provided by law and regulations of the United States: *Provided,* That notwithstanding any other provision of law, persons identified under subsection (c) above may, for a period of twenty-five years after such proclamation, enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions, and such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States: *Provided further,* That this subsection does not confer on such citizens of Puerto Rico the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. This subsection, however, shall not prevent a citizen of Puerto Rico from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

SEC. 312. DEFENSE.

(a) Specific arrangements for the use of military areas by the United States in Puerto Rico, and to meet United States defense interests, shall be negotiated by a task force established by the Joint Transition Commission, and approved in accordance with the constitutional processes of the United States and Puerto Rico, and shall come into effect simultaneously with the proclamation of independence. These specific arrangements shall include—

(1) detailed operating rights and status of forces agreements executed by the Government of Puerto Rico and the Government of the United States of America providing for continued use and unrestricted access, by the Government of the United States, to military installations and facilities, and Coast Guard facilities, to the same extent, and in the same manner, of use and access as existed during the period of time prior to the referendum provided for in section 101 of this Act;

(2) an agreement by the Government of Puerto Rico to deny to third countries any access to or use of the territory of Puerto Rico for military purposes, except as specifically authorized by the Government of the United States; and

(3) an agreement by the Government of Puerto Rico that the foregoing conditions will remain in full force and effect until terminated or otherwise amended by mutual consent of the Governments of Puerto Rico and of the United States: *Provided,* That either party may at any time request the initiation of renegotiations of such conditions.

(b) Mutual consent by the United States to any alteration, modification, amendment, limitation, termination, or other change in the agreement referred to in paragraph (2) shall occur only pursuant to a specific Act of Congress.

SEC. 313. FEDERAL PROGRAMS.

The following provisions of this title are enacted in recognition of the unique relationship between the United States and Puerto Rico, to affect a smooth and fair transition for the new Republic of Puerto Rico with a minimum of economic disruption, and to promote the development of a viable economy in the new Republic of Puerto Rico:

(a) All Federal programs shall continue to apply in Puerto Rico until the end of the fiscal year in which independence is proclaimed, at which time, a grant shall be paid to the Republic of Puerto Rico pursuant to subsection (3).

(b) Specific arrangements for the continuation or phaseout of Federal programs shall be negotiated by a Task Force on Economic Assistance established by the Joint Transition Commission and approved in accordance with the constitutional processes of Puerto Rico and the United States, and shall come into effect simultaneously with the proclamation of independence. In general, the specific arrangements shall provide that—

(1) all Federal pension programs, such as veterans and civil service benefits, shall continue as provided by United States law;

(2) prior to the end of the fiscal year in which independence is proclaimed, an estimate will be determined by the Comptroller General of the United States of the total number of grants, programs, and services, including Medicare, provided by the Federal Government in Puerto Rico in such fiscal year, except for those grants, programs, and services which will otherwise continue under this Act;

(3) a grant equal to the amount established under paragraph (2) shall be paid annually to the Republic of Puerto Rico beginning in the fiscal year following the year in which independence is proclaimed, through the ninth year following the certification of the referendum;

(4) the United States will fulfill any contractual obligations outstanding at the time of the proclamation of independence; and

(5) Puerto Rico may request that the United States renew or continue any existing contractual obligations: *Provided,* That Puerto Rico agrees that the cost of such renewal or continuation shall be deducted from the annual grant made under paragraph (3).

(c) There are authorized to be appropriated such sums as may be necessary to fulfill the purposes of this section.

SEC. 314. SOCIAL SECURITY.

(a) The Joint Transition Commission established under section 305 of this Act shall establish a Task Force on Social Security to protect the rights of workers who have permanently insured status under the Old Age, Survivors and Disability Insurance programs under title II of the Social Security Act, as of five years subsequent to the certification of the referendum, and to negotiate agreements necessary for the coordination of the Social Security System of the United States with a similar system to be established in the new Republic of Puerto Rico. Any such agreement shall be approved in accordance with the constitutional processes of Puerto Rico and the United States.

(b) In order to provide adequate time for the negotiation and implementation of the agreements provided for in (a), the current provisions of the Old Age, Survivors, and Disability Insurance programs under title II of the Social Security Act shall apply for five years subsequent to the certification of the referendum under section 101 of this Act.

SEC. 315. MEDICARE.

The Joint Transition Commission established under section 305 of this Act shall establish a Task Force on Medicare to negotiate agreements necessary for the coordination of the Medicare system of the United States with a similar system to be established in the new Republic of Puerto Rico. Any such agreement shall be approved in accordance with the constitutional processes of Puerto Rico and the United States.

SEC. 316. TRADE RELATIONS.

(a) Until the proclamation of independence trade relations between Puerto Rico and the United States shall be as currently provided by law.

(b) The Joint Transition Commission shall establish a Task Force on Trade to consider and develop specific provisions governing trade between the United States and Puerto Rico following the Proclamation of Independence. Congress expresses its willingness to consider a mutual free trade arrangement if negotiated. In the absence of any such agreement, Puerto Rico shall be afforded most favored nation status and: Provided, That Puerto Rico meets all criteria and requirements under the Caribbean Basin Economic Recovery Act, designation as a beneficiary country under the Caribbean Basin Initiative.

(c) In order to assist Puerto Rico subsequent to the Proclamation of Independence, the President is encouraged to seek to obtain favorable tariff treatment for exports from Puerto Rico from other nations and to encourage other countries to designate Puerto Rico as a beneficiary under their respective General Systems of Trade Preferences.

SEC. 317. TAXATION.

(a) Effective on the date of proclamation of independence, the tax credit allowed under section 936 of the United States Internal Revenue Code shall not be available with respect to income or investments from activity in Puerto Rico.

(b) The Joint Commission established under section 305 of this Act shall establish a Task Force on Taxation to negotiate appropriate Tax Treaties to govern relations between the United States and Puerto Rico. Such agreements shall be approved by the government of Puerto Rico and the United States in accordance with their respective constitutional processes.

SEC. 318. CURRENCY AND FINANCE.

(a) The Joint Transition Commission established under section 305 shall establish a Task Force on Currency and Finance to negotiate an agreement to assist the Republic of Puerto Rico in the design and establishment of a deposit insurance system, to determine the extent of financial support to be provided for the system by United States insurance organizations in which Puerto Rico's financial institutions currently participate, and to make the necessary arrangements with respect to the use of United States currency by the Republic of Puerto Rico if so requested by the Republic. Any such agreement shall be approved in accordance with the constitutional processes of Puerto Rico and the United States.

(b) The guarantees provided by the Government of the United States to investors in the secondary market for existing loans, particularly mortgage loans guaranteed by the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLM) and other United States Government instrumentalities, shall be maintained for Puerto Rico-originated loans existing on the date of the proclamation until maturity.

SEC. 319. PUBLIC DEBT.

The debts, liabilities, and obligations of the Commonwealth of Puerto Rico, its municipalities and instrumentalities, valid and outstanding upon the date of the proclamation of independence, shall be assumed by the Republic of Puerto Rico. The tax treatment of any such obligations shall be unaffected by the proclamation of independence to the extent that similar obligations issued by states are so treated.

TITLE IV—COMMONWEALTH

SEC. 401. PROVISIONS.

Should Commonwealth be certified, under section 101 of this Act, as having obtained a majority of the votes cast in the referendum, the provisions of this title shall go into effect on October 1, 1991.

SEC. 402. PRINCIPLES OF COMMONWEALTH.

(a) The Commonwealth of Puerto Rico is a self-governing body politic joined in political relationship with the United States and under the sovereignty of the United States. This relationship is permanent unless revoked by mutual consent.

(b) The policy of the United States shall be to enhance the Commonwealth relationship enjoyed by the Commonwealth of Puerto Rico and the United States to enable the people of Puerto Rico to accelerate their economic and social development, to attain maximum cultural autonomy, and in matters of government to take into account local conditions in Puerto Rico.

SEC. 403. APPLICATION OF FEDERAL LAW.

(a) Notwithstanding any other provision of law, the Governor of the Commonwealth of Puerto Rico may certify from time to time to the Speaker of the House of Representatives and the President of the Senate, that the Legislature of the Commonwealth of Puerto Rico has adopted a resolution that states that a Federal law or provision thereof should no longer apply to the Commonwealth of Puerto Rico because there is no overriding national interest in having such Federal law be applicable in the Commonwealth of Puerto Rico and such applicability does not serve the interests of the people of the Commonwealth of Puerto Rico. A Federal law or laws or provision thereof so certified shall no longer apply to the Commonwealth of Puerto Rico if a joint resolution approving the recommendation of the Government of the Commonwealth of Puerto Rico is enacted.

(b) EXPEDITED CONGRESSIONAL REVIEW.—

(1) CONGRESSIONAL RULEMAKING.—This subsection is enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but is applicable only with respect to the procedure to be followed in this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith.

(2) RESOLUTION.—For purposes of this subpart, the term "resolution" means only a joint resolution, the matter after the resolving clause of which is as follows: "That the House of Representatives and the Senate approve the recommendation of the Government of the Commonwealth of Puerto Rico in the certification submitted to the Congress on , 19 ". Such resolution shall also include the certification received from the Governor of the Commonwealth of Puerto Rico and a copy of the resolution adopted by the Legislature of the Commonwealth of Puerto Rico.

(3) REFERRAL.—A resolution once introduced with respect to such a certification by the Governor of the Commonwealth of Puerto Rico shall immediately be referred by the Speaker of the House of Representatives and the President of the Senate, as the case may be, to the House Committee on Interior and Insular Affairs and to the Senate Committee on Energy and Natural Resources and at the same time to such other committees as the Speaker of the House of Representatives or the President of the Senate, respectively, shall determine.

(4) DISCHARGE.—

(A) IN GENERAL.—If the committee or committees to which a resolution with respect to a certification by the Governor of the Commonwealth of Puerto Rico has been referred has not reported it at the end of forty-five calendar days after its referral, it shall be in order to move to discharge the committee from further consideration of such resolution.

(B) MOTIONS.—A motion of discharge may be made only by an individual favoring the resolution and shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same submittal), and debate thereon shall be limited to not more than

one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) RENEWAL.—If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same submittal.

(5) FLOOR CONSIDERATION.—

(A) MOTION TO CONSIDER.—When the last committee has reported, or has been discharged from further consideration of a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) DEBATE AND CONSIDERATION.—Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion to further limit debate shall not be debatable. An amendment to or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6) DETERMINATION ON MOTIONS.—

(A) MOTIONS TO POSTPONE OR TO PROCEED TO OTHER BUSINESS.—Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) APPEALS FROM THE DECISION OF THE CHAIR.—Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) SUBSEQUENT ACTION.—Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a submittal, then it shall not be in order to consider in that House any other resolution with respect to the same such submittal.

(8) COMPUTATION OF PERIOD.—For the purpose of this subsection—

(A) continuity of session is broken only by an adjournment of the Congress sine die; and

(B) the days on which either House is not in session because of any adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(c) This section shall not apply to—

(1) any Federal statutory law, or provision thereof, establishing directly or indirectly grants and/or services to citizens of the United States as individuals;

(2) any Federal statutory law or provision thereof relating to citizenship; or

(3) any Federal statutory law or provision thereof pertaining to the foreign relations, defense, or national security.

(d) The Governor of Puerto Rico may enter into international agreements to promote the international interests of Puerto Rico as authorized by the President of the United States and consistent with the laws and international obligations of the United States.

SEC. 404.—REGULATORY REVIEW.

(a) For the purposes of this section, the definitions in title 5, United States Code, section 551, apply.

(b) All agencies shall be guided by the policy stated in section 402 when carrying out their duties under statutes and rules applicable in or affecting the Commonwealth of Puerto Rico. Any agency that engages in rulemaking pursuant to title 5, United States Code, section 553, shall include in the concise general statement of the basis and purpose of any final rules adopted in response to any data, views, or arguments submitted to it that raise a question of the consistency of such rules with such policy.

(c) When an agency publishes in the Federal Register any final rule (other than a rule issued after notice and hearing required by statute), that does by its terms

apply in the Commonwealth of Puerto Rico, the Governor of the Commonwealth of Puerto Rico may submit to the agency within thirty days (or such longer period as the agency may have prescribed as the period between publication of the rule and its effectiveness) the Governor's determination that such rule is inconsistent with such policy and, if appropriate, of how it could be made consistent. Thereupon, the agency shall reconsider the question of the consistency of its rule with such policy and shall, within forty-five days of its receipt of the Governor's determination, publish in the Federal Register its finding either—

(1) that—

(A) by the terms of the statute pursuant to which the rule is made the agency has no discretion to make the rule inapplicable in the Commonwealth of Puerto Rico or to vary the terms of the rule in its application to the Commonwealth or,

(B) there is a national interest that the rule be applicable in Puerto Rico in the terms in which it was published, or

(2) that the rule is not consistent with such policy, in which case the rule, whether or not previously applicable in the Commonwealth of Puerto Rico in accordance with its terms as published, shall not be so applicable or shall be applicable only in accordance with the terms specified in the agency's finding.

(3) Within sixty days of the publication by an agency of the finding provided for in paragraph (1) the Governor of the Commonwealth of Puerto Rico, if aggrieved by such finding, may petition for review thereof in the United States Court of Appeals of the First Circuit or the District of Columbia Circuit. In any such review proceeding the scope of review shall be as prescribed in section 706 of title 5, United State Code. Federal courts shall have no jurisdiction to entertain any action brought by any other party challenging agency compliance with this subsection.

SEC. 405. AVIATION.

The officials of the Department of State and the Department of Transportation shall seek the advice of appropriate officials of the Commonwealth of Puerto Rico when negotiating any air transportation agreements which would affect air traffic to or from the Commonwealth of Puerto Rico.

SEC. 406. INTERNATIONAL TRADE.

(a) Section 2 of the Act of April 12, 1900 (48 U.S.C. 739), is amended by inserting the following subsection:

"(1) As strictly limited by the international obligations of the United States, the Commonwealth of Puerto Rico is authorized to impose tariff duties on foreign origin products imported into Puerto Rico from outside the customs territory of the United States. Such tariff duties may be in addition to the general tariff duties imposed by the United States if such general tariff duties are not subject to United States international obligations, or in cases where the general duty is applied at a rate below that which is subject to United States international obligations. In the latter case, the combined duties shall not exceed the level for which a United States international obligation exists."

(b) Section 1102 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902), is amended by adding a new subsection (e) as follows:

"(e)(1) During the negotiation of any trade agreement under subsections (a), (b), and (c), it is the sense of the Senate that the President should consider the effects of any proposed tariff rate or any proposed changes in nontariff measures on the economy of Puerto Rico and should consult with the Governor of the Commonwealth of Puerto Rico concerning such potential effects before concluding international trade negotiations.

(2) It is the sense of the Senate that the President should seek to obtain favorable treatment from foreign countries for exports from the Commonwealth of Puerto Rico and should take steps to encourage other countries to consider Puerto Rico as a developing area for purposes of their respective Generalized Systems of Trade Preferences schemes, and any such regional systems of trade preferences.".

SEC. 407. FEDERAL PROGRAMS: CONSOLIDATION OF GRANT-IN-AID PROGRAMS.

Section 501 of Public Law 95–134 (91 Stat. 1159, 1164) as amended, is further amended by deleting "Virgin Islands," and inserting in lieu thereof "Virgin Islands, Puerto Rico,".

SEC. 408. CONSULTATION IN APPOINTEES AND NOMINATIONS.

(a) In considering the qualifications of persons who may be appointed to serve as: Supervisor, Caribbean National Forest; Superintendent, San Juan Historic Site; Manager, Department of Housing and Urban Development, San Juan; Director, Car-

ibbean Field Office, Environmental Protection Agency; Director, Farmer's Home Administration, San Juan; District Director, United States Customs Service, San Juan; District Director, Small Business Administration; and District Director, Immigration and Naturalization Service; the head of such department or agency shall consult with the Governor or other appropriate official in Puerto Rico as to whether there are special circumstances or qualifications which should be considered in making the appointment.

(b) Prior to nominating any person to serve in Puerto Rico whose appointment requires the advice and consent of the Senate of the United States, the President shall consult with the Governor as to whether there are any special circumstances or qualifications which should be considered in deciding on a nomination. Nothing in this section requires or prohibits the disclosure of individuals under consideration for such position nor as a limitation on the ability of the heads of agencies to appoint, or the President to nominate any individual. This subsection shall not apply with respect to any position in the Armed Forces of the United States, the Coast Guard, and in agencies engaged in law enforcement.

SEC. 409. PUERTO RICO LIAISON OFFICE.

(a) There is hereby established the Office of Senate Liaison for the Commonwealth of Puerto Rico ("Office"). The Office shall be headed by an individual appointed by the Governor of Puerto Rico and who shall serve at the pleasure of the Governor and who shall be known as the Puerto Rico Liaison. The purposes of the Office shall be to facilitate the exchange of information between the Senate and the Government of Puerto Rico.

(b) The Committee on Rules and Administration shall determine what facilities and services shall be available to such Office. All personnel of such Office shall be issued such identification as will entitle them to the same privileges as are afforded to employees of the Congressional Research Service and no employee of the Office shall be permitted privilege of the Senate floor.

(c) There are authorized to be appropriated annually $600,000 for salaries and $56,000 for office expenses of the Office. The Liaison shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office, including the Liaison, while not employees of the Senate, shall, other than as provided in subsection (b), be treated as if they were employees of the Senate with respect to pay and employment benefits, rights, privileges, and restrictions and shall be subject to all requirements otherwise applicable to employees of the Senate.

(d) The Office shall be subject to the jurisdiction of the Committee on Rules and Administration.

SEC. 410. PASSPORTS.

(a) The following new section shall be added to title 22 as section 211b:

"SECTION 211b. UNITED STATES PASSPORT OFFICE IN PUERTO RICO.

"The Secretary of State shall establish a Passport Office for the Caribbean located in San Juan, Puerto Rico.

"(b) The Secretary of State and the Attorney General shall consult with the Governor of Puerto Rico to determine what administrative actions can be taken to expedite the processing of visas and also to provide an expedited consideration of visas where the Governor makes such a request to accommodate an individual or individuals who have been invited to Puerto Rico by the Governor and shall report to Congress on such consultations and administrative action by March 15, 1990.".

SEC. 411. COMMUNITY VALUES.

The actions specified in subsection (b) shall be exempt from the antitrust laws of the United States.

(a) Definitions.—

(1) "antitrust laws" has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12) and shall also include section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(2) "person in the television industry" means a television network, any entity which produces programming for television distribution, including theatrical motion pictures, the National Cable Television Association, the Association of Independent Television Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the networks' affiliate organizations, and television stations and cable television operators licensed to operate in Puerto Rico and shall include any individual acting on behalf of such person; and

(3) "telecast" means any program broadcast by a television broadcast station or transmitted by a cable television system.

(b) The antitrust laws shall not apply to any joint discussion, consideration, review, action or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to (1) alleviate the negative impact of violence in telecast material, (2) alleviate the negative impact of illegal drug use in telecast material, and (3) alleviate the negative impact of sexually explicit material in telecast material, and promote local programming in the Commonwealth of Puerto Rico.

(c)(1) The exemption provided in subsection (b) shall not apply to any joint discussion, consideration, review, action, or agreement which results in a boycott of any person.

(2) The exemption provided in section 2 shall apply only to activities conducted within thirty-six months after the date of enactment of this Act, but may be extended for other thirty-six month periods upon declaration by the Governor of Puerto Rico.

SEC. 412. FEDERAL PROPERTIES.

(a)(1) The President shall report to Congress by March 15, 1990, on the eight Federal properties listed in paragraph (3) below. The report shall include an assessment of the Federal need for each property, the costs and/or benefits of disposal of each property, and the comments of the Government of the Commonwealth of Puerto Rico regarding each property.

(2) Unless the President finds that there is a national interest which requires continued Federal ownership of each property, then he shall provide for the transfer of such properties to the Commonwealth of Puerto Rico according to such terms as he determines to be appropriate with respect to each.

(3) Identified Properties:

(A) The Federal courthouse in Old San Juan;
(B) Former Stop 7½ Naval Residence;
(C) San Geronimo Quarters;
(D) Custom House in San Juan;
(E) Custom House in Mayaguez;
(F) Custom House in Ponce;
(G) Custom House in Fajardo; and
(H) Coast Guard facility at Puntilla.

SEC. 413. SAN JUAN NATIONAL HISTORIC SITE ADVISORY COMMISSION.

(a) There is hereby established a commission to be known as the San Juan National Historic Site Advisory Commission ("the commission") which shall regularly advise the Secretary of the Interior ("the Secretary") on the operation, management, and administration of the San Juan National Historic Site ("the site").

(b) The commission shall consist of the Governor of the Commonwealth of Puerto Rico (or the Governor's designee), the Director of the National Park Service (or the Director's designee), three members to be appointed by the Governor of the Commonwealth of Puerto Rico, and three members to be appointed by the Secretary. One of the members appointed by the Governor and one member appointed by the Secretary shall serve as cochairpersons of the commission.

(c)(1) Members appointed to the commission by the Governor and the Secretary shall be appointed for a term of four years. A member may serve after the expiration of his term until his successor has taken office.

(2) Any vacancy on the commission shall be filled in the manner the original appointment was made.

(3) Members of the commission shall receive no additional pay, allowances, or benefits as a result of their service on the commission, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this section on vouchers signed by the cochairpersons;

(4) A majority of the members of the commission shall constitute a quorum but a lesser number may hold hearings. Each member of the commission shall be entitled to one vote, which shall be equal to the vote of every other member of the commission.

(5) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to the commission.

(d) The Secretary shall from time to time, but at least annually, meet with the commission on matters relating to the planning, management and administration of the site. Such meetings shall be open to the public and shall be held at such times and in such places as to encourage public participation. The commission shall provide the public with adequate notice of such meetings.

(e) The commission shall prepare annually and transmit to the Secretary, the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the United States House of Representatives, a report containing such information and recommendations regarding the operation, management, and administration of the site as the commission deems desirable, including but not limited to recommendations with respect to the revision of the general management plan for the site.

PURPOSE

The purpose of S. 712 is to provide for the exercise of self-determination by the people of Puerto Rico through a referendum on the future political status of the island. Title I sets forth the legal framework and timing of the referendum. Titles II, III, and IV set forth detailed definitions of the three respective status options: statehood, independence and commonwealth. The option which receives a majority vote in the referendum would be implemented in accordance with the appropriate Title of S. 712.

BACKGROUND

Puerto Rico is comprised of several islands in the Caribbean located about 1,000 miles southeast of Florida. The main island is roughly 110 miles long (east to west) and 35 miles wide (north to south) giving it a total land area almost half that of the state of Massachusetts. The population is estimated at 3.5 million, making Puerto Rico more populated than 27 of the States. In addition, there are an estimated 2.3 million citizens of Puerto Rican heritage living in the mainland United States.

The modern cultural identity of Puerto Rico developed during the 1800's when a large influx of Spaniards fleeing revolutions in both Spain and the Spanish colonies of America gained dominance over the black and indian inhabitants of the island. The political awareness and activism of these new immigrants resulted in the formation of local political parties to advance their interest in greater political participation under the appointed Spanish Governor. One group, the Asimilistas, sought full integration with Spain while the rival group's, the Autonomistas, objective was to obtain maximum local self-government. The struggle for greater local self-government led to an unsuccessful rebellion in 1868, and eventually, in 1897, to the conclusion of a Charter of Autonomy with the Spanish Crown. Political development under the Charter was arrested, however, when the United States invaded Cuba, the Philippines, Guam and Puerto Rico upon the outbreak of the Spanish-American War in 1898, and gained sovereignty over these areas, except Cuba, pursuant to the Treaty of Paris. Puerto Rico thereby came under the sovereignty of the United States subject to Congress's authority under the territorial clause of the Constitution (Article IV, Section 3) which grants Congress the authority to "dispose of and make all needful Rules and Regulations respecting the Territory . . . belonging to the United States;".

Historically, administration of territories had followed the policy established by the Northwest Ordinance of 1787 under which territories were organized and prepared for eventual statehood. The acquisition of Puerto Rico, the Philippines, and Guam as a result of the Spanish-American War, and the acquisition of Hawaii and

Eastern Samoa during the same period, presented the United States with two fundamental policy issues: should the Constitution fully apply in these territories; and should they be developed with statehood as the objective?

The Insular Cases, a series of Supreme Court opinions of the early 1900's, held that Congress had plenary authority over the territories and could limit the application of the Constitution. Moreover, the court established the concept of "unincorporated territory" which, unlike "incorporated territory", was not presumed to be moving toward eventual integration into the union as new states. Incorporation was held to be a promise of eventual statehood and incorporated states were referred to as "inchoate states". On the other hand, the Court also held that there was a limitation on Congressional authority to infringe on the fundamental rights of the inhabitants of the territories. Over the years, the courts have expanded the definition of "fundamental rights" to include essentially all of the provisions of the Bill of Rights.

The territorial "status" of the Philippines was resolved by the Tydings-McDuffie Act which resulted in independence, and of Hawaii by incorporation and eventual statehood. Hawaii is the only State which was ever "unincorporated", and then for only a brief period. Although the courts have shown considerable unease over the Insular Cases, the underlying principle that only fundamental provisions of the Constitution apply, absent Congressional action, was reaffirmed in *Northern Mariana Islands* v. *Atalig*, 723 F.2d 682 (9th Cir. 1984) regarding the right to trial by jury (also see *King* v. *Andrus*, 452 F. Supp. 11 (D.D.C. 1977) requiring juries in American Samoa).

The Foraker Act of 1900 established a government in Puerto Rico with a Governor appointed by the President; a bicameral legislature made up of an Executive Council, with a U.S. appointed majority, and a locally elected House of Delegates; and a Resident Commissioner as a non-voting representative to the U.S. Congress.

The Jones Act of 1917 provided Puerto Rico with a Bill of Rights, a grant of citizenship, and a locally elected Senate replacing the Executive Council. The Governor, Attorney General, Auditor and Secretary of Education remained appointees of the President.

The assimilationists in Puerto Rico, and some members of Congress, regarded the grant of citizenship under this Act as de facto incorporation leading to statehood. Nevertheless, in 1922 the Supreme Court ruled that it was not so, and Congress continued to treat U.S. citizens in Puerto Rico differently from citizens living in incorporated territories and the states. For example, in 1946, under the National School Lunch Act, the Congress began the practice of establishing "caps" to limit the funding allocation of the unincorporated territories in certain Federal programs.

Economically, Puerto Rico was very underdeveloped and particularly hard hit by the depression in the 1930's. Operation Bootstrap was the name of the economic program developed in the 40's to respond to these conditions and remake the economy of Puerto Rico through industrialization. The results of the program were spectacular—a sustained adjusted growth rate of over 5 percent annually from 1947 to 1974. Nevertheless, a substantial economic gap remains between the U.S. mainland and Puerto Rico; per capita

income in Puerto Rico is only about half that of the poorest state, Mississippi.

Luis Muñoz Marín, a critical participant in the industrialization program, and the founder of the Popular Democratic Party, became the first locally elected Governor under the Elective Governor Act of 1947. Following his sweeping election victory, Governor Muñoz undertook to establish the local government under a local constitution.

Public Law 600, enacted in 1950, authorized the drafting of a local Constitution, to be ratified in a vote by the people of Puerto Rico, and set forth the provisions of laws which form the basis of Federal-Puerto Rican relations. These are known collectively as the Federal Relations Act. Prior to the final vote, Congress amended the draft constitution and required that the amendments be agreed to. The constitution was approved in a vote and the Commonwealth declared on July 25, 1952. The process was not without opposition, however, 27 people were killed in Nationalist violence, and an assassination attempt was made on President Truman.

This grant of self-government pursuant to a locally developed constitution was unique in the history of territorial administration. Historically, the approval of a local constitution had been an integral part of the resolution of territorial status through either Statehood or Independence. In fact, the Philippines were never given the opportunity to vote directly on status; the approval of a local constitution led directly to independence. Congress recognized that by providing for local self-government, it was affording the insular government the same degree of internal autonomy over matters of purely local concern which the United States Constitution guarantees the States. Public Law 600 provided, in language similar to that of the Northwest Ordinance, that "fully recognizing the principle of government by consent, this Act is now adopted in the nature of a compact so that the people of Puerto Rico may organize a government pursuant to a constitution of their own adoption." This approach was a clear break from traditional practice where local self-government was exercised by Congress pursuant to Organic legislation. Congress was explicit, however, in stating that the authorizing legislation was designed solely to establish local self-government and that in permitting Puerto Rico to exercise those aspects of sovereignty associated with matters of local concern it did not alter the fundamental relationship of Puerto Rico to the Federal Government.

> The measure would not change Puerto Rico's fundamental political, social and economic relationship to the United States. Those sections of the Organic Act of Puerto Rico concerning such matters as the applicability of United States laws, customs, internal revenue, Federal judical jurisdiction in Puerto Rico, representation in the Congress of the United States by a Resident Commissioner, et cetera, would remain in force and effect. Upon enactment of S. 3336, these remaining sections of the Organic Act would be referred to as the Puerto Rican Federal Relations Act.

> The sections of the Organic Act which section 5 of this bill would repeal are concerned primarily with the organization of the insular executive, legislative, and judicial branches of the government of Puerto Rico and other matters of purely local concern. (S. Rept. 81-1779, p. 3-4)

This language was repeated almost verbatim in the House Report (H. Rept. 81-2275, p. 3) and both reports explicitly stated: "S. 3336 is not a statehood bill. Nor is it an independence bill. It does not commit the Congress, either expressly or by implication, to take any action whatever with respect to either. It in no way precludes future determination by future Congresses of the political status of Puerto Rico." (S. Rept. 81-1779, p. 4, cf. H. Rept. 81-2275, pp. 3-4).

The establishment of local self-government in Puerto Rico led to U.N. Resolution 748 VIII in 1953 recognizing that Puerto Rico would no longer be considered subject to the Declaration regarding Non-Self-Governing Territories and that the United States could cease transmitting annual reports. Similar reporting with respect to Alaska and Hawaii ceased when those territories became States. The United States continues to report on the Virgin Islands, American Samoa, and Guam.

Establishment of the Commonwealth as a self-governing body politic did not resolve the status debate for either those advocating independence or statehood, or for those advocating additional authorities for the Commonwealth. In 1964, a bilateral Commission was established to examine the factors affecting Commonwealth status.

The 1964 Commission on the Status of Puerto Rico concluded "that all three forms of political status—the Commonwealth, Statehood, and Independence—are valid and confer upon the people of Puerto Rico equal dignity . . . (p. 6). In addition, the Commission concluded that any "abrupt change in political status would involve serious economic risks and dislocations", and pointed out the need for transition plans if the people of Puerto Rico wanted statehood or independence (p. 7). Finally, the Commission concluded that a vote on status perference would be helpful, and recommended the establishment of ad hoc advisory groups to consider specific status proposals following a vote.

Governor Muñoz pressed for a referendum and the opportunity to "perfect" commonwealth. The independentistas rejected the vote as biased, unless the U.S. transferred sovereignty beforehand. The statehooders split. One faction, headed by García Mendez, rejected the Commission recommendation for a vote, arguing that commonwealth could not be "perfected" as a permanent status, and a vote would legitimize that proposition. A rival faction, however, headed by Luis Ferré, pledged to work in good faith to get a statehood majority in the vote, notwithstanding their rejection of perfected commonwealth.

The referendum of 1967 was a choice between "perfected" commonwealth, statehood or independence, and the opportunity to approach Congress with the legislation necessary to implement the new status. Unfortunately, the people of Puerto Rico were charged with voting on three uncertainties, because all of the options depended on future action by Congress. Abstention was very high in

the referendum in which Commonwealth received 60 percent of the vote. Ferré's statehooders received 40 percent. The vote was a victory for the Commonwealth party. But, after the split in the Statehood party, Ferré established the New Progressive Party (PNP) and went on to win the governorship, and a slim majority in the lower house. As a result of this Statehood victory, establishment of the anticipated ad hoc committee on perfected commonwealth failed to occur.

The Ad Hoc Committee was finally established following the return of the Commonwealth party to power in 1972, under Rafael Hernández Colón. The Committee drafted a "new compact of association" with the United States. The "new compact" proposals of the Committee were intended to "consolidate and improve" the relationship between the United States and Puerto Rico. U.S. responsibility for international relations and defense would continue, but Puerto Rico would gain control of immigration, wages, and environmental regulation. Puerto Rico would also gain representation in the U.S. Senate, and a special veto over the applicability of Federal law. Although legislation was introduced in Congress to implement the Committee's recommendations, little action beyond initial hearings was taken. When the Statehood party, now under the leadership of Carlos Romero Barceló, won the elections in 1976, further efforts to consider the report of the Ad Hoc Group ended.

In 1976, President Ford declared his preference for statehood and submitted statehood legislation to Congress. However, this bill, and the "new compact" legislation introduced earlier, both died with the adjournment of Congress. The Statehooders planned to advance their cause by following a strong victory in 1980 with a status referendum. Governor Romero's margin of victory was too thin, however, for him to advocate such a referendum. In 1984, Hernández Colón and the Commonwealth party were returned to power.

In 1979, in response to continuing efforts by Cuba to bring Puerto Rico's relationship with the United States before the United Nations, the Senate approved a resolution, S. Con. Res. 35, reaffirming Puerto Rico's right to self determination. In a statement given during floor consideration of this resolution, Senator Johnston stated a concern which has become a guiding principle in the current approach taken in the consideration of Puerto Rico's political status; that an exercise of self-determination by Puerto Rico, in order to be meaningful, must have the status options precisely defined by Congress.

> I sincerely believe that . . . we should develop the precise terms and conditions for Statehood, Independence, and the Commonwealth with all the social, economic and cultural implications, and lay those alternatives before the Congress. Once the Congress has indicated either the precise terms or parameters for consideration of each status, then the people of Puerto Rico can vote with full assurance that their vote will be implemented by the Congress. (p. S. 22290, Cong. Record August 2, 1979)

Following Governor Hernández Colón's 1988 reelection, the three party leaders: Hernández Colón, Baltasar Corrada del Río (Statehood), and Rubén Berrios Martinez (Independence), sent a letter to the President and Congress requesting that the people of Puerto

Rico be "consulted" on their preference for future political status. Soon after this request was transmitted, Carlos Romero Barceló assumed leadership of the Statehood party and reaffirmed the PNP's commitment to developing a consultative process.

Legislative History

On April 5, 1989 Senators Johnston and McClure introduced three bills, S. 710, S. 711, and S. 712, each of which would provide for a referendum on the political status of Puerto Rico. These bills varied in their level of detail, reflecting the uncertainty regarding the level of specificity which Congress would be able to achieve in its consideration of the definitions. S. 710, defines the status options in just a few words; S. 711, defines them in general terms, and a few pages; and S. 712, defines them in full detail, including transition and implementing provisions.

All three parties strongly prefer the approach in S. 712 which sets forth the status options in sufficient detail as to provide for self-implementation of the status receiving a majority of the votes. This approach would both avoid any uncertainty as to the specific details of each status alternative, and would provide assurance that the status receiving a majority vote will be implemented.

The Committee on Energy and Natural Resources held hearings on these bills in Washington, D.C. on June 1 and 2 to examine the initial definitions of the three status options as proposed by the respective political parties of Puerto Rico. A second set of hearings was held in Puerto Rico on June 16, 17 and 19 to obtain a range of views beyond those of the three principal political parties. Finally, hearings were again held in Washington, D.C. on July 11, 13, and 14 to obtain the views of the Administration, and other witnesses from outside of Puerto Rico. The Committee considered the legislation during four days of business meetings on July 26 and 27, and August 1 and 2. S. 712 was ordered favorably reported by the full Committee in an open business meeting on August 2, 1989.

Committee Recommendation and Tabulation of Votes

The Senate Committee on Energy and Natural Resources in an open business session on August 2, 1989, considered S. 712 and by a vote of 11 yeas and 8 nays of a quorum present recommends that the Senate pass S. 712, if amended, as described herein.

The rollcall vote on reporting the measure was 11 yeas, 8 nays as follows:

YEAS	NAYS
Mr. Johnston	Mr. Ford
Mr. Bumpers	Mr. Conrad
Mr. Metzenbaum [1]	Mr. Heflin
Mr. Bradley	Mr. Rockefeller
Mr. Bingaman [1]	Mr. Wallop
Mr. Wirth	Mr. Nickles
Mr. McClure	Mr. Burns
Mr. Hatfield [1]	Mr. McConnell [1]
Mr. Domenici	
Mr. Murkowski	
Mr. Garn	

[1] Indicates voted by proxy.

COMMITTEE AMENDMENT

During consideration of S. 712, the Committee adopted an amendment in the nature of a substitute. The amendment would substantially modify the provisions of Title I regarding the process of holding the referendum, and the definitions of the status options as proposed by the three principal political parties in Titles II, III, and IV. A brief discussion of the provisions of the substitute and how they differ from the earlier version of the bill follows. More detailed information on each of the provisions of the substitute is provided in the "Section-by-Section Analysis" portion of this Report.

Major Provisions of the Committee Substitute

TITLE I—REFERENDUM PROCEDURES

The amendment includes several significant modifications to Title I.

First, the amendment names S. 712 "The Puerto Rico Status Referendum Act" and sets forth the language which will appear on the referendum ballot. These changes clarify that the status options to be voted on will be as set forth in Titles II, III and IV of the Act. This clarification avoids the problem of developing ballot language to summarize the options.

Second, while the amendment does not change the provisions of the bill establishing the applicability of local election laws to the referendum, it would freeze those election laws as of July 15, 1989. This change was made in response to the concern that the local election laws could be modified prior to the election, particularly in the area of voter qualifications, in an effort to affect the referendum results. While there was no evidence presented to the Committee that such modifications were contemplated, this provision eliminates a potentially divisive issue.

Third, the amendment requires the Attorney General of the United States to provide for adequate monitoring of the referendum by United States Marshals. Although there was no evidence presented to the Committee that voting in Puerto Rico is not conducted in an open and fair manner, the Committee believes that the Federal interest in the referendum is so substantial that such a Federal presence is warranted. The Committee made no provision for international monitoring of the referendum because Puerto Rico's political status is an internal United States matter. However, the Committee has no objection to persons who may wish to observe the referendum.

Fourth, the amendment establishes procedures for Federal judicial review of legal disputes or controversies arising out of the referendum. The procedures provide that any aggrieved person may institute an action to challenge the results of the referendum on the basis that irregularities occurred which were significant enough to affect the outcome. These review procedures would be in addition to the local judicial review procedures originally provided for in S. 712 and were included in response to allegations that the

local review procedures are not sufficiently isolated from local political influence so as to assure an unbiased judgment, or to avoid a deadlock in the review of disputes. While the Committee made no findings regarding the validity of these allegations, it was the Committee's view that these procedures would enhance the perception that the referendum would be fair and unbiased.

Finally, the amendment includes a new subsection providing for a Referendum Information Officer to be responsible for the translation and distribution of information and educational materials on the referendum. It was the Committee's view that such a Federal official, to be responsible for translating, summarizing and distributing information on the referendum, particularly information on the status definitions, would increase public understanding of the definitions and would thus enhance the validity of the vote.

TITLE II—STATEHOOD

Under the substitute, there are several significant modifications to Title II.

First, the initial section of the Title containing the recitals, or so-called "whereas" clauses, was deleted. These recitals were removed from each of the last three Titles of the bill because of the Committee's view that such statements are not essential to the status definitions and could confuse future interpretation of the legislative intent.

Second, the provision in S. 712 as introduced granting the new State the exclusive right to the resources of the 200-mile Exclusive Economic Zone are not included in the substitute.

Third, the substitute text does not contain the provision, Section 6(d) in the earlier version, which would have made payments to Puerto Rico to assist the State in payment of its public debt.

Fourth, the amendment clarifies that upon admission to the Union, the new State of Puerto Rico shall be entitled to such additional Representatives to the United States House of Representatives as would be provided based upon the 1990 census, and that the membership of the House would be permanently increased from 435 to accommodate the additional Representatives from Puerto Rico.

Fifth, the "Economic Adjustment" section of Title II has been entirely rewritten in response to the additional information that has become available regarding the prospective application of taxes and federal programs in a new state of Puerto Rico. The substitute language continues to be designed to provide for a smooth and fair economic transition for the new State with a minimum of economic dislocation. The Committee is, however, concerned regarding the adequacy of the data on which this economic adjustment section is based. The Committee recognizes that the Committee on Finance, which has jurisdiction for tax, trade and many of the social programs affected by this section, will have an opportunity to consider this section and make recommendations based on more adequate data and greater expertise.

The Committee's objective in recommending this economic adjustment section is to establish principles to guide future consideration. These principles include: first, that there ought to be an even playing field, politically, between the three political parties with regard to the status options; second, that there ought to be a smooth transition so that any change in political status, to statehood or independence, ought to work economically; and third, economic adjustment should be revenue-neutral to the extent possible, in that it does not cost the Treasury additional dollars over a period of time.

It is the Committee's intent that these three principles be achieved in any final legislation. It is intended that the referendum be decided on the broader issue of whether the people want commonwealth, statehood or independence.

There were specific concerns expressed as to whether the Committee had achieved an even playing field. Specifically, concerns were raised that there is a tilt toward statehood because there are a number of programs (Food stamps, Medicaid, AFDC) on which, effective January 1, 1992, the existing Federal "caps" on benefits would be eliminated and recipients of these program benefits might thus be encouraged to vote for statehood. However, the Committee believes that it could not respond to these concerns because the Committee did not have adequate information regarding these benefit increases under statehood, nor adequate information on the number of voters involved. Even more important, however, the Committee has sought, in crafting the economic provisions under Statehood, to respect the Constitutional imperatives of equal treatment while permitting only those delays which the Committee believes to be absolutely required for proper administrative reasons. The Committee's action should not be interpreted as an endorsement of Puerto Rico's present treatment, but simply a recognition that such treatment would not be Constitutionally permissible under Statehood.

The Committee did not include language in this section explicitly authorizing Puerto Rico to continue to apply tariffs on imported coffee. The United States Trade Representatives Offices testified that no statutory language is needed to authorize the continuation of such tariffs, and nothing in this Title is intended to alter Puerto Rico's continuing to apply tariffs on coffee imported from outside the United States.

Finally, the amendment deletes the two concluding sections of Title II as introduced regarding the treatment of language and culture in the new state. The Committee believes that Puerto Rico and the Federal government have achieved a balanced and accommodating relationship in these areas and it is unnecessary, and potentially disruptive, to attempt to legislate in these areas.

TITLE III—INDEPENDENCE

In general, Title III of the Committee substitute provides, should independence obtain a majority in the referendum, that a process culminating in eventual independence would be immediately initiated. The territorial clause of the Constitution provides Congress with the authority to grant independence to Puerto Rico through

the incremental withdrawal of United States authority, beginning with a transfer of those aspects of sovereignty needed by the nascent state of Puerto Rico to develop its constitution, and ending in a proclamation of independence. A transition period of approximately two years would permit Puerto Rico to put a government in place, and to negotiate the agreements needed to govern relations between the United States and Puerto Rico following independence.

Except for the deletion of the recitals, the first several sections of Title III regarding the procedures for the establishment of the Republic of Puerto Rico remain essentially unchanged by the Committee substitute. However, the provisions on citizenship and migration, defense, and economic transition have been significantly modified.

First, on citizenship and migration, the Committee believes that the provisions for dual citizenship between the United States and the Republic of Puerto Rico, and for open immigration for 25 years, as proposed in the earlier version of S. 712, were inconsistent with the relationship between independent nations. The substitute, however, recognizes the unique relationship between the United States and Puerto Rico by providing that independence would have no impact on the citizenship of United States citizens born in Puerto Rico prior to the date of the certification of a majority vote for independence in the referendum. The substitute would, however, limit the citizenship of persons born in Puerto Rico to U.S. citizen parents following such certification, by repealing or modifying the provisions of the Jones Act, and Immigration and Nationality Act, which declare Puerto Rico to be a part of the United States for the purpose of extending citizenship to persons born in Puerto Rico. In addition, the amendment provides that every person who is not a citizen of the United States and becomes a citizen of the Republic of Puerto Rico upon proclamation of Independence, or who becomes a citizen of the Republic by birth after the proclamation of Independence, or is a naturalized citizen of the Republic who has been an actual resident of Puerto Rico for not less than five years, may, after the proclamation of independence, enter the United States for certain purposes for a period of 25 years.

Second, it was the Committee's view that the earlier language of Title III did not adequately respond to the defense needs of the United States in Puerto Rico, particularly in light of the substantial number of United States citizens who would continue to reside in Puerto Rico following independence, and whom the United States would be obliged to protect. Accordingly, the substitute requires that specific arrangements for the use of military areas, and to meet United States defense interests, shall be negotiated and come into effect simultaneously with the proclamation of independence.

Third, the substitute also sets forth, in general terms, the arrangements to be negotiated between the United States and Puerto Rico to affect a smooth and fair transition for the new Republic with a minimum of economic disruption, and to promote the development of a viable economy in the new Republic. As with the economic transition provisions recommended for Title II, the Committee recognizes the limitations of the data currently available on

these economic issues, and it recognizes that there will be further consideration of these issues. It is the Committee's intent that its recommendations provide guidance for further consideration and that the three principles discussed previously: a level playing field among the options, a smooth transition to any new status, and revenue neutrality, be applied to all economic transition provisions.

TITLE IV—COMMONWEALTH

Several of the provisions of Title IV have been modified from the language of S. 712 as introduced, to provide as follows.

First, the statement of Principles of Commonwealth has been modified so as to maintain the fundamental relationship which currently exists between Puerto Rico and the Federal Government, and it sets forth the policy of the United States regarding Puerto Rico.

The Committee notes that the phrase "under the sovereignty of the United States" is not intended in any manner to diminish the autonomy which the Commonwealth exercises over matters of local self-government. The phrase simply reaffirms that Puerto Rico remains under the sovereignty of the United States as do the several States and other areas such as Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands. United States sovereignty would be withdrawn under Independence, but would remain unaltered under Commonwealth. Puerto Rico would not be incorporated and Congress would retain the same flexibility in designing federal programs as it presently has. The objective of this title is to improve the present federal relationship and to recognize those areas where additional authorities to the local government would better provide for the welfare of the United States citizens resident in Puerto Rico.

Second, the procedure originally proposed for Congressional review of the applicability of Federal law in Puerto Rico has been modified to require the enactment of a resolution of Congress in order to make a law inapplicable in Puerto Rico. As introduced, the procedure would not have required an action by Congress. The substitute is designed to meet the basic concern of the Commonwealth government that the Congress formally reconsider the applicability to Puerto Rico of certain Federal laws as identified by the Government of Puerto Rico. The substitute responds to a Committee concern that the Constitution requires the enactment of legislation to amend federal law, instead of granting inapplicability upon the failure of Congress to act, as originally proposed.

Third, the procedure for the review of Federal regulations as they apply to Puerto Rico has also been modified. The substitute would require Federal agencies to be guided by the policy statement in Section 402 with respect to their actions which would have an impact in Puerto Rico. In addition, the substitute would require agencies, upon a determination by the Governor of Puerto Rico, to reconsider the consistency of their regulations with the Federal policy regarding Puerto Rico, and to make findings as to such consistency. Such findings would be reviewable in Federal court under the standards of review of the Administrative Procedures Act (5 U.S.C. 706) in actions brought by the Governor of Puerto Rico.

Fourth, the substitute omits the policy statement originally proposed in Section 11(b) calling for full parity treatment of Puerto Rico in Federal social programs. This subsection was deleted because the programs were within the primary jurisdiction of other Committees. The Committee notes that there is nothing inherent in the Commonwealth relationship which precludes parity treatment of Puerto Rico in Federal social programs.

Fifth, the substitute provides for a Puerto Rico Liaison Office rather than the Representative Office as originally proposed. The Liaison would be an official appointed by the Governor, instead of elected, and the Liaison would not be entitled to the floor privileges of the Senate. These, and other modifications, respond to concerns of the Committee that a Representative to the Senate from a non-state jurisdiction would be inconsistent with the principle that members of the Senate represent states.

Finally, there are a number of other provisions in Title IV such as: aviation, passports and visas, community values, international agreements and Federal properties, which have been modified to varying degrees in the substitute. These provisions will be described in detail in the Section-by-Section Analysis portion of this report. In general, however, these provisions are not directly related to the political status of Puerto Rico and, if determined to be wise Federal policy, then they should be enacted independent of any status legislation. However, their resolution should not delay passage of S. 712. Moreover, many of these provisions are of interest to other Committees of the Senate. The Committee intends to continue to work closely with other Committees to further refine these provisions. Certain provisions, such as those regarding the proceedings of the United States District Court for the District of Puerto Rico, and those regarding jurisdiction over maritime resources, may be introduced as separate legislative measures. This approach will allow their continued consideration by Congress without slowing consideration of S. 712.

SECTION-BY-SECTION ANALYSIS

Section 1, the enacting clause, states that the United States recognizes the principle of self-determination and other applicable principles of international law with respect to Puerto Rico; and the United States is committed to a process of consultation and negotiation with the People of Puerto Rico leading to a referendum on the issue of political status to be conducted in a fair and equitable manner.

Section 2, the short title, names the Act "The Puerto Rico Status Referendum Act".

TITLE I—REFERENDUM PROCEDURES

Section 101(a)—In General.—Provides for an island-wide referendum for voters to choose from the three status options as set forth in Titles II, III, and IV of the Act.

Subsection (b)—Date of Referendum.—Establishes the first vote to occur on June 4, 1991, or on a date during the summer of 1991 as may be mutually agreed by the three principal political parties of Puerto Rico.

Subsection (c)—Returns of Referendum.—Provides that the returns of the referendum shall be made to the Governor who shall cause the votes to be canvassed as provided by law for the canvass of votes cast in a general election for Federal office in the Commonwealth of Puerto Rico, such as the election of the Resident Commissioner.

Subsection (c) further provides that if there is not a majority in favor of one of the three options, then there shall be a runoff referendum, on August 6, or a mutually agreed upon date, between the two options which had received the largest number of votes. This runoff referendum shall also include an option of "None of the Above" to provide an option to those who do not support either of the remaining choices. The "None of the Above" option would thus assure that the vote returns reflect actual support for an option and a majority would be a true majority, not a majority which included those persons who were presented with a choice between the "lesser of evils".

Finally, subsection (c) provides that the Governor shall certify to the President and to the Congress of the United States the results of the referendum.

Subsection (d)—Applicable Election Laws.—Establishes that the election laws of the Commonwealth of Puerto Rico for a general election for the election of a Federal officer as in effect on July 15, 1989, shall apply to the referendum. This subsection clarifies that such local law shall be modified only as provided for in this Act, and as is necessary to recognize that this is a referendum on status options, not an election of a Federal officer. These necessary modifications do not include any changes in voter qualifications or the manner in which votes are canvassed, counted and certified, or any other procedures of holding a vote. These necessary modifications would be of a purely technical nature, such as the calling of the election, and are intended to be made with the unanimous agreement of the three political parties.

Subsection (d) also requires that the Attorney General of the United States shall provide for adequate monitoring of the referendum by United States Marshals. The Committee believes that this referendum is of such national significance that Federal monitoring is warranted. The exact level of this monitoring is to be determined and provided by the Attorney General in recognition of the Federal government's commitment to a fair and equitable referendum, and to the potential need for Federal information in the event of disputes or controversies surrounding the vote. It is not intended in any manner to suggest that there is, has been, or may be a pattern of discrimination in Puerto Rico.

Subsection (e)—Judicial Review.—Provides that any legal dispute or controversy arising out of this referendum shall be adjudicated in accordance with local laws and procedures, except that aggrieved persons may challenge the results of the referendum on the basis that irregularities had occurred that were significant enough as to effect the outcome. To assure that disputes regarding the outcome of the vote are promptly resolved, such challenges shall be made to the special three-judge panel, established in paragraph (2). The Committee's action is not intended to express any concern over the objectivity or conduct of either the local or federal court in

Puerto Rico, but rather to provide expedited judicial review of this major issue. This special three-judge court will have exclusive jurisdiction to decide such challenges, but it is intended that the court will accord the same weight to local law as Federal courts generally accord local law in matters brought before them. The restriction that no judge on the panel shall be resident in Puerto Rico is intended to apply only to those who sit as judges in Puerto Rico, not those who reside in Puerto Rico but who sit on Federal courts other than the district court in Puerto Rico. It is further intended under this subsection, that if the Governor fails to make the certification within a reasonable period of time, a person may bring suit without regard to the 60 day time limit specified in subsection (e), because the certification would have been a basis for the 60 day period. Finally, appeals of the final judgment of the three-judge court would lie to the Supreme Court of the United States by way of certiorari.

Subsection (f)—Implementation.—Provides that the procedures for implementing the status option which has been certified to have received a majority vote shall go into effect on October 1, 1991 in accordance with the appropriate Title of this Act. This date does not apply where this Act specifically provides otherwise. Moreover, in the event of a delay due to a legal challenge, implementation of the status option receiving a majority shall go into effect as soon as is practicable after October 1, 1991. In the event no status option received a majority, then no further provisions of this Act would be implemented.

Subsection (g)—Referendum Information Officer.—Provides that the President shall appoint a Referendum Information Officer from a list, or lists if necessary to find an individual acceptable to the President, to be agreed upon and provided jointly by the three principal political parties. The Officer shall be bilingual and shall be reponsible for translating and distributing information and educational materials on the referendum to qualified voters. It is intended that the Officer develop a summary of the three status options from the legislative history of the Act in cooperation with members of Congress, and that the Officer make such a summary widely available, in both English and Spanish, through a postal patron mailing. The Officer is expected to remain strictly neutral with respect to the status options and to restrict statements and information to that set forth clearly in the legislative history.

TITLE II—STATEHOOD

Many of the provisions of Title II, such as 201, 203, 204, 205, 208, 209, 210, 211, and 212 appear in statehood enabling Acts.

Section 201—Proclamation.—Provides that should statehood be certified under section 101 as having obtained a majority of the votes cast in the referendum, and upon the certification of the election of the officers (Senators and Representatives) required under section 206, then the President shall issue a proclamation announcing the results of the election. Upon the issuance of such proclamation, the Commonwealth of Puerto Rico shall be declared to be state of the Union and shall be declared admitted to the Union.

Section 202—Constitution.—Declares that the Constitution of Puerto Rico shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. This section also declares that the Constitution of Puerto Rico, adopted in 1951, has been found by Congress to be republican in form and to be in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and was accepted, ratified and confirmed by Congress through Public Law 447 in 1952. Finally, this section declares that the current Constitution of the Commonwealth of Puerto Rico is accepted as the Constitution of the State. "Accepting" the current constitution means that notwithstanding any other law, the Constitution of Puerto Rico need not be further ratified or amended in order to achieve statehood.

Section 203—Territory and Boundaries.—Declares that the State shall consist of all of the territory, together with the waters included in the seaward boundary, of the Commonwealth of Puerto Rico. The current seaward boundary of Puerto Rico is 3 marine leagues, and is the same as Florida and Texas in the Gulf of Mexico, which also have a Spanish tradition from which this greater seaward boundary derives.

Section 204—State Title to Lands and Property.—Provides, in subsection (a), that the State, and its political subdivisions, shall retain title to all property which it currently holds, including submerged lands.

Subsection (b) provides that all lands and property set aside for use by the United States shall remain property of the United States.

Subsection (c) provides that, no later than five years after the date of admission, each Federal agency having control over any land or property in Puerto Rico shall report to the President and Congress concerning the future need for such land or property, and if the President determines that such land or property, or any portion thereof, or any interest therein is no longer needed by the Federal Government, then it shall be conveyed to the State at no cost. It is important to note that this language does not require that any lands be conveyed, and it specifically states that any interest, including any portion, of the Caribbean National Forest or the San Juan Historic Site is not authorized to be transferred.

Subsection (d) provides that in the event of the conveyance of land under subsection (c), all Federal laws: (1) reserving the free use or enjoyment of such property; or (2) reserving the right to alter, amend, or repeal laws relating to the ownership of such land; shall cease to be effective.

Section 205—Claims to Federal Lands and Property.—Subsection (a) provides that, as a compact with the United States, the Commonwealth and its people recognize all rights and titles to any lands or property not granted or conferred to the State or its political subdivisions by this Act, the right or title now held by the United States, or subject to disposition by the United States.

Subsection (b) provides that nothing in this Act shall affect any claim against the United States, nor shall be construed to affect the validity or invalidity of any such claim.

Subsection (c) provides that the State shall not impose any taxes on the property of the United States.

Section 206—Elections and Admission Referendum.—Subsection (a) provides that upon the certification that statehood has won a majority in the referendum, the Governor shall issue a proclamation for the election of United States Senators and Representatives, who shall be admitted to Congress, and the Office of the Resident Commissioner shall cease to exist upon the swearing in of the first Representative to the House. The subsection also provides for the separate identification of the two Senatorial offices.

Subsection (b) provides that these elections be conducted according to the laws of Puerto Rico and that the results be certified to the President of the United States. Paragraph (2) declares the name of the new state to be "The Commonwealth of Puerto Rico", and paragraph (3) provides that all persons holding government offices in Puerto Rico shall continue to discharge the duties of their office.

Section 207—Congressional Representation.—Provides that Puerto Rico, upon its admission, and until the next reapportionment, shall be entitled to such additional Representatives as would be provided based upon the 1990 census, and that the permanent membership of the House of Representatives is increased from 435 to accommodate the Representatives from Puerto Rico. The phrase "until the next reapportionment" is not intended to suggest that the House membership would return to 435 at the next reapportionment in 2002, but that Puerto Rico's number of Representatives may be adjusted based upon the 2000 census.

Section 208—Laws in Effect.—Subsection (a) provides for the continued effect of local and Federal laws upon admission except as modified by this Act, and, in the case of Federal law, except provisions of law which provide for grants or other assistance to states, units of local government, or individuals and for which Puerto Rico or its residents are either excluded or whose eligibility is less than that provided on a uniform basis to other states. This subsection also provides that provisions of Federal laws, other than those providing grants or assistance, which do not apply to Puerto Rico solely on the basis of geography, shall continue to not apply unless specifically extended by Congress.

The Committee is concerned that there may be examples in federal legislation where Congress has recognized the particular geographic conditions of Puerto Rico as an island in the Caribbean and taken those conditions into account. The Committee does not intend that this section should inadvertently extend mainland standards to Puerto Rico. The Committee is aware that there have been instances in which the remote and non-contiguous nature of Alaska and Hawaii have resulted in separate treatment, and intends that such treatment be continued for Puerto Rico under Statehood. The Committee believes that the Commission on Federal laws established under Subsection (b) will be able to provide the Congress with a list of those provisions which should be retained, and recommendations on amendments to Federal law which may be warranted.

Subsection (b) provides for the establishment of a Commission on Federal laws to survey the laws of the United States and make rec-

ommendations as to the applicability of such laws to the State. In making its recommendations the Commission will take into consideration the potential effect of each law on local conditions in Puerto Rico, the policies embodied in the law, and the provisions and purposes of this Title. The subsection also provides an authorization for appropriations for the Commission, the cost of which the United States will bear.

Section 209—Continuation of Suits.—Subsection (a) provides that no writ, action indictment, cause or proceeding pending in any Puerto Rico court will abate because of the admission of Puerto Rico, but shall proceed within the appropriate State courts. Subsection (b) provides that all civil causes and criminal offenses arising or committed prior to admission, but without a writ, action, indictment or proceeding pending upon admission, shall be subject to prosecution in the appropriate State courts or United States District Court. Subsection (b) also declares that the admission of the State shall have no effect on the procedural or substantive laws governing causes of action and criminal offenses and they shall be tried and punished by the appropriate courts.

Section 210—Appeals.—Provides that parties shall have the same rights of judicial review in cases decided prior to admission, and the United States Court of Appeals for the First Circuit and the Supreme Court of the United States shall have the same jurisdiction in such cases as provided by law prior to admission. This Section also provides that any mandate issued subsequent to admission shall be to the United States District Court for the District of Puerto Rico or the appropriate court of the State. Parties shall have the same rights of appeal and review of all action of the United States District Court for the District of Puerto Rico and the Supreme Court of Puerto Rico in any case pending at the time of admission and the Supreme Court of Puerto Rico and the Supreme Court of the United States shall have the same jurisdiction as provided by law in any case arising subsequent to admission.

Section 211—Military Lands.—Subsection (a) reaffirms the authority of the United States after admission to legislate over lands which immediately prior to admission are controlled or owned by the United States and held for defense or Coast Guard purposes. Subsection (b) states the right of Puerto Rico to serve civil or criminal process on such lands, and states that the reservation of authority to the United States does not prevent the lands from being part of Puerto Rico, or the State from exercising jurisdiction of the lands consistent with Federal law. Finally, Subsection (b) provides that this authority of the United States continues only so long as those lands involved are controlled by the United States and are used for defense or Coast Guard purposes, as may be determined by the President or Secretary of Defense.

Section 212—United States Nationality.—Provides that no provision of this Title shall confer, or terminate, or restore United States nationality.

Section 213—Economic Adjustment.—Contains provisions that are intended to effect a smooth and fair transition for the new State with a minimum of economic dislocation and permit federal agencies to assume or expand responsibilities for the administration and enforcement of federal taxes and programs affecting the citizens residing in the new State.

Subsection (a) provides that, effective on the date of admission of the State of Puerto Rico, all federal excise taxes not heretofore applicable to Puerto Rico are extended to Puerto Rico in the same manner as otherwise applicable in the several States.

Subsection (b) directs the heads of all federal agencies to examine the application of all programs within the jurisdiction of their respective agencies and, after consultation with the Governor of Puerto Rico, to recommend to the President, and to the commission established under section 208(b), what changes, if any, and what additional administrative requirements, if any, will be needed to properly achieve the application of federal laws in or to the new State with proper regard for the economic, geographic, and cultural circumstances of the new State.

Subsection (c) provides that, effective on the date of Admission of the State of Puerto Rico, all federal programs which provide assistance to or on behalf of individuals shall apply in Puerto Rico as they apply within the several States. It makes several exceptions: (1) reimbursements under Medicare shall not exceed the actual cost of providing equivalent health care to the levels of care provided in the several contiguous States; (2) the Secretary of Agriculture may, with the consent and agreement of the Governor of Puerto Rico, continue to obligate the amount of funds for which Puerto Rico becomes eligible under the Food Stamp program as a block grant rather than as coupons as a pilot program until October 1, 1997 unless otherwise provided by Congress; (3) solely for the purposes of transition and as a matter of administrative necessity, the Supplemental Security Income program shall not commence until January 1, 1994. Until such date, the present program for Aid to the Aged, Blind and Disabled is continued.

The Committee notes that this section is not optional, nor a matter of Committee generosity, nor an attempt to tilt the legislation toward statehood. This provision is Constitutionally required. The Committee has sought to delay only the application of SSI and only for administrative reasons. The Committee believes, based on the testimony received during hearings, that the delay is absolutely necessary to permit the Executive Branch, once the results of the referendum have been certified, to obtain the necessary budget authority and to be prepared for full application of the program beginning in 1994. The Committee is aware that the actual costs of each of the programs is uncertain due to the interrelationship between the programs in terms of income eligibility, and because it is unclear what decisions the new state government will make with respect to allocations of its resources. While application of these programs is required under Statehood, the Committee wishes to emphasize that there is nothing in the Constitution which prevents full application now to the Commonwealth.

Subsection (d) provides that the current tax treatment applicable to Puerto Rico is continued until January 1, 1994. Effective upon the certification of the results of the referendum, the Secretary of the Treasury shall consult with the Governor of Puerto Rico on the transition of the new State from a foreign tax jurisdiction. The Secretary is authorized, on a nonreimbursable basis, to provide such

technical and other assistance as the Governor may require to reform the present revenue situation of Puerto Rico prior to January 1, 1994. The heads of all Federal agencies are directed to assist the Secretary and to provide such support as the Secretary may request. Effective January 1, 1994, the federal internal revenue laws shall apply within the State of Puerto Rico as within the several States subject to such transitional rules or other provisions as Congress may have enacted prior to such date. This subsection provides one specific transition provision: the credit previously allowed under Section 936 of the Internal Revenue Code with respect to income or investments from activity in Puerto Rico shall be reduced to 80 percent for taxable years beginning in 1994, 60 percent for taxable years beginning in 1995, 40 percent for taxable years beginning in 1996, 20 percent for taxable years beginning in 1997, and shall not be available with respect to such income or investments thereafter. Congress explicitly reserves authority to enact appropriate transitional rules regarding the implementation of the above credit reductions and the tax treatment of corporations with respect to which an election under Internal Revenue Code Section 936 is in effect during the transition period, and the Secretary of the Treasury is authorized to promulgate and implement such regulations as are necessary.

The Committee notes that this section is also Constitutionally required. While the current local income tax laws of Puerto Rico have the 1954 Federal Code as their base, they are sufficiently different that immediate application of the federal code would be unworkable. The Committee had expected that the Department of Treasury would have been more helpful to the Committee in designing an appropriate transition. The Committee agreed that new taxes should commence at the beginning of a taxable year and that Treasury would need lead time in order to properly administer and enforce the tax laws. The Committee understands that of all the provisions of the Statehood measure, this is perhaps the most difficult. A variety of transitional rules will be necessary, especially on the corporate level, to recognize the effect which separate tax status has had in Puerto Rico. There are firms in Puerto Rico which enjoy certain tax benefits under Puerto Rico's laws and which may have structured their investments and operations in response to these local tax laws. In these cases, some period of transition may be warranted. In addition, the current local taxes raise approximately $2 billion in local revenues. Careful coordination between the Federal Government and Puerto Rico will be needed so that the local government can make whatever tax law adjustments are needed, while maintaining necessary revenues. With respect to section 936, the Committee determined that a 5-year phase out of the credit was a reasonable transition to permit firms to adjust to the new tax situation. The Committee is aware that section 936 now has application to the Caribbean Basin Initiative and functions in some respects as an Enterprise Zone in the territories. Rather than attempting to draft a replacement for Section 936, the Committee chose to adopt a phase out with the expectation that the issue of section 936 and overall transitional requirements for application of the federal internal revenue laws would be addressed

by the Finance and Ways and Means Committees in a manner which would best provide for a smooth transition for the new State.

Subsection (e) provides that the current payment provided by permanent indefinite appropriations of customs duties and equivalency payments on alcohol are continued as a Statehood grant. In addition, it provides that, until otherwise provided by law, all revenues derived from excise taxes which became applicable in Puerto Rico pursuant to subsection (a) of this section, or any new excise taxes which became applicable thereafter, shall be paid to the Treasury of Puerto Rico. As a Compact with the State of Puerto Rico, no alteration in the transfer of funds under this subsection may be made until after October 1, 1998. The prohibition under section 7652(d)(2) of the Internal Revenue Code shall apply to such funds. Finally, this subsection provides that, as a transitional Statehood grant to the new State to assist in maintenance of government services and to provide for maintenance of infrastructure, and to minimize the impact on local revenues from the transition from being a foreign tax jurisdiction, all revenues derived from the application of the federal internal revenue laws in 1994 and 1995 within the State of Puerto Rico shall be paid to the Treasury of Puerto Rico. The measure of the amount of income which is so derived will be determined according to such transitional rules or other provisions as Congress may have enacted prior to January 1, 1994.

The Committee prepared estimates of the spending and revenue impact of Section 213 which indicate that Federal spending would increase under statehood due to increases in various Federal programs such as Medicare, SSI, AFDC, Foster Care, and Food Stamps. The Department of Health and Human Services and the Department of Agriculture provided estimates of the increases in such programs that would occur in Fiscal Year 1992, assuming Puerto Rico achieved statehood in 1992. The Committee staff escalated these estimates at five percent per year and accounted for the provision in the bill that delays the expansion of SSI to Puerto Rico until 1994. The resulting estimates appear in the following table.

CHANGES IN NET SPENDING

										Total
Statehood:										
Change in spending	431	453	1,337	1,404	1,474	1,548	1,626	1,707	1,792	11,772
Increase in revenue	0	0	458	1,171	3,120	4,063	5,027	5,278	5,542	24,660
Net change in Federal spending	431	453	879	233	(1,646)	(2,515)	(3,401)	(3,572)	(3,750)	(12,887)

Note.—Spending excludes Social Security, Veterans Payments, Federal Retirement & Disability, Salaries & Wages, and Procurement. Includes all other payments to individuals and grants to government. Revenues are net of revenues returned to Puerto Rico, e.g., excise taxes and customs

Federal revenues would increase under statehood due to the applicability of Federal internal revenue laws beginning in 1994. Personal and corporate income taxes would bring in substantial revenues as would the phase out of Section 936 benefits. The Department of Treasury provided estimates of the effect of these changes for the period 1992 to 1998. The Committee staff escalated these estimates at five percent per year for the period 1999 to 2000 and ac-

counted for the provisions in the bill that cover over excise taxes to Puerto Rico until 1998 and cover over personal and corporate income taxes for the years 1992 and 1993. (These estimates assumed that the cover over of excise taxes would continue through 2000).

It should be emphasized that these estimates are very preliminary and are based on estimates provided by the Administration. The Committee has found no basis, however, on which to disagree with these Administration numbers. While some parties have argued that spending estimates are too low and revenue estimates are too high, others have argued that the opposite is true. For example, the Treasury estimates with respect to 936 revenues could be grossly low if certain sectors of the 936 economy are affected by a single patent or other intangible allocated to its Puerto Rico subsidiary, such as a serum for AIDS, or a medication for cancer. Also, growth in electronics and twin plants might result in Treasury's estimates being low. Federal spending estimates are uncertain and highly dependent on what a new Puerto Rican State government would decide regarding appropriate benefit levels for its residents. For example, maximum AFDC benefits for a four-person family in January, 1989 ranges from a low of $144 in Mississippi, to $899 in Alaska.

Another area of controversy is the Treasury estimates of the revenue increases that would arise from the phase-out of Section 936. This is a complicated problem and requires one to make informed judgments on questions such as: What factors led various firms to locate in Puerto Rico? How important are 936 benefits to their remaining in Puerto Rico? Which firms will remain in Puerto Rico? Which will move to the U.S. mainland? Which will move overseas? How will Federal revenues be affected under each of these three location decisions? The Committee notes that Treasury's assumptions on revenues do not require firms to remain in Puerto Rico after 936 is eliminated. Treasury simply assumes that the economic activity will continue and will therefore be subject to U.S. tax.

While economic projections are inherently "soft", projections involving a change in political status are even more so. The ecomony of Puerto Rico is tied to the economy of the United States. Projections made by GAO based on 1983 data assumed an unemployment rate of 23.5% while actual unemployment in 1988 was 15.9 percent. Advocates of Statehood have argued that Statehood would lead to a more robust economy. If so, projections on federal assistance costs are likely to be too high and revenue estimates will be too low. Conversely, a downturn in the U.S. economy could alter even those projections. In addition, the actual program costs and revenue collections will be affected by future actions by the Congress with respect to levels of benefits under the programs and changes in the tax code. While it is unreasonable to assume that there will be no changes, it is even more unreasonable to make assumptions as to what those changes will be. For any scenario which would alter the assumptions made by the Administration the Committee can offer an equally likely scenario with the opposite effect.

The Committee has adopted the Treasury figures as the best available estimates of revenue changes at this time. It is expected that both spending and revenue estimates will be refined as the bill

moves forward in the legislative process. It is the Committee's intent that this section provide guidelines for further consideration of these economic issues, as earlier described in the "Committee Amendment" portion of this report.

Another issue of controversy is whether or not section 213 is constitutional because it does not immediately and fully apply Federal taxes and programs and may thus be in violation of the uniformity clause of the constitution. The Committee disagrees with this view and believes Congress has substantial authority under the territorial and statehood clauses of the Constitution to provide for non-identical economic treatment under statehood if such treatment is reasonable, transitional, and necessary. The provisions of Section 213 are not only reasonable, but necessary in order to provide: Federal agencies the time needed to implement certain new taxes and social programs in Puerto Rico, Puerto Rico with the time needed to modify local tax and social program laws, and to avoid extremely serious disruptions to the economy of Puerto Rico during the transition from commonwealth status to statehood. The Committee agrees that based on the Treasury estimates, Statehood would, in the long run, be a net benefit to the Federal treasury over the costs of continued Commonwealth.

TITLE III—INDEPENDENCE

Section 301—Constitutional Convention.—Provides in subsection (a) for the election of delegates, within 6 months of the referendum, to a Constitutional Convention to serve until the proclamation of independence and to draft a Constitution for the Republic of Puerto Rico.

Subsection (b) sets forth the qualifications for those voting for the election of delegates to the Constitutional Convention to include (1) all persons born and residing in Puerto Rico; (2) all persons residing in Puerto Rico and who have one parent born in Puerto Rico; (3) all persons who at the time of enactment of this Act have resided in Puerto Rico for 25 years or more; (4) all persons who established their residence in Puerto Rico prior to attaining voting age and still reside in Puerto Rico; and (5) the spouses of all the above. The purpose of this subsection is to secure the participation of only those persons who have demonstrated a desire to be a part of the Puerto Rican community. While such restrictions on the right to vote may be argued to be inconsistent with the equal protection provisions of the constitution, the circumstances in this case are unprecedented. This would be an election for the development of a constitution to take effect after the termination of U.S. sovereignty. The protections of the U.S. Constitution are inapplicable to the process of developing the constitution of a nascent foreign nation, and the procedures for the development of the constitution are the initial exercises of sovereignty of that new nation. The Congress is authorized to enact such restrictions on voter qualifications pursuant to the territorial clause of the U.S. Constitution, (Article 4, Section 3, paragraph 2) which empowers the Congress to dispose of U.S. territory, including through the development of a process of transition towards eventual independence. These provisions should be viewed as an initial withdrawal of U.S.

sovereignty to the extent necessary to permit the development of a new constitution.

Subsection (c) provides that the laws of Puerto Rico relating to additional voter qualifications and the electoral process shall apply to this election.

Subsection (d) provides that the Constitutional Convention shall meet within 3 months of the election of the delegates at such time and place as the Legislative Assembly shall determine.

Subsection (e) provides that the Convention shall exercise jurisdiction over the territory of Puerto Rico ceded to the United States by Spain under the terms of the Treaty of Paris in 1898.

Section 302—Character of the Constitution.—Provides in Subsection (a) that the Constitutional Convention shall formulate and draft a constitution establishing a republican form of government which shall guarantee fundamental human rights.

Subsection (b) sets forth those fundamental rights as due process, equal protection, speech, press, assembly, association, religion, as well as the rights of the accused, and economic, social and cultural rights such as the right to education, nutrition, health services, housing, employment and the right to own property and to just compensation for the taking thereof.

Subsection (c) provides that the property rights of the United States and Puerto Rico shall be promptly adjusted and settled, and all existing property rights of citizens or corporations of the U.S. shall be respected and safeguarded as are the property rights of citizens of Puerto Rico.

Section 303—Ratification of the Constitution.—Provides in subsection (a) that the Constitution shall be submitted to the people for ratification or rejection.

Subsection (b) requires that the Legislative Assembly shall call a special election within 3 months of the Convention adopting the Constitution for the purpose of ratification.

Subsection (c) provides that the election shall be held in a manner prescribed by the Legislative Assembly, and in the event the constitution is not approved, it shall be resubmitted to the Constitutional Convention for further consideration and resubmission to the voters.

Subsection (d) provides that those qualified to vote in this election are those qualified pursuant to section 301(b).

Section 304—Election of the Officers of the Republic.—Provides in subsection (a) that within 30 days of ratification of the Constitution the Governor shall issue a proclamation calling for the election of such officers as required by the Constitution.

Subsection (b) provides that such election shall be not later than six months after ratification.

Subsection (c) provides that such election shall be held in accordance with the requirements of the new Constitution.

Subsection (d) provides that the Governor shall certify the results of the election to the President of the United States.

Section 305—Joint Transition Commission.—Provides in subsection (a) for the establishment of a Joint Transition Commission with members to be appointed in equal numbers by the President of the United States and the Presiding Officer of the Constitutional Convention of Puerto Rico.

Subsection (b) sets forth the responsibilities of the Commission as expediting the orderly transfer of all functions currently exercised by the Government of the United States in Puerto Rico, including the recommendation of the enactment of legislation by either government.

Subsection (c) provides that any necessary task forces established by the Commission shall be constituted in the same manner as the Commission. It is noted that this Title specifically calls for the establishment of several task forces. However, this is not intended to be exclusive, and the Commission may wish to establish additional task forces, for example, for dispute resolution, or establish subtask-forces for particularly complex tasks such as transition for Federal programs.

Subsection (d) requires that the governments of Puerto Rico and the United States cooperate with the Commission and the new officers of the Republic of Puerto Rico to provide for the orderly transfer of the functions of government.

Subsection (e) provides that the costs of the Commission shall be evenly divided between the United States and Puerto Rico, and authorizes appropriations as are necessary. This subsection also directs agencies of the United States Government to provide technical assistance to the Commission on a reimbursable basis.

Section 306—Resolution of Controversies Prior to Independence.—Provides that except as provided in Title I, and beginning on the date of certification of the results of the referendum and until the date of the proclamation of independence, any action arising from this Title filed in courts of the United States shall be stayed and referred to the Commission for resolution within a reasonable period of time.

Section 307—Proclamations by the President of the United States and the Head of State of the Republic of Puerto Rico.—Provides in subsection (a) that not later than one month after the certification of the election of the officers of the Republic of Puerto Rico and the approval of the agreements set forth in sections 312 and 313, the President of the United States shall by proclamation withdraw and surrender all rights exercised by the United States over the territory and people of Puerto Rico and shall recognize the independence of Puerto Rico and the authority of the new government. The proclamation shall state that the effective date of the withdrawal of sovereignty and the recognition of independence shall be the date of the proclamation of independence.

Subsection (b) requires the President to forward a copy of this proclamation to the presiding officer of the Constitutional Convention within one week of signature.

Subsection (c) requires the presiding officer, within one week of receiving the presidential proclamation, and with the advice of the officer elected to be the head of state, to determine the date in which the new Government of the Republic shall take office, and so shall notify the Governor of Puerto Rico and the President of the United States.

Subsection (d) provides that, upon taking office, the head of state of the Republic shall immediately issue a proclamation declaring that Puerto Rico has become (1) a sovereign, independent nation; (2) that the constitution is in effect; (3) that the Commonwealth of

Puerto Rico and its Government have ceased to exist; and (4) that the Government of the Republic will henceforth exercise its powers and duties under its Constitution.

Section 308—Effects of the Proclamation of Independence on Legal and Constitutional Provisions.—Provides that upon the proclamation of independence, and except as otherwise provided by this Title or in any agreement concluded between the United States and Puerto Rico (1) all property rights and interests of the United States in Puerto Rico shall vest in the Republic of Puerto Rico; (2) all laws of the United States applicable to Puerto Rico immediately prior to independence shall no longer apply; and (3) all laws and regulations of the Commonwealth of Puerto Rico in force immediately prior to independence shall continue in force and shall be read with such modifications as may be necessary to bring them into conformity with the constitution of the Republic of Puerto Rico until they are replaced with new legislation: Provided, that any provisions incompatible with the sovereignty of the Republic shall be deemed invalid.

Section 309—Effects of the Proclamation of Independence on Judicial Pronouncements.—Provides that, unless otherwise agreed by the United States and the Republic of Puerto Rico: (a) the Republic of Puerto Rico shall recognize and give effect to all orders and judgments rendered by United States or Commonwealth courts prior to the proclamation of independence, (b) all pending judicial proceedings in the courts of the Commonwealth prior to the proclamation of independence shall be continued in the corresponding courts of the Republic of Puerto Rico, and (c) upon the proclamation of independence the judicial power of the United States shall no longer extend to Puerto Rico. All proceedings pending in the United States District Court for the District of Puerto Rico shall be transferred to the corresponding Puerto Rico courts for disposition in conformity with the laws applicable at the time the controversy arose. All proceedings in the United States Court of Appeals for the First Circuit, or in the United States Supreme Court shall continue until final disposition and shall be submitted to the competent authority in either the Republic of Puerto Rico, or the United States, for proper execution.

Section 310—State Succession.—Provides in subsection (a) that the Government of the Republic of Puerto Rico shall be deemed successor to the Government of the Commonwealth of Puerto Rico.

Subsection (b) requires that the President, upon the proclamation of independence, shall notify other nations, the United Nations and the Organization of American States that the U.S. has recognized the independence of Puerto Rico and that all obligations of the United States which arise from any treaties affecting Puerto Rico, shall cease, provided such obligations may be assumed by the Republic of Puerto Rico in a manner to be determined by Puerto Rico.

Section 311—Citizenship and Migration.—Provides in subsection (a) that Puerto Rican citizenship shall be regulated by the laws of Puerto Rico.

Subsection (b) provides that, upon the certification that independence has received a majority in the referendum, Puerto Rico shall no longer be deemed to be a part of the United States for the purposes of acquiring citizenship of the United States by place of

birth and that those laws declaring Puerto Rico to be a part of the United States for those purposes, are repealed or modified. Subsection (b) also declares that nothing in this section shall affect the citizenship of any person born prior to the date of certification.

Subsection (c) provides that no person born outside of the United States after the proclamation of independence shall be a citizen of the United States at birth if the parents of such person acquired citizenship in the United States solely by virtue of being born in Puerto Rico prior to the proclamation. This subsection is intended to terminate the extension of United States citizenship to persons born in Puerto Rico following a referendum result that would initiate independence.

Subsection (d) provides that certain citizens of the Republic of Puerto Rico, not including those who have not been actual residents of Puerto Rico for at least five years, may enter into the United States for a period of 25 years after the proclamation of independence provided that such persons would not have the right to establish residence in the U.S. for the purpose of naturalization. Such persons would, however, be able to otherwise acquire such rights or permanent resident alien status. This subsection is intended to continue the close relationship existing between Puerto Rico and the United States by granting special immigration consideration to the generation of Puerto Ricans born after independence and whose parents are likely to be U.S. citizens, for the purpose of obtaining education or employment in the United States.

Section 312—Defense.—Provides in Subsection (a) that specific defense arrangements shall be negotiated, and approved in accordance with the constitutional processes of the United States and Puerto Rico, and shall come into effect simultaneously with the proclamation of independence. These arrangements shall include: (1) operating rights and status of forces agreements providing for continued unrestricted use and unrestricted access, by the United States, to military installations and facilities, and Coast Guard facilities in Puerto Rico, to the same extent and manner of use and access as existed prior to the referendum.

The specific details of the use and access arrangements to the following military installations and facilities, as specifically described in property records of the United States Department of Defense, would be subject to negotiation by the United States and Puerto Rico:

Roosevelt Roads Naval Complex, including its Naval Station, Naval Training Station and Naval Communications Station with its transmitter, receiver and relay sites;
Vieques Island facilities;
Sabana Seca Naval Security Group;
Punta Borinquen Radar Site;
Punta Salinas Radar Site;
Access to San Juan International Airport, Munoz Air National Guard Base;
Access to Boriquen International Airport; and
Use of Camp Santiago Training Area;

(2) an agreement to deny third countries any access to or use of the territory of Puerto Rico for military purposes, except as specifically authorized by the United States. This agreement shall make

explicitly clear that the United States shall have the right to determine what constitutes "access or use of the territory of Puerto Rico for military purposes" by third countries; and (3) an agreement by Puerto Rico that the foregoing conditions will remain in effect until terminated or otherwise amended by mutual consent. However, either nation may request negotiations at any time.

Subsection (b) requires that any consent by the United States to any change in the agreement regarding the denial of the territory of Puerto Rico to third nations for military purposes, must be specifically authorized by an Act of Congress.

The Committee did not include statutory language requiring the Government of Puerto Rico to agree to provide such additional property and facilities as may be determined in the future by the Government of the United States to be needed for military purposes. The provision of such additional property would be subject to future negotiation between the Government of Puerto Rico and the Government of the United States and would be provided on mutually acceptable terms and conditions.

Section 313—Federal Programs.—Is enacted in recognition of the unique relationship between the United States and Puerto Rico, to affect a smooth and fair transition for the new Republic of Puerto Rico with a minimum of economic disruption, and to promote the development of a viable economy in the new Republic of Puerto Rico. As with Section 312, Section 307(a) requires that certain specific economic agreements shall be negotiated, and approved in accordance with the constitutional processes of the United States and Puerto Rico, and shall come into effect simultaneously with the proclamation of independence.

Subsection (a) provides that all federal programs shall continue to apply in Puerto Rico until the end of the fiscal year in which independence is proclaimed, at which time, a grant shall be paid to the Republic of Puerto Rico pursuant to subsection (b)(3).

Subsection (b) provides that specific arrangements for the continuation or phase-out of federal programs shall be negotiated by a Task Force on Economic Assistance established by the Joint Transition Commission and approved in accordance with the constitutional processes of Puerto Rico and the United States, and shall come into effect simultaneously with the proclamation of independence. In general, the specific arrangements shall provide that: (1) All federal pension programs, such as veterans and civil service benefits, shall continue as provided by United States law; (2) Prior to the end of the fiscal year in which independence is proclaimed, an estimate will be determined by the Comptroller General of the United States of the total amount of grants, programs and services, including Medicare, provided by the Federal Government in Puerto Rico in such fiscal year, except for those grants, programs and services which will otherwise continue under this Act; (3) A grant equal to the amount established under paragraph (2) shall be paid annually to the Republic of Puerto Rico beginning in the fiscal year following the year in which independence is proclaimed through the ninth year following the certification of the referendum. It is not required that all United States aid would cease at the end of the ninth full fiscal year, but future aid would be subject to negotiation and to action by Congress. The Committee expects

the relationship between the United States and the Republic of Puerto Rico to be friendly and established on a history of very close relations and mutual interests; (4) The United States will fulfill any contractual obligations outstanding at the time of the proclamation of independence; and (5) Puerto Rico may request that the United States renew or continue any existing contractual obligations, provided that Puerto Rico agrees that the cost of such renewal or continuation shall be deducted from the annual grant made under paragraph (3).

Subsection (c) provides an authorization for appropriations as may be necessary to fulfill the purposes of this section.

The Committee staff prepared estimates of the spending and revenue impact of Section 313. Federal spending would decrease under independence due the bill's provision that various Federal programs such as Medicare, SSI, AFDC, Foster Care, and Food Stamps would be converted into a single block grant upon independence. The amount of that grant would remain the same (i.e., constant in nominal terms). In contrast, under Commonwealth, the spending under those programs would grow with inflation and any increases in the number of beneficiaries. The Office of Management and Budget provided estimates of the level of spending for such programs in Fiscal Year 1988. These estimates were escalated at five percent per year and assumed that independence would take effect in 1995. The resulting estimates of changes in Federal spending appear in the table below. The creation of a block grant in 1995 leads to spending decreases in 1996 and beyond as the grant remains constant in nominal terms.

Federal revenues would increase under independence due to the phase out of Section 936 benefits and increased collections of the rum excise tax. The Department of Treasury provided estimates of the effect of these changes for the period 1992 to 1998. These estimates were escalated at five percent per year for the period 1999 to 2000. The resulting estimates also appear in the table below, along with the net change in Federal spending.

It should be emphasized once again that these estimates are very preliminary and are based on estimates provided by the Administration. The earlier discussion, on Section 213, of the uncertainties surrounding the estimates applies here as well. As in the case of Section 213, the Committee has adopted the Treasury figures as the best available estimates of revenue changes at this time. Both spending and revenue estimates will undoubtedly be refined as the bill moves forward.

										Total
Independence:										
Change in spending	0	0	0	0	(213)	(437)	(672)	(919)	(1,178)	(3,420)
Increase in revenue	0	0	0	2,889	3,261	3,531	3,548	3,725	3,911	20,864
Net change in Federal spending	0	0	0	(2,889)	(3,474)	(3,968)	(4,220)	(4,644)	(5,089)	(24,284)

Note.—Spending excludes Social Security, Veterans Payments, Federal Retirement & Disability, Salaries & Wages, and Procurement. Includes all other payments to individuals and grants to government.

The Committee notes that under Independence, unlike Statehood, the section 936 credit would likely be replaced by a foreign tax credit.

Section 314—Social Security.—Provides in subsection (a) for a Task Force on Social Security to negotiate agreements necessary to protect the rights of workers who have permanently insured status under the Social Security Act as of 5 years subsequent to certification of the referendum, and to coordinate the Social Security System of the United States with a similar system to be established in the new Republic of Puerto Rico.

Subsection (b) provides that, in order to allow adequate time for the negotiation and implementation of these agreements, the current provisions of the Social Security Act shall apply for 5 years subsequent to the certification of the referendum. This section contemplates a transfer of resources to Puerto Rico to assist in the establishment of a local system of similar nature. It is intended that such a grant be estimated based on the value of contributions paid, plus interest, by residents of Puerto Rico who will not have achieved permanently insured status as of 5 years subsequent to the certification of the referendum. The agreements under this subsection shall provide, upon a transfer of resources, for the extinguishment of the rights of recipients and the obligations of the United States to those recipients.

The transition from the current system to a new system would guarantee that current beneficiaries would continue to receive full benefits until the normal expiration of such benefits. This might entail a transition cost, since current contributions by Puerto Ricans to the present system are less than the current benefits. However, such cost is consistent with the overarching legislative purpose of gradually reducing Puerto Rico's dependence on the United States, particularly in light of the fact that current beneficiaries have made lifetime contributions to the system, and in light of the fact that any transition cost would be temporary. The Task Force established by the Joint Transition Commission on Social Security would select among various possible alternatives to provide such guarantees, so that Puerto Rico could establish and operate a financially sound social insurance system for the protection of future generations of its citizens.

Section 315—Medicare.—Provides for the establishment of a Task Force on Medicare to negotiate agreements for the coordination of the Medicare system with a similar system in the new Republic of Puerto Rico, and for the approval of such agreements in accordance with the constitutional processes of Puerto Rico and the United States.

Section 316—Trade Relations.—Provides in subsection (a) that trade relations between the United States and Puerto Rico shall continue as currently provided by law until the proclamation of independence.

Subsection (b) provides for the establishment of a Task Force on Trade to consider and develop specific provisions between the United States and Puerto Rico following independence. This subsection also includes an expression of Congress' willingness to consider a mutual free trade arrangement if negotiated. In this case "free-trade" does not mean that there would be open trade of all goods

between the two nations, but that to the extent there are limitations on imports or exports, those limitations would be as mutually agreed and would, overall, provide mutual benefits to each nation and would assist each in meeting its trade and economic development objectives. This subsection also provides that, in the absence of such an agreement, Puerto Rico shall be afforded most favored nation status, and provided that Puerto Rico meets the requirements under the Caribbean Basin Economic Recovery Act, designation as a beneficiary under the Caribbean Basin Initiative.

Subsection (c) provides that the President is encouraged to seek to obtain favorable tariff treatment for exports from Puerto Rico from other nations, and to encourage other countries to designate Puerto Rico as a beneficiary under their respective General Systems of Trade Preferences.

Section 317—Taxation.—Provides in subsection (a) that effective on the date of proclamation of independence, the tax credit allowed under Section 936 shall no longer be available with respect to investment activity in Puerto Rico. This subsection is in response to concerns of the Department of Treasury that extension of Section 936 to an independent Puerto Rico might trigger "most-favored" clauses in tax treaties with other nations and would thus require Section 936 to be extended to them. However, the Committee notes that Section 936 is continued to the Freely Associated States of Micronesia and this has not posed problems with respect to "most-favored" clauses in tax treaties. The Freely Associated States, while fully sovereign, are not independent and while under free association are eligible to participate in many federal programs as though they were a part of the United States. Puerto Rico, on the other hand, would be fully independent. The State Department testified that a reasonable phase-out of Section 936 would not likely raise objections from other nations because such a transitional situation was not contemplated under any previously negotiated tax treaties.

The Finance and Ways and Means Committees will also consider these provisions. Much as under the Statehood option, it may be that the Tax Committees, after reviewing the objectives of this provision with the Administration, will recommend a different approach. The Committee notes that it is likely that firms in Puerto Rico will be able to use the foreign tax credit in lieu of section 936.

Subsection (b) provides for the establishment of a Task Force on Taxation to negotiate appropriate tax treaties to govern relations between the United States and Puerto Rico. This would allow Puerto Rico to obtain the same beneficial treatment granted to other foreign nations under treaties currently in force with the United States.

Section 318—Currency and Finance.—Provides in subsection (a) for the establishment of a Task Force on Currency and Finance to negotiate an agreement to assist the Republic of Puerto Rico in the design and establishment of a deposit insurance system to determine the extent of financial support to be provided by the United States and to make the necessary arrangements with respect to the use of United States currency by Puerto Rico, if so requested.

Subsection (b) provides that United States guarantees to investors in the secondary market for existing loans, shall be main-

tained for Puerto Rico-originated loans existing on the date of the proclamation of independence until maturity.

Section 319—Public Debt.—States that all valid and outstanding debts of the Commonwealth of Puerto Rico shall be assumed by the Republic of Puerto Rico, and that the tax treatment of any such obligations shall be unaffected by the proclamation of independence to the extent that similar obligations issued by states are so treated.

TITLE IV—COMMONWEALTH

Section 401 provides for implementation of this Title should Commonwealth be certified as having obtained a majority of the votes cast in the referendum.

Section 402—Principles of Commonwealth.—States, in subsection (a), that Puerto Rico is a self-governing body politic joined in political relationship with the United States and under the sovereignty of the United States. This subsection maintains the sphere of self-government the people of Puerto Rico have enjoyed since 1952 and that has been recognized by the United Nations, and contemplates the strengthening of this relationship. The establishment of the Commonwealth pursuant to Public Law 600 defined a sphere for the exercise of self-government over matters of purely local concern by the Government of Puerto Rico in accordance with a constitution approved by the people of Puerto Rico. This subsection is not intended to expand or diminish that sphere. This title is intended to improve the relationship between the Federal government and Puerto Rico. This section also recognizes that the commonwealth relationship is permanent and will not be revoked without the consent of the people of Puerto Rico.

Subsection (b) declares that the policy of the United States shall be to enhance the Commonwealth relationship enjoyed by the Commonwealth of Puerto Rico and the United States Federal Government to enable the people of Puerto Rico to accelerate their economic and social development, to attain maximum cultural autonomy, and in federal legislative and administrative action to take into account local conditions in Puerto Rico. The two following sections of this Title, Sections 403 and 404, provide mechanisms for the implementation of this policy.

Section 403—Application of Federal Law—Provides in subsection (a) that the Governor of Puerto Rico may certify to Congress that the legislature of Puerto Rico has adopted a resolution that states that a Federal law, or provision thereof, should no longer apply to Puerto Rico because there is no overriding national interest in such applicability and it does not serve the interests of Puerto Rico. A Federal law, or laws, or provision thereof, so certified shall no longer apply to Puerto Rico if a joint resolution approving the recommendation of the Government of Puerto Rico is enacted.

Subsection (b)—Expedited Congressional Review.—Sets forth the procedures for the expedited congressional review of the recommendation of the Government of Puerto Rico that a Federal law should no longer apply in Puerto Rico.

Paragraph (1)—Congressional Rulemaking.—States that this subsection is enacted as an exercise of the rulemaking power of the

Senate and the House of Representatives, and as such is deemed to be a part of the rules of each House but applicable only to the procedures to be followed in this subsection and it supercedes other rules only to the extent of inconsistencies.

Paragraph (2)—Resolution.—States that for this paragraph the term "resolution" means a joint resolution and sets forth the matter after the resolving clause. Paragraph (2) further provides that such resolution shall include the certification by the Governor and a copy of the resolution adopted by the legislature of Puerto Rico.

Paragraph (3)—Referral.—Provides that the resolution shall be referred to the House Committee on Interior and Insular Affairs and to the Senate Committee on Energy and Natural Resources and to any other committees as the House Speaker and Senate President shall determine.

Paragraph (4)—Discharge.—Provides that if the committee or committees have not reported the resolution at the end of 45 calendar days, then it shall be in order to discharge the Committee from further consideration. Paragraph (4) further provides that a motion to discharge may only be made by an individual favoring the resolution and shall be highly privileged and debate limited to not more than one hour, equally divided. Amendments to the motion shall not be in order, nor shall it be in order to reconsider the vote. Finally, paragraph (4) provides that if the motion to discharge is agreed or disagreed to, the motion may not be renewed, nor may another motion to discharge be made with respect to any other resolution regarding the same submittal.

Paragraph (5)—Floor Consideration.—Provides that when the last committee has reported or been discharged, it shall be in order to move to proceed to the consideration of the resolution. Such motion shall be highly privileged and not debatable. Amendments to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion was agreed or disagreed to. Paragraph (5) also provides that debate on the resolution shall be limited to not more than 10 hours, equally divided; a motion to further limit debate shall not be in order; and it shall not be in order to move to reconsider the vote by which the resolution was agreed or disagreed to.

Paragraph (6)—Determinations on Motions.—Provides that motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to other business, shall be decided without debate. Paragraph (6) also provides that appeals from the decision of the Chair relating to the application of the rules of the Senate or House shall be decided without debate.

Paragraph (7)—Subsequent Action.—States that notwithstanding any provisions of this subsection, if either House has approved a resolution regarding this submittal, then it shall not be in order to consider in that House any other resolution regarding the same submittal.

Paragraph (8)—Computation of Period.—Provides that for the purpose of this subsection; continuity of session is broken only by adjournment sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day

certain are excluded in the computation of any period of time in which Congress is in continuous session.

Subsection (c) provides that this section shall not apply to any Federal law, or provision thereof, establishing directly or indirectly grants and/or services to individual citizens; relating to citizenship; or, pertaining to foreign relations, defense or national security.

Subsection (d) provides that the Governor of Puerto Rico may enter into international agreements to promote the international interests of Puerto Rico as authorized by the President of the United States consistent with the laws and international obligations of the United States.

Section 404—Regulatory Review.—Sets forth procedures so that the Governor of Puerto Rico may require the review of regulations which apply to Puerto Rico but which the Governor determines are inconsistent with the Federal policy stated in Section 402.

Subsection (a) establishes that the definitions of Title 5 U.S.C., Section 551, regarding Federal rule making shall apply to this section.

Subsection (b) requires that all agencies shall be guided by the policy stated in Section 402 when carrying out their duties in or affecting Puerto Rico, and when engaging in rule making pursuant to 5 U.S.C., section 553, the agency shall include in the general statement of the basis and purpose of any final rule, the views or arguments submitted to the agency that raise a question of the consistency of such rules with such policy. The word "duties" in this subsection refers to any official agency action authorized by statute or rule. Also, under this subsection, a proposed rule which is applicable to Puerto Rico must be tested by the agency for consistency with the policy of Section 402(b). The second sentence of this subsection refers to rulemaking under the Administrative Procedure Act. This modifies current law, which does not require an agency to provide reasons for not responding to certain objections to a proposed rule when it adopts a final rule.

Subsection (c) provides that when an agency publishes a final rule that applies in Puerto Rico, the Governor may submit to the agency the Governor's determinatin that such rule is inconsistent with the policy, and how it could be made consistent. The agency shall reconsider the question of consistency and within 45 days publish its finding that either (1) by the terms of the statute pursuant to which the rule is made the agency has no discretion to make the rule inapplicable, or vary its terms, in Puerto Rico; or, there is a national interest that the rule be applicable in Puerto Rico; or (2) the rule is not consistent with such policy and it shall not be applicable or shall be applicable only in accordance with terms specified in the agency's finding.

Subsection (c) further provides that within 60 days of the publication of the agency finding provided under "(1)" above, the Governor may petition for review in the United States Court of Appeals of the First Circuit or the D.C. Circuit. The scope of any such review shall be as prescribed in 5 U.S.C. 706. Federal courts shall have no jurisdiction to entertain actions brought by any party other than the Governor of Puerto Rico.

Section 405—Aviation.—Provides that the officials of the Department of State and the Department of Transportation shall seek the

advice of appropriate officials of Puerto Rico when negotiating any air transportation agreements which would affect air traffic to or from Puerto Rico.

The Committee appreciates the importance of air transportation to Puerto Rico and intends that the responsible Federal agencies will work closely with officials of Puerto Rico and will respond to their concerns as much as possible.

Section 406—International Trade.—Would under subsection (a), amend the Act of April 12, 1900, (48 U.S.C. 739) to authorize Puerto Rico, as strictly limited by the international obligations of the United States, to impose tariff duties on foreign origin products imported into Puerto Rico from outside the customs territory of the United States. Such tariff duties may be in addition to the general tariff duties imposed by the United States if such general tariff duties are not subject to U.S. international obligations, or in cases where the duty is applied at a rate below that which is subject to U.S. international obligations, then the combined duties shall not exceed the level of the U.S. international obligation.

Subsection (b) would amend the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902) to state that it is the sense of the Senate that the President should consider the effect of any proposed tariff rate or any proposed changes in non-tariff measures on the economy of Puerto Rico and should consult with the Governor of Puerto Rico concerning the potential effect prior to concluding international trade negotiations. The amendment would also state that it is the sense of the Senate that the President should seek to obtain favorable treatment from foreign countries for exports from Puerto Rico and should take steps to encourage other countries to consider Puerto Rico as a developing area for purposes of their respective Generalized Systems of Trade Preferences schemes, and any such regional systems of trade preferences.

Section 407—Federal Programs Consolidation of Grant-in-Aid Programs.—Would amend Public Law 95-134 to provide Puerto Rico with the same grant consolidation and matching grant waiver consideration as is provided to the other territories and commonwealths of the United States. This law, as amended, authorizes Federal agencies to consolidate their grants to these insular governments upon the request of the government. In the case of the Department of the Interior, such consolidation is mandatory. In addition, P.L. 95-134 waives the local grant matching requirements when it totals less than $200,000.

Section 408—Consultation in Appointments and Nominations.—Requires in subsection (a) that the head of the Department or agency making appointments of certain persons to serve in Puerto Rico shall consult with the Governor of Puerto Rico, or other appropriate official in Puerto Rico, prior to such appointment, as to whether there are special circumstances or qualifications which should be considered in making the appointment.

Subsection (b) requires that the President shall consult with the Governor of Puerto Rico prior to making a nomination of a person to serve in Puerto Rico and whose appointment requires the advise and consent of the Senate, as to whether there are special circumstances or qualifications which should be considered in deciding on the nomination. This section does not require or prohibit

the disclosure of individuals under consideration for such position nor does it limit the ability of heads of agencies or the President to nominate or appoint any individual. Also, this section does not apply with respect to any position in the Armed Forces of the United States, the Coast Guard, and in law enforcement agencies.

Section 409—Puerto Rico Liaison Officer.—Establishes the Office of Senate Liaison for Puerto Rico in subsection (a). The Office shall be headed by an individual appointed by the Governor, who shall serve at the pleasure of the Governor, and who shall be known as the Puerto Rico Liaison. The purpose of the Office shall be to facilitate the exchange of information between the Senate and the Government of Puerto Rico and to provide a presence, or point of contact, in the Senate.

Subsection (b) provides that the Committee on Rules and Administration shall determine what facilities and services shall be available to the Office. All personnel of such Office shall be issued such identification as will entitle them to the same privileges as are afforded to the employees of the Congressional Research Service and no employee of the Office shall be permitted privilege of the Senate floor.

Subsection (c) authorizes the appropriation of $600,000 annually for salaries and $56,000 for expenses of the Office. The Liaison shall appoint and fix the compensation of Office personnel, and all personnel, while not employees of the Senate, shall, except as provided in subsection (b), be treated as if they were employees of the Senate regarding pay, benefits, rights, privileges and restrictions and shall be subject to all requirements otherwise applicable to Senate employees.

Subsection (d) provides that the Office shall be subject to the jurisdiction of the Committee on Rules and Administration.

Section 410—Passports.—Would, under subsection (a) amend Title 22 U.S.C. Section 211b to require the Secretary of State to establish a Passport Office in San Juan, Puerto Rico.

Subsection (b) requires that the Secretary of State and the Attorney General must consult with the Governor of Puerto Rico to determine what administrative actions can be taken to expedite the processing of visas needed by an individual or individuals invited by the Governor to visit Puerto Rico. This subsection requires a report to Congress on such consultations and administrative action by March 15, 1990.

Section 411—Community Values.—Would amend the Clayton Act (15 U.S.C. 12) and the Federal Trade Commission Act (15 U.S.C. 45) to suspend application of the antitrust laws to any action among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate the negative impact of: violence, illegal drug use, and sexually explicit material in telecast material; and to promote local programming in Puerto Rico.

Subsection (c) limits the inapplicability of the antitrust laws so as not to apply to any action which results in a boycott of any person, and limits the term of the provision to activities conducted within 36 months after enactment, but may be extended for other 36 month periods upon declaration of the Governor.

This section closely conforms to the provisions of Senate passed bill S. 593, except for the objective of promoting local programming, and the authority of the Governor to extend the provisions beyond 36 months.

Section 412—Federal Properties.—Requires the President to report to Congress by March 15, 1990 on eight listed Federal properties, including an assessment of the Federal need for each property, the costs and/or benefits of disposal, and the comments of the Government of Puerto Rico regarding each property. The Section further provides that unless the President finds there is a national interest which requires continued Federal ownership of each property, then he shall provide for the transfer of the property to Puerto Rico according to such terms as he determines appropriate with respect to each.

Section 413—San Juan National Historic Site Advisory Commission—Establishes in subsection (a) a commission which shall regularly advise the Secretary of the Interior on the operation, management and administration of the San Juan National Historic Site.

Subsection (b) provides that the commission shall consist of the Governor, or his designee, the Director of the National Park Service, or the Director's designee, three members to be appointed by each the Governor and the Secretary with one of the members appointed by each to serve as co-chairpersons of the commission.

Subsection (c) sets forth the terms of members, how vacancies shall be filled, the payment of expenses, the requirements for quorum and voting by the commission, and provides that Section 14(b) of the Federal Advisory Committee Act is waived with respect to this commission.

Subsection (d) requires that the Secretary shall from time to time, but at least annually, meet with the commission regarding the planning, management and administration of the site. Such meetings shall be open to the public and in such places as to encourage public participation, and adequate notice of such hearings shall be provided.

Finally, subsection (e) requires that the commission shall annually prepare and transmit a report to the appropriate House and Senate Committees containing information and recommendations on the operation, management and administration of the site, including recommendations regarding revision of the general management plan for the site.

Cost and Budgetary Considerations

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, September 6, 1989.

Hon. J. Bennett Johnston,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached estimate of the outlay effects for S. 712, The Puerto Rico Status Referendum Act, as ordered reported by the

Senate Committee on Energy and Natural Resources on August 2, 1989. The bill would also have significant revenue effects. These revenue effects are being estimated by the Joint Committee on Taxation and are being provided under separate cover.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

Attachment:

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 712.
2. Bill title: The Puerto Rico Status Referendum Act.
3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources on August 2, 1989.
4. Bill purpose: To establish guidelines and provide resources for an island-wide referendum during the summer of 1991 in Puerto Rico. The referendum will allow Puerto Rico to choose between statehood, independence, and enhanced commonwealth status. In addition, the bill outlines the transition provisions for entitlement and federal programs as well as tax issues for each of the options.
5. Estimated Cost to the Federal Government: This estimate provides only spending estimates for S. 712. Revenue estimates are being developed separately by the Joint Committee on Taxation. The estimated costs to the federal government would be very different depending upon which status option—statehood, independence, or enhanced commonwealth—is chosen. The table below shows the total federal costs under each alternative.

[By fiscal years, in millions of dollars]

	1991	1992	1993	1994	1995
Statehood:					
Direct spending:					
Budget authority	—	1,666	1,810	2,460	3,150
Estimated outlays	—	1,666	1,810	2,460	3,150
Amounts subject to appropriation action:					
Estimated authorization level	(1)	10	10	10	10
Estimated outlays	(1)	10	10	10	10
Total spending:					
Budget authority/Estimated authorization level	(1)	1,676	1,820	2,470	3,160
Estimated outlays	(1)	1,676	1,820	2,470	3,160
Independence:					
Total spending:					
Budget authority/Estimated authorization level	(1)	−200	−500	−800	−1,100
Estimated outlays	(1)	−200	−500	−800	−1,100
Enhanced Commonwealth Status:					
Direct spending:					
Budget authority	—	0	0	0	0
Estimated outlays	—	0	0	0	0
Amounts subject to appropriation action:					
Estimated authorization level	(1)	(1)	(1)	(1)	
Estimated outlays	(1)	(1)	(1)	(1)	(1)
Total spending					
Budget authority/Estimated authorization level	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)

(1) Less than $5 million

Basis of Estimate: For purposes of the estimate, CBO has assumed that the referendum would occur and be certified in the summer of 1991, and that procedures for implementing the certified status option would go into effect in fiscal year 1992. The bill has three status options that are discussed in turn. The cost of the referendum would be incurred regardless of the option chosen.

REFERENDUM

Although the bill does not state a specific authorization level, CBO estimates the cost of the referendum would be between $2.5 million and $4 million in fiscal year 1991.

S. 712 would require the Attorney General to provide for adequate monitoring of the referendum by U.S. Marshals. Based on information from the Department of Justice, CBO estimates that these monitoring activities would cost between $.5 million and $2 million in 1991, depending on how the Marshals Service implements this provision.

If they provide a minimal presence of on-call deputy marshals able to respond to disruptions at polling places, then costs would be toward the lower end of the range. If on the other hand, they create a greater presence by providing more marshals to travel to and monitor all 1,602 polling places during the election, then costs would be closer to the higher end of the range. For purposes of this estimate, we assumed that the primary function of the U.S. Marshals would be to insure law and order at polling places and not to insure against election fraud. We therefore did not estimate the costs that would be incurred to provide oversight and security of ballot boxes and machines.

S. 712 also would require the President to appoint a Referendum Information officer to distribute education information on the referendum. The bill authorizes the appropriation of funds to cover the expenses of the Information Officer. CBO assumed that the Information Officer would be appointed by October 1990 and would work through August of 1991. The estimate covers costs for salaries, overhead, printing, and postage. CBO estimates the cost of these activities would be $2 million in fiscal year 1991.

The costs of the referendum are included in the costs of each of the three state options.

STATEHOOD

If statehood is certified, Puerto Rico would be treated as any other state effective October 1, 1991. This option would entitle Puerto Rico to representation in Congress and full participation in federal entitlement programs. This provision would also provide for a commission to facilitate the transition to statehood.

Senators and Representatives. Beginning January 1992, Puerto Rico would be represented in Congress by two senators and six representatives. At the same time, the office of Puerto Rico's current delegate to the Congress—the Resident Commissioner—would no longer be necessary. The costs of the additional members would be similar to the costs associated with members of Congress from the states with population size similar to Puerto Rico and of similar distance from Washington, D.C. Such costs would total about $7 to

$10 million annually. The estimate for 1992 assumes the new members would be sworn in January 1992.

Commissions. S. 712 would require the creation of a seven person commission to examine the applicability of federal laws in Puerto Rico. The commission would be created within 60 days of confirmation of the election results (beginning of November 1991 at the latest) and would have to submit its report by January 1, 1995. CBO estimates the cost of these activities would be $1 million annually in fiscal years 1992–1994.

Entitlement Programs. While Puerto Rico is considered a state for many federal programs, it is not always treated identically to the rest of the 50 states. For example, federal funds available for AFDC and Medicaid are capped in Puerto Rico, and the Food Stamp program is administered as a block grant. Also, SSI is currently not available in Puerto Rico, but the Aid to the Aged, Blind and Disabled (AABD) program is. The estimates for the entitlement programs are complex and uncertain in a number of respects. The uncertainties include the benefit levels for each program, the number of participants in each program, the actual amount of time the transition to statehood would take, and the comparability of the program and population in Puerto Rico to the U.S.

Recent detailed data bases that display the characteristics of current program participants and permit estimates of potential participants are not available for Puerto Rico. This lack of data complicates the estimating process and increases the uncertainty of the estimates. Finally, many of the federal programs, in particular AFDC and Food Stamps, are sensitive to the condition of the economy, particularly the unemployment rate. If the Puerto Rican economy should change under statehood, the costs to the federal government for these programs could change significantly. For example, participation in the Food Stamp and AFDC programs would be higher, if the unemployment increased significantly.

Food Stamps. Extending food stamps to Puerto Rico is estimated to increase federal costs by $700 million annually in 1992–93 and $600 million annually in 1994–95. This estimate assumes a Food Stamp program cost of $1.7 billion in 1992, less $1.0 billion for the existing Nutrition Assistance Program. The $1.7 billion estimate assumes average monthly participation of 1.75 million persons, average monthly benefits of $77 per person, and administrative costs of $60 million. Participation is estimated to remain constant in 1992–1995. Benefits would increase annually due to cost-of-living adjustments, but the rise in average benefits would be partially offset by decreased Food Stamp benefits for households beginning to receive increased cash welfare, particularly Supplemental Security Income in 1994 and 1995.

These estimates are based on the operation of the Food Stamp program in Puerto Rico prior to July 1982. The 1.75 million participation estimate is based on the 1982 average of 1.81 million people, adjusted for the national decline in Food Stamp participation since then. The drop in participation is assumed to be half as large in Puerto Rico as in the rest of the United States, where participation fell from 20.4 million in 1982 to 18.7 million in 1988, and is estimated to remain at 18.7 milion in 1992.

The $77 monthly benefit estimate for 1992 assumes that under statehood the Puerto Rican Food Stamp program would follow national standards for maximum benefits and deductions, and then average benefits would be 17 percent larger than in the rest of the United States. Puerto Rican benefits were only 5 percent larger that national food stamp benefits in 1982. However, at that time the Puerto Rican Food Stamp program operated under a special set of lower maximum benefits and deductions.

Medicaid. The public health program in Puerto Rico currently covers approximately 2.1 million of the Island's 3.3 million persons. CBO assumes that the new program would attempt to cover a significant portion of the persons currently covered. Based on conversations with Island Medicaid staff, the Health Care Financing Administration (HCFA) regional office involved in the current Medicaid program, and previous published work on the Island's public health program, CBO assumed approximately 1.35 million participants annually. This estimate assumes that the health care system in Puerto Rico would respond to the new program by increasing the supply of services by fiscal year 1992. Also, Puerto Rico would receive $900 million in new federal funds and would be required to put up $184 million in matching monies, assuming the 83 percent match. This amount is considerably less than the $450 million the Commonweath is currently spending.

Medicare. This estimate is based on taking the price differential between the hospital rates paid in Puerto Rico and the U.S. in 1989 and inflating it with CBO Hospital Insurance program growth rates for years 1990–1995.

SSI. Puerto Ricans would become eligible for federal SSI January 1, 1994. The estimated increased cost over the current Aid to the Aged, Blind and Disabled (AABD) program is $600 million in 1994 and $900 million in 1995. The current AABD program costs approximately $16 million annually. The first full year estimate of $850 million in 1995 assumes average monthly participation of about 75,000 aged and 115,000 disabled (including blind) persons. Average benefits for the aged are about $260 a month and about $430 a month for the disabled. Estimated costs in 1994 are significantly lower because Puerto Ricans would not be eligible for the first three months of the fiscal year. Also, it is assumed that newly eligible participants would not move onto the SSI program immediately. Estimated administrative costs in 1994 of about $160 million are higher than in 1995 as a result of the large additional cost of processing initial claims. Estimated administrative costs for 1995 are about $$35 million.

The estimated costs for SSI benefit payments in Puerto Rico were based on a 1987 study by GAO "Welfare and Taxes: Extending Benefits and Taxes to Puerto Rico, Virgin Islands, Guam, and American Samoa." This study used 1980 census data on incomes in Puerto Rico to estimate the number of people who would be eligible for SSI in Puerto Rico. Because disabled people under the age of 65 are difficult to distinguish on the census only the number of eligible people aged 65 and over were estimated. Their estimated average monthly SSI benefit was approximately 20 percent higher than the average aged federal SSI benefit in 1979. To estimate the number of disabled eligibles we assumed the 1979 ratio of U.S. aged

SSI recipients to disabled recipients would be the same in Puerto Rico. The same ratio procedure was used for the disabled benefit relative to aged benefits. Following the GAO study, we assumed 43 percent of the estimated eligible population would have participated in 1979. This is the same estimated 43 percent SSI participation rate for aged recipients in the U.S. based on the 1980 census.

The estimated number of Puerto Rican participants was increased by the growth in CBO's baseline for aged and disabled categories relative to 1979 U.S. caseloads. Between 1979 and 1995 the U.S. aged caseload declines by about six percent and the blind and disabled caseload grows by 65 percent. Average benefits were increased in the same manner growing 145 percent for the aged and 160 percent of the disabled in the same period.

Administrative costs were based on SSA unit costs for workload items in the United States. Estimated costs in 1994 and 1995 reflect adjustments for October payments that get made in the previous fiscal year.

AFDC. Statehood for Puerto Rico would have a relatively small affect on federal spending in the AFDC program, as long as Puerto Rico did not raise its payment standards. CBO estimates that federal outlays would rise by $6 million in 1992 and $70 million in 1995, as a result of a higher federal match rate and a lifting of the spending cap. The federal match rate would rise from 75 percent under current law to 83 percent, increasing federal outlays by an estimated $6 million in 1992 and $10 million in 1995. Federal spending is subject to an $82 million cap under current law (including spending on AABD and on foster care and adoption assistance); lifting the cap would add nothing to federal outlays in 1992 but an estimated $60 million in 1995.

Federal outlays resulting from statehood would rise significantly from 1992 to later years because Puerto Rico will have to implement an AFDC-Unemployed Parent (UP) program October 1, 1992, as required by the Family Support Act of 1988 (Public Law 100-485). Based on CBO estimates, about 35,000 AFDC-UP families will participate and federal costs will amount to about $60 million a year, when the program is fully effective in fiscal year 1994 and later.

If Puerto Rico increased its AFDC payment standards, federal costs of statehood would be significantly higher. For example, if states were to put one-half of their savings from the increased federal match rate back into AFDC, federal outlays would rise by another $30 million in 1995. In its 1987 study, GAO estimated that federal outlays, as a result of statehood, would increse by $72 million a year, primarily from a doubling of AFDC payment standards. Whether Puerto Rico would raise its payment standards is uncertain. On the one hand, its standards are low and its sizable savings from expanded Medicaid coverage, along with the smaller savings in AFDC, could be used to pay for increased payment standards. On the other hand, uncertainties surrounding costs of the AFDC-UP program, increased benefits under the Nutrition Assistance Program with statehood, and concern over revenue losses under statehood would argue for caution in raising standards.

Foster Care. Extending the foster care program to Puerto Rico would cost an estimated $3 million annually, starting in 1992. This

estimate assumes that 60 percent of the estimated 1,700 children in foster care in Puerto Rico would qualify for federal reimbursements under Title IV-E of the Social Security Act, that the current $100 monthly payment rate would be increased for inflation, and that the ratio of administrative to benefit costs would be the same as in the rest of the United States.

Earned Income Tax Credit (EITC). On January 1, 1994 Puerto Rico would be subject to U.S. tax laws and as a result some may be eligible for the Earned Income Tax Credit. The estimated cost of the rebatable portion of the EITC in Puerto Rico would be $10 million in 1994 and $300 million in 1995. Since most of the EITC is paid in the form of tax refunds, the cost in 1994 is very small. Most of the cost of the EITC for calendar year 1994 fall in fiscal year 1995.

The Census Bureau has published tables showing families with children under age 18 by 1979 income level for Puerto Rico and the United States. Under current law, families with children and earnings and other income of $19,850 or less are eligible for EITC. After making adjustments for income and population growth between 1979 and 1989, there would be approximately 334,000 families eligible in Puerto Rico in 1989. This is approximately 5 percent of the U.S. families eligible in 1989. Assuming the average benefit is equal to the U.S. average benefit, the cost to the federal government would increase by 5 percent above current baseline estimates.

ESTIMATED FEDERAL OUTLAYS UNDER STATEHOOD

(By fiscal year in millions of dollars)

	1992	1993	1994	1995
Estimated outlays:				
Food stamps	700	700	600	600
Medicaid	900	1,000	1,100	1,200
Medicare	60	70	80	80
SSI	0	0	600	900
AFDC	6	40	70	70
Foster care	(1)	(1)	(1)	(1)
Earned income tax credit			10	300
Total spending	1,666	1,810	2,460	3,150

[1] Less than $5 million.

INDEPENDENCE

If independence is certified, Puerto Rico would become an independent republic upon certification. This option would provide for a Joint Transition Commission to facilitate a smooth and equitable transfer of power.

Also under independence, the bill would provide for the continuation of federal programs for a period of time.

Commissions. S. 712 would establish a Joint Transition Commission which would oversee the transfer of power from the United States government to the newly established Puerto Rican government. It is anticipated that the Commission would need to establish a number of task forces to handle various aspects of the transition. The costs of this Commission would be borne evenly between the

U.S. and Puerto Rican governments. CBO estimates the cost to the federal government would be between $2 and $3 million annually beginning in fiscal year 1992.

Federal Programs. S. 712 would provide for the continuation of all federal programs until the end of the fiscal year in which independence is proclaimed. At such time, a grant shall be paid annually to the Republic of Puerto Rico in an amount equal to the total amount of grants, programs, and services provided by the federal government in such fiscal year through the ninth year following certification of the referendum.

In addition, the bill would allow Puerto Rico to request renewal or continuation of any existing contractual obligations, provided that Puerto Rico agrees that the cost of such renewal or continuation shall be deducted from the annual grant. Also, all federal pension programs shall continue as provided by U.S. law.

CBO estimates the amount of federal expenditures in Puerto Rico at the end of fiscal year 1991 would be 6.9 billion. This estimate takes the $6.2 billion Puerto Rico received in federal funds in 1988 less $200 million for AFDC, AABD, and Medicaid and adjusts for inflation. The amount for AFDC, AABD and Medicaid is capped. The amount of the grant would remain constant through 1995. The savings to the federal government for fiscal years 1992-1992 would be the difference between the 1991 grant amount and the amount of federal expenditures adjusted for inflation through 1995. The savings would be $0.2, $0.5, $0.8 and $1.1 billion in fiscal years 1992, 1993, 1994, and 1995 respectively. The breakdown between direct spending and authorization levels is difficult to determine. The bill is unclear if the grant would be an entitlement or not.

ENHANCED COMMONWEALTH STATUS

If enhanced commonwealth is certified, the relationship between Puerto Rico and the United States remains essentially the same. Under this option, the bill would establish a Caribbean Basin passport office and a Senate Liaison office. The bill also would provide for the consolidation of federal grant-in-aid programs.

Passport Office. S. 712 would require the federal government to establish a passport office in Puerto Rico for the Caribbean Basin. The State Department estimates that the passport office will receive 50,000 applications per year. The cost estimate includes a one time $2.5 million cost to set-up, equip, and train office staff for the office. The annual operating expenses would be about $1 million annually. This estimates assumes 17 full-time federal employees.

Liaison Office. S. 712 would establish an Office of Senate Liaison for the Commonwealth of Puerto Rico to facilitate communications between the U.S. Senate and the Commonwealth. The bill would authorize an annual appropriation of $600,000 for salaries and $56,000 for office expenses. This estimate assumes that the Senate Liaison would be appointed by January 1992. CBO assumes that the entire appropriation will be spent in each year.

Federal Programs. If enhanced commonwealth status is elected, section 501 of Public Law 95-134 would apply to Puerto Rico. Section 501 allows a government agency if it so chooses to consolidate

any or all grants to insular areas, i.e., Puerto Rico, for any fiscal year(s). The grant shall not be less than the sum of all grants which the area is otherwise entitled, and the funds shall be expended in the furtherance of programs and purposes authorized, but the areas shall determine the proportion of the funds granted which shall be allocated to such programs and purposes. CBO estimates there will be no additional costs for these programs with enactment of this bill.

The CBO assumes that all authorizations are fully appropriated at the beginning of each fiscal year. Outlays are estimated using spendout rates computed by CBO on the basis of recent program data.

These estimates have been developed with the assistance of the General Accounting Office and the Congressional Research Service. Much of the work in this estimate is based on a report the General Accounting Office published in 1987—Welfare and Taxes: Extending Benefits and Taxes to Puerto Rico, Virgin Islands, Guam, and the American Samoa. In addition, the General Accounting Office made available the back up materials developed while preparing the report. These materials were helpful in preparing these estimates. The Congressional Research Service also provided significant assistance in developing the Earned Income Tax Credit estimate and background information on federal programs in Puerto Rico. Finally, the government of Puerto Rico has provided valuable information on the possible costs of S. 712.

6. Estimated cost to State and and local governments: The costs to state and local governments would vary considerably depending upon which status option is certified. Under Enhanced Commonwealth, there would be essentially no change; therefore, CBO estimates there would be no cost to Puerto Rico. Under Independence, there would be savings to the federal government as indicated above. However, it is unclear to what extent Puerto Rico would pick up the difference in program spending. Under Statehood, Puerto Rico would incur significant savings in some entitlement programs. The AABD program would be replaced with the federally funded SSI program, and Puerto Rico would save $5 million annually. Currently, Puerto Rico spends $450 million on health care, and under Statehood and the extension of Medicaid, Puerto Rico would spend $184 million on health care for a potential net savings of $266 million in benefit payments in fiscal year 1992. The potential savings would be $245 million, $225 million, and $204 million in 1993, 1994, and 1995. The savings for the Medicaid program may be less due to the potential expansion of the Medicaid program in Puerto Rico. Puerto Rico would save $6 million, $40 million, $70 million and $70 million in 1992, 1993, 1994 and 1995 respectively on the AFDC program. These savings would occur because of an increased federal match rate and eliminated cap on federal funds.

Extending the Food Stamp program to Puerto Rico would increase administrative costs to the island, due to increased costs for eligibility certification, work programs and quality control activities. The net increase would be approximately $30 million with higher costs expected if Puerto Rico opts to distribute coupons rather than cash.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Richard Curley, Alan Fairbank, Terri Gullo, Jim Hearn, Lori Housman, Julie Isaacs, Cory Leach, Marta Morgan, Don Muse, and Janice Peskin.

10. Estimated approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred on the passage of S. 712.

It is the Committee's view that the bill is not a regulatory measure in the sense of imposing Government-established standards on private individuals or businesses.

No personal information would be collected in the implementation of S. 712. Therefore, there would be no impact on personal privacy.

The bill would cause an increase in government paperwork depending on the status option approved and implemented in accordance with the referendum results.

If statehood is implemented there would be transitional paperwork increases in connection with the Commission on Federal Laws established under Section 208(b), with the review and report on Federal lands under Section 204(c), and in connection with the economic adjustment provisions of Section 213.

If independence is implemented there would be paperwork increases during the transitional period, particularly in connection with the work of the Joint Transition Commission and its various Task Forces. Over time, however, independence would significantly reduce Federal paperwork with respect to the Government of Puerto Rico.

If Title III is implemented as a result of the referendum, then there would be paperwork increases in connection with the Federal law and regulatory review procedures set forth in Sections 403 and 404; the establishment of a Senate Liaison Office under section 409; and in connection with the Commission and reports regarding Federal properties provided for in Sections 412 and 413.

Executive Communications

The Administration presented testimony in 3 days of hearings before the Committee and submitted additional comments, and responses to questions from the Committee. These communications are included in the record of the hearings held on July 15, 17 and 18.

MINORITY VIEWS OF SENATOR WALLOP

I remain concerned that a number of issues were never satisfactorily addressed during the Committee's deliberations on the bill. Several of these relate to fiscal matters which the Finance Committee will consider. We can hope the Finance Committee will carefully focus on these issues.

Revenue neutrality. During the mark-up, a number of Members of this Committee agreed that the bill should be revenue-neutral. The Committee failed, however, to define the time frame in which revenue-neturality should be measured. More importantly, a number of Members expressed serious concern about the financial estimates upon which the Committee relied in fashioning the transition periods for both the statehood and independence status options, and the effects those estimates have on the claim of revenue-neutrality.

Imbalance. Under the bill, if Puerto Rico becomes a state, the tax credit provided by section 936 of the Internal Revenue Code would continue in effect for two years after Puerto Rico's admission to the Union, and would be phased out gradually for a period of four years after that. The current exemption from federal personal and corporate taxes would continue in effect for two years after Puerto Rico became a state; for two years thereafter, all revenue collected would be rebated to the Government of Puerto Rico. Revenue from excise taxes would be rebated, or "covered over," until at least 1999.

At the same time, Puerto Rico would become immediately eligible for full participation in federal benefit programs, including Medicaid, Aid to Families with Dependent Children, and Food Stamps; introduction of Supplemental Security Income program ("SSI") would be delayed for two years.

It is my belief that, as presently structured, the bill is unbalanced because it front-loads the benefits under the statehood option. It misleads the people of Puerto Rico by inducing beneficiaries of various programs to vote for statehood in order to obtain immediate increases in welfare benefits—even though within a few years the loss of the special tax programs could mean a massive loss of jobs and greater impoverishment of the Island.

Shift of Statehood date. The shift of the effective date of statehood from November 1993 to January 1992 dramatically increases the front-loading of federal benefits, by introducing full benefits (except SSI) almost two years earlier than under the original Johnston/McClure substitute. This shift has a significant negative impact on the U.S. Treasury, and was never adequately explained or justified. It should be—before the Senate votes.

Because of the importance of the status issue to the people of Puerto Rico, and the implications of the fundamental choices involved, I believe it is irresponsible that one status option be weight-

ed in favor over another. Moreover, it is incumbent upon the Congress to provide the people of Puerto Rico with a realistic picture of the long-term costs and benefits of each status option. The Committee bill does not accomplish these two essential objectives.

MALCOLM WALLOP.

MINORITY VIEWS OF SENATOR CONRAD

I voted against S. 712 largely because I am concerned about the fiscal impacts of the bill. Specifically, I do not believe that the Committee had sufficient information to determine what impact the statehood transition proposals will have on the federal treasury. The budgetary implications of this measure are large, and the federal budget deficit is too big for the Committee to rely upon imprecise numbers.

I am especially concerned that the Administration has been largely unwilling to provide detailed data on the impacts of statehood. Assistant Treasury Secretary Kenneth Gideon testified that the Administration believes that the "selection among the possible options should be a choice made by the people of Puerto Rico unaffected by the bias which specific costs and benefits could bring to the process." In other words, the Administration apparently believes that Congress should blindfold itself when it votes on this measure.

Too many people have been wearing too many blindfolds for too long in Washington. That's why we have a fiscal crisis on our hands.

Our national debt is $2.8 trillion. We have tripled it in the last 9 years. The trade deficit has increased fourfold and we have transformed America from the largest creditor nation into the largest debtor nation in the historical equivalent of a blink of the eye.

We cannot keep on like this. We cannot afford to make important fiscal decisions without regard for their potential impacts. If the statehood transitions benefits of this bill are more than what is necessary to accomplish the task, then I think Congress, and the people of Puerto Rico, are entitled to know.

The Committee heard testimony that the net cost of the federal treasury could be over $2 billion in 1994 and 1995, and between $596 million and $691 million for each year thereafter until the year 2000. Some of those costs can be attributed to lower tax revenues, but most of the costs probably can be attributed to greater entitlement payments to the island. The GAO presented a comprehensive analysis of the demographics of Puerto Rico, and the GAO data lends support to the testimony:

> The population of Puerto Rico is about 3.5 million people. Its per capita income is less than half that of the lowest state. In 1988, for example, Puerto Rico's per capita personal income was $5,157, which was 47 percent of Mississippi's $10,992, the state with the lowest per capita income. (The Congressional Research Service has compared Puerto Rico's per capita income to the per capita incomes of Alaska and Hawaii at the time of admission to the Union (all figures expressed in 1989 dollars)):

Alaska (1959)	$9,877
Hawaii (1959)	8,562

United States (1959)	8,882
Puerto Rico (1987)	5,309
United States (1987)	16,931

Because of Puerto Rico's extremely low per capita income, about 43 percent of the Puerto Rican tax returns used in GAO's analysis in 1979 would have had no federal tax liability. In fact, about 70 percent of these Puerto Rican returns could have been eligible for an estimated total of $36 million in earned income credits in 1979.

"Chronic high poverty rates persist in Puerto Rico despite an improving economy." In 1979, the Census Bureau reported 62.4 percent of Puerto Rico's population had incomes below the federal poverty level, compared with 12.4 percent of the US population.

Transfer payments to individuals, such as earned pensions and welfare and social security entitlements, comprised 21 percent of Puerto Rico's personal income in 1988. In the States, transfers to individuals were about 13.7 percent of personal income in 1988.

About 21 percent of the island's 1988 personal income and 31 percent of 1987 commonwealth government annual receipts came from federal intergovernmental grant-in-aid programs.

"Island unemployment continues to be two to three items greater than the national average and incomes remain relatively low." In calendar year 1988, the unemployment rate was 15.0 percent compared with the US average of 5.5 percent.

The island's illiteracy rate was about 11 percent in 1988. In the US as a whole, the illiteracy rate has been estimated at 1 percent.

Elementary and secondary educational expenditures are estimated at nearly $1,400 per pupil in FY 1988 in Puerto Rico. In FY 1985, the lowest state expenditure was $1,594 per pupil.

The GAO also examined the applicability of federal laws to Puerto Rico in seven areas. It found that, generally, the laws apply to Puerto Rico in the same manner as they do to the states. It also found, however, that "the major exceptions are income support and health care programs and income taxes." In many cases payments to Puerto Rico for income support and health care are limited. For example:

Total expenditures for Adult Assistance, Aid to Families with Dependent Children (AFDC), and foster care is capped at $82 million for FY 1989 and thereafter. (the average monthly adult assistance payment is $32 and the US average under Supplemental Security Income is $362 a month.)

Puerto Rico is excluded from participation in the Food Stamp program. It has a separate Nutrition Assistance program that was capped at $825 million per year in 1981. In 1988, 43.5 percent of the population was eligible for the Nutrition Assistance program.

Federal funding for Medicaid in Puerto Rico in capped at $79 million for FY 1990.

Puerto Rico is not subject to federal individual or corporate income tax laws.

Finally, GAO examined how 20 federal programs applied to Puerto Rico. GAO reported that "although treatment as a state would have had minimal or unquantifiable effect under 14 of [the] programs, it would have brought substantial additional amounts under the remaining six." Puerto Rico would have received about $836 million in additional federal aid if it had been a state in 1984.

CBO estimates that outlays for entitlements and other mandatory spending in the US will jump from one-half a trillion dollars in 1988 to three-quarters of a trillion dollars in 1994. The additional costs associated with statehood for Puerto Rico could be substantial.

The methodology and underlying assumptions in the transitional economic analyses available to the Committee are questionable. I believe that the transitional costs likely will be much greater than that presented at our hearings, and as this measure moves on to the Finance Committee for further hearings, I hope that that panel will make every effort to obtain more accurate numbers on the fiscal impacts of this bill.

KENT CONRAD.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law which may be made by the bill S. 712, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman). The following changes would be made in existing law in the event Commonwealth status obtains a majority vote in the referendum held pursuant to title I of this Act.

ACT OF APRIL 12, 1900

CHAPTER 191

AN ACT Temporily to provide revenues and a civil government for Porto Rico, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this Act shall apply to the island of Porto Rico and to the adjacent islands and waters of the islands lying east of the seventy-fourth meridian of longitude west of Greenwich, which were ceded to the United States by the Government of Spain by treaty entered into on the tenth day of December, eighteen hundred and ninety-eight; and the name Porto Rico, as used in this Act, shall be held to include not only the island of that name, but all the adjacent islands as aforesaid.

SEC. 2. That on and after the passage of this Act the same tariffs, customs, and duties shall be levied, collected, and paid upon all articles imported into Porto Rico from ports other than those of the United States which are requried by law to tbe collected upon articles imported into the United States from foreign countries: *Provided,* That on all coffee in the bean or ground imported into Porto Rico there shall be levied and collected a duty of five cents per pound, any law or part of law to the contrary notwithstanding: *And provided further,* That all Spanish scientific, literary, and artistic works, not subversive of public order in Porto Rico, shall be admitted free of duty into Porto Rico for a period of ten years, reckoning from the eleventh day of April, eighteen hundred and ninety-nine, as provided in said treaty of peace between the United States and Spain: *And provided further,* That all books and pamphlets printed in the English language shall be admitted into Porto Rico free of duty when imported from the United States.

(1) As strictly limited by the international obligations of the United States, the Commonwealth of Puerto Rico is authorized to impose tariff duties on foreign origin products imported into Puerto Rico from outside the customs territory of the United States. Such tariff duties may be in addition to the general

tariff duties imposed by the United States if such general tariff duties are not subject to United States international obligations, or in cases where the general duty is applied at a rate below that which is subject to United States international obligations. In the latter case, the combined duties shall not exceed the level for which a United States international obligation exists.

* * * * * * *

PUBLIC LAW 95-134

To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

TITLE V

SEC. 501. In order to minimize the burden caused by existing application and reporting procedures for certain grant-in-aid programs available to the [Virgin Islands,] *Virgin Islands, Puerto Rico,* Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands (hereafter referred to as "Insular Areas") it is hereby declared to be the policy of the Congress that:

(a) Notwithstanding any provision of law to the contrary, any department or agency of the Governments of the United States which administers any Act of Congress which specifically provides for making grants to any Insular Area under which payment received may be used by such Insular Area only for certain specified purposes (other than direct payments to classes of individuals) may, acting through appropriate administrative authorities of such department or agency, consolidate any or all grants made to such area for any fiscal year or years.

(b) Any consolidated grant for any insular area shall not be less than the sum of all grants which such area would otherwise be entitled to receive for such year.

(c) The funds received under a consolidated grant shall be expended in furtherance of the programs and purposes authorized for any of the grants which are being consolidated, which are authorized under any of the Acts administered by the department or agency making the grant, and which would be applicable to grants for such programs and purposes in the absence of the consolidation, but the Insular Areas shall determine the proportion of the funds granted which shall be allocated to such programs and purposes.

(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which any Insular Area may submit (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated grant

shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications and (ii) a single report to such department or agency with respect to each such consolidated grant: *Provided*, That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receiving benefits from any consolidated grant. The administering authority of any department or agency, in its discretion, may (i) waive any requirement for matching funds otherwise required by law to be provided by the Insular Area involved and (ii) waive the requirement that any Insular Area submit an application or report in writing with repect to any consolidated grant.

PUBLIC LAW 100–418

To enhance the competitiveness of American industry, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Trade and Competitiveness Act of 1988".

* * * * * * *

SEC. 1102. TRADE AGREEMENT NEGOTIATING AUTHORITY.

* * * * * * *

"(e)(1) During the negotiation of any trade agreement under subsections (a), (b), and (c), it is the sense of the Senate that the President should consider the effects of any proposed tariff rate or any proposed changes in nontariff measures on the economy of Puerto Rico and should consult with the Governor of the Commonwealth of Puerto Rico concerning such potential effects before concluding international trade negotiations.

(2) It is the sense of the Senate that the President should seek to obtain favorable treatment from foreign countries for exports from the Commonwealth of Puerto Rico and should take steps to encourage other countries to consider Puerto Rico as a developing area for purposes of their respective Generalized Systems of Trade Preferences schemes, and any such regional systems of trade preferences.

O

101ST CONGRESS
1ST SESSION

H. R. 3536

To provide for a referendum on the political status of Puerto Rico.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 1989

Mr. LAGOMARSINO (for himself, Mr. MURPHY, Mr. COLEMAN of Missouri, Mr. SKELTON, and Mr. GREEN) introduced the following bill; which was referred jointly to the Committees on Interior and Insular Affairs and Rules

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A BILL

To provide for a referendum on the political status of Puerto Rico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

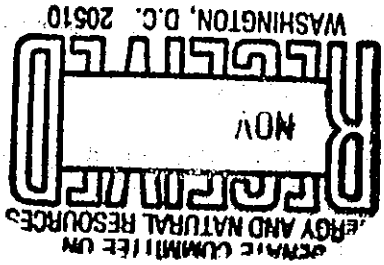
(1) the United States of America recognizes the principle of self-determination and other applicable principles of international law with respect to Puerto Rico; and

(2) the United States is committed to a process of consultation and negotiation with the people of Puerto

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

Robert D. Reischauer
Director

November 2, 1989



Honorable J. Bennett Johnston
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The Congressional Budget Office has prepared the attached revised cost estimate of S. 712, as ordered reported by the Committee on Energy and Natural Resources on August 2, 1989. This estimate replaces the estimate CBO prepared on September 6, 1989.

This estimate revises the costs of the independence option in the following two ways. First, the date CBO assumes Puerto Rico would proclaim independence has been changed, based on further information, from fiscal year 1991 to fiscal year 1993. The savings to the federal government would then begin in fiscal year 1994 instead of fiscal year 1992. Second, CBO's original estimate of the block grant--to be paid to Puerto Rico beginning in the fiscal year following the proclamation of independence--included Social Security benefits, federal pensions, salaries and wages and procurement. These federal expenditures in Puerto Rico should not have been included in the calculation of the block grant and are deleted from the calculation in the revised estimate.

The bill would also have significant revenue effects. These revenue effects are being estimated by the Joint Committee on Taxation and will be provided at a later date.

We hope this revised estimate responds to the concerns mentioned in your letter of October 5, 1989. If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer

Attachment

cc: Honorable James McClure
Ranking Minority Member

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

November 2, 1989

1. BILL NUMBER: S. 712

2. BILL TITLE: The Puerto Rico Status Referendum Act

3. BILL STATUS:

As ordered reported by the Senate Committee on Energy and Natural Resources on August 2, 1989.

4. BILL PURPOSE:

To establish guidelines and provide resources for a referendum during the summer of 1991 in Puerto Rico. The referendum will allow Puerto Ricans to choose between statehood, independence, and enhanced commonwealth status. In addition, the bill outlines the transition provisions for entitlement and federal programs as well as tax issues for each of the options.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

This estimate provides only spending estimates for S. 712. Revenue estimates are being developed separately by the Joint Committee on Taxation. The estimated costs to the federal government would be very different depending upon which status option--statehood, independence, or enhanced commonwealth--is chosen. The table below shows the total federal costs under each alternative.

(by fiscal years, in millions of dollars)

	1991	1992	1993	1994	1995
STATEHOOD					
Direct Spending					
Budget Authority	---	1666	1810	2560	3250
Estimated Outlays	---	1666	1810	2560	3250
Amounts Subject to Appropriation Action					
Estimated Authorization Level	*	10	10	10	10
Estimated Outlays	*	10	10	10	10
Total Spending					
Budget Authority/Estimated Authorization Level	*	1676	1820	2570	3260
Estimated Outlays	*	1676	1820	2570	3260

	(by fiscal years, in millions of dollars) 1991	1992	1993	1994	1995
INDEPENDENCE					
Total Spending					
Budget Authority/Estimated Authorization Level	*	*	*	-100	-300
Estimated Outlays	*	*	*	-100	-300
ENHANCED COMMONWEALTH STATUS					
Direct Spending					
Budget Authority	---	0	0	0	0
Estimated Outlays	---	0	0	0	0
Amounts Subject to Appropriation Action					
Estimated Authorization Level	*	*	*	*	*
Estimated Outlays	*	*	*	*	*
Total Spending					
Budget Authority/Estimated Authorization Level	*	*	*	*	*
Estimated Outlays	*	*	*	*	*

* less than $5 million

Basis of Estimate

For purposes of the estimate, CBO has assumed that the referendum would occur and be certified in the summer of 1991, and that procedures for implementing the certified status option would go into effect in fiscal year 1992. The bill has three status options that are discussed in turn. The cost of the referendum would be incurred regardless of the option chosen. Although the bill does not state a specific authorization level, CBO estimates the cost of the referendum would be between $2 5 million and $4 million in fiscal year 1991.

S. 712 would require the U.S. Attorney General to provide for adequate monitoring of the referendum by U.S. Marshals. Based on information from the Department of Justice, CBO estimates that these monitoring activities would cost between $.5 million and $2 million in 1991, depending on how the Marshals Service implements this provision.

If they provide a minimal presence of on-call deputy marshals able to respond to disruptions at polling places, then costs would be toward the lower end of the range. If on the other hand, they create a greater presence by providing more marshals to travel to and monitor all 1,602 polling places during the election, then costs would be closer to the higher end of the range. For purposes of this estimate, we assumed that the primary function of the U.S. Marshals would be to insure law and order at polling places and not to insure against election fraud. We therefore did not estimate the

costs that would be incurred to provide oversight and security of ballot boxes and machines.

S. 712 also would require the President to appoint a Referendum Information officer to distribute education information on the referendum. The bill authorizes the appropriation of funds to cover the expenses of the Information Officer. CBO assumed that the Information Officer would be appointed by October 1990 and would work through August of 1991. The estimate covers costs for salaries, overhead, printing, and postage. CBO estimates the cost of these activities would be $2 million in fiscal year 1991.

STATEHOOD

If statehood is certified, Puerto Rico would be treated as any other state effective October 1, 1991. This option would entitle Puerto Rico to representation in Congress and full participation in federal entitlement programs. This provision would also provide for a commission to facilitate the transition to statehood.

Senators and Representatives. Beginning January 1992, Puerto Rico would be represented in Congress by two senators and six representatives. At the same time, the office of Puerto Rico's current delegate to the Congress--the Resident Commissioner--would no longer be necessary. The costs of the additional members would be similar to the costs associated with members of Congress from the states with population size similar to Puerto Rico and of similar distance from Washington, D.C. Such costs would total about $7 to $10 million annually. The estimate for 1992 assumes the new members would be sworn in January 1992.

Commissions. S. 712 would require the creation of a seven person commission to examine the applicability of federal laws in Puerto Rico. The commission would be created within 60 days of confirmation of the election results (beginning of November 1991 at the latest) and would have to submit its report by January 1, 1995. CBO estimates the cost of these activities would be $1 million annually in fiscal years 1992-1994.

Entitlement Programs. While Puerto Rico is considered a state for many federal programs, it is not always treated identically to the rest of the 50 states. For example, federal funds available for AFDC and Medicaid are capped in Puerto Rico, and the Food Stamp program is administered as a block grant. Also, SSI is currently not available in Puerto Rico, but the Aid to the Aged, Blind and Disabled (AABD) program is. The estimates for the entitlement programs are complex and uncertain in a number of respects. The uncertainties include the benefit levels for each program, the number of participants in each program, the actual amount of time the transition to statehood would take, and the comparability of the program and population in Puerto Rico to the U.S.

Recent detailed data bases that display the characteristics of current program participants and permit estimates of potential participants are not available for Puerto Rico. This lack of data complicates the estimating

process and increases the uncertainty of the estimates. Finally, many of the federal programs, in particular AFDC and Food Stamps, are sensitive to the condition of the economy, particularly the unemployment rate. If the Puerto Rican economy should change under statehood, the costs to the federal government for these programs could change significantly. For example, participation in the Food Stamp and AFDC programs would be higher, if unemployment increased significantly.

Food Stamps. Extending food stamps to Puerto Rico is estimated to increase federal costs by $700 million annually in 1992-95. This estimate assumes a Food Stamp program cost of $1.7 billion in 1992, less $1.0 billion for the existing Nutrition Assistance Program. The $1.7 billion estimate assumes average monthly participation of 1.75 million persons, average monthly benefits of $77 per person, and administrative costs of $115 million. Participation is estimated to remain constant in 1992-1995. Benefits would increase annually due to cost-of-living adjustments, but the rise in average benefits would be partially offset by decreased Food Stamp benefits for households beginning to receive increased cash welfare, particularly Supplemental Security Income in 1994 and 1995.

These estimates are based on the operation of the Food Stamp program in Puerto Rico prior to July 1982. CBO's estimate that 1.75 million would participate is based on the 1982 average of 1.81 million people, adjusted for the national decline in Food Stamp participation since then. The drop in participation is assumed to be half as large in Puerto Rico as in the rest of the United States, where participation fell from 20.4 million in 1982 to 18.7 million in 1988, and is estimated to remain at 18.7 million in 1992.

CBO's estimate of average monthly benefits of $77 for 1992 assumes that under statehood the Puerto Rican Food Stamp program would follow national standards for maximum benefits and deductions, and that average benefits would be 17 percent larger than in the rest of the United States. Puerto Rican benefits were only 5 percent larger than national food stamp benefits in 1982. However, at that time the Puerto Rican Food Stamp program operated under a special set of lower maximum benefits and deductions that CBO assumed would not be in effect under statehood.

Medicaid. The public health program in Puerto Rico currently covers approximately 2.1 million of the island's 3.3 million persons. CBO assumes that the new program under Medicaid would attempt to cover a significant portion of the persons currently covered. Based on conversations with Puerto Rico's Medicaid staff, the Health Care Financing Administration (HCFA) regional office involved in the current Medicaid program, and previous published work on Puerto Rico's public health program, CBO assumed approximately 1.35 million participants annually. This estimate assumes that the health care system in Puerto Rico would respond to the new program by increasing the supply of services by fiscal year 1992. Also, Puerto Rico would receive $900 million in new federal funds and would be required to put up $184 million in matching monies, assuming an 83 percent match required by current Medicaid law. This amount is considerably less than the $450 million the Commonwealth is currently spending, so it is possible that a

state government in Puerto Rico could opt for a more extensive Medicaid program.

Medicare. Under current law, Medicare reimbursements to hospitals in Puerto Rico are determined according to provisions applicable only to such institutions located there. In general, the current level of hospital reimbursement is based on a blend of Puerto Rico's discharge-weighted average costs per case (75 percent) and the U.S. national average costs per case (25 percent). These reimbursements are otherwise similar to those received by U.S. hospitals under the prospective payment system. The per-case payments to particular hospitals are adjusted for case mix, for local wages relative to Puerto Rican wages, and for geographic location (large urban, other urban, and rural) in the same manner as in the U.S. Payments are also updated annually in a fashion similar to provisions applicable to U.S. hospitals. If Puerto Rico were to gain statehood, however, hospitals would be reimbursed according to the method used for reimbursing U.S. hospitals. Puerto Rico's hospital costs would then have negligible relevance to the resulting payment rates, which would, of course, be considerably higher than at present. The estimate is based on GAO's estimate of the increase in Part A reimbursement for 1989 attributable to this change, inflated for growth rates assumed for total hospital payments in CBO's projected baseline.

SSI. Under the statehood option, Puerto Ricans would become eligible for federal SSI January 1, 1994. The estimated increased cost over the current Aid to the Aged, Blind or Disabled (AABD) program is $600 million in 1994 and $900 million in 1995. The current AABD program costs approximately $16 million annually. The first full year estimate of $850 million in 1995 assumes average monthly participation of about 75,000 aged and 115,000 disabled (including blind) persons. Average benefits for the aged are about $260 a month and about $430 a month for the disabled. Estimated costs in 1994 are significantly lower because Puerto Ricans would not be eligible for the first three months of the fiscal year. Also, it is assumed that newly eligible participants would not move onto the SSI program immediately. Estimated administrative costs in 1994 of about $160 million are higher than in 1995 as a result of the large additional cost of processing initial claims. Estimated administrative costs for 1995 are about $35 million.

The estimated costs for SSI benefit payments in Puerto Rico were based on a 1987 study by GAO "Welfare and Taxes: Extending Benefits and Taxes to Puerto Rico, Virgin Islands, Guam, and American Samoa." This study used 1980 census data on incomes in Puerto Rico to estimate the number of people who would be eligible for SSI in Puerto Rico. Because disabled people under the age of 65 are difficult to distinguish on the census, GAO estimated only the number of eligible people aged 65 and over. The estimated average monthly SSI benefit of the latter group was approximately 20 percent higher than the average aged federal SSI benefit in 1979. To estimate the number of disabled eligibles, we assumed the 1979 ratio of U.S. aged SSI recipients to disabled recipients would be the same in Puerto Rico. CBO used the same procedure for the disabled benefit per month relative to benefits per month for persons 65 and over. Following the GAO study, we assumed 43 percent of the estimated eligible population would have participated in 1979. This is

the same estimated 43 percent SSI participation rate for aged recipients in the U.S. based on the 1980 census.

The estimated number of Puerto Rican SSI participants was adjusted by the actual growth rate in the U.S. SSI aged and disabled caseloads between 1979 and 1988. The estimated number of participants was further adjusted by CBO's baseline growth for the respective SSI populations between 1989 and 1995. The resultant change between 1979 and 1995 would be a six percent decrease in the aged population and a 65 percent increase in the disabled population. Average benefits for the aged and disabled were adjusted by the growth in U.S. average benefits between 1979 and 1988 and then adjusted further for CBO's projected growth in average benefits between 1989 and 1995. Between 1979 and 1995 the average benefits would increase by 145 percent for the aged and 160 percent for the disabled.

Administrative costs were based on SSA unit costs for workload items in the United States. Estimated costs in 1994 and 1995 reflect adjustments for October payments that get made in the previous fiscal year.

AFDC. Statehood for Puerto Rico would have a relatively small effect on federal spending in the AFDC program, as long as Puerto Rico did not raise its payment standards. CBO estimates that federal outlays would rise by $6 million in 1992 and $70 million in 1995, as a result of a higher federal match rate and a lifting of the spending cap. The federal match rate would rise from 75 percent under current law to 83 percent, increasing federal outlays by an estimated $6 million in 1992 and $10 million in 1995. Federal spending is subject to an $82 million cap under current law (including spending on AABD and on foster care and adoption assistance); lifting the cap would add nothing to federal outlays in 1992 but an estimated $60 million in 1995.

Federal outlays resulting from statehood would rise significantly from 1992 to later years because Puerto Rico will have to implement an AFDC-Unemployed Parent (UP) program October 1, 1992, as required by the Family Support Act of 1988 (Public Law 100-485). Based on CBO estimates, about 35,000 AFDC-UP families will participate and federal costs will amount to about $60 million a year, when the program is fully effective in fiscal year 1994 and later.

If Puerto Rico increased its AFDC payment standards, federal costs of statehood would be significantly higher. For example, if states were to put one-half of their savings from the increased federal match rate back into AFDC, federal outlays would rise by another $30 million in 1995. In its 1987 study, GAO estimated that federal outlays, as a result of statehood, would increase by $72 million a year, primarily from a doubling of AFDC payment standards. Whether Puerto Rico would raise its payment standards is uncertain. On the one hand, its standards are low and its sizable savings from expanded Medicaid coverage, along with the smaller savings in AFDC, could be used to pay for increased payment standards. On the other hand, uncertainties surrounding costs of the AFDC-UP program, increased benefits under the Nutrition Assistance Program with statehood, and concern over revenue losses under statehood would argue for caution in raising standards.

Foster Care. Extending the foster care program to Puerto Rico would cost an estimated $3 million annually, starting in 1992. This estimate assumes that 60 percent of the estimated 1,700 children in foster care in Puerto Rico would qualify for federal reimbursements under Title IV-E of the Social Security Act, that the current $100 monthly payment rate would be increased for inflation, and that the ratio of administrative to benefit costs would be the same as in the rest of the United States.

Earned Income Tax Credit (EITC). On January 1, 1994 Puerto Rico would be subject to U.S. tax laws and as a result some may be eligible for the Earned Income Tax Credit. The estimated cost of the rebatable portion of the EITC in Puerto Rico would be $10 million in 1994 and $300 million in 1995. Because most of the EITC is paid in the form of tax refunds, the cost in 1994 is very small. Most of the cost of the EITC for calendar year 1994 fall in fiscal year 1995.

The Census Bureau has published tables showing families with children under age 18 by 1979 income level for Puerto Rico and the United States. Under current law, families with children and earnings and other income of $19,850 or less are eligible for EITC. After making adjustments for income and population growth between 1979 and 1989, there would be approximately 334,000 families eligible in Puerto Rico in 1989. This is approximately 5 percent of the U.S. families eligible in 1989. Assuming the average benefit is equal to the U.S. average benefit, the cost to the federal government would increase by 5 percent above current baseline estimates.

Estimated Federal Outlays Under Statehood

	(by fiscal year in millions of dollars)			
	1992	1993	1994	1995
Food Stamps				
Estimated Outlays	700	700	700	700
Medicaid				
Estimated Outlays	900	1,000	1,100	1,200
Medicare				
Estimated Outlays	60	70	80	80
SSI				
Estimated Outlays	0	0	600	900
AFDC				
Estimated Outlays	6	40	70	70
Foster Care				
Estimated Outlays	*	*	*	*
Earned Income Tax Credit				
Estimated Outlays	____	____	10	300
Total Spending				
Estimated Outlays	1,666	1,810	2,560	3,250

INDEPENDENCE

If independence is certified, Puerto Rico would become an independent republic upon proclamation. This option would provide for a Joint Transition Commission to facilitate a smooth and equitable transfer of power. Also under independence, the bill would provide for the continuation of federal programs for a period of time.

Commissions. S. 712 would establish a Joint Transition Commission which would oversee the transfer of power from the United States government to the newly established Puerto Rican government. It is anticipated that the Commission would need to establish a number of task forces to handle various aspects of the transition. The costs of this Commission would be borne evenly between the U.S. and Puerto Rican governments. CBO estimates the cost to the federal government would be between $2 million and $3 million annually beginning in fiscal year 1992.

Federal Programs. S. 712 would provide for the continuation of all federal programs until the end of the fiscal year in which independence is proclaimed. At such time, a grant would be paid annually to the Republic of Puerto Rico in an amount equal to the total amount of grants, programs, and services provided by the federal government in such fiscal year through the ninth year following certification of the referendum.

In addition, the bill would allow Puerto Rico to request renewal or continuation of any existing contractual obligations, provided that Puerto Rico agrees that the cost of such renewal or continuation shall be deducted from the annual grant. Also, all Federal pension programs and Social Security benefits shall continue as provided by U.S. law.

The bill does not address the date of proclamation, but it does state that the procedures for implementing the status option certified shall go into effect on October 1, 1991. The bill then outlines the procedures for implementing independence. The procedures are: (1) election of delegates to a constitutional convention, (2) development and adoption of the constitution, (3) ratification of the constitution, (4) election of officers of the Republic, and then (5) proclamation. The length of time any one of these events would take is uncertain. While most of these procedures have a time limit specified in the bill, the most significant one--the development and adoption of the constitution--does not. The time required to adopt a constitution could range from six months to several years. Based upon discussions with people in Puerto Rico and the knowledge that the current constitution is republican in form and in conformity with the constitution of the United States and has many of the qualifications specified in S. 712, CBO has estimated that a constitution could be adopted within one year. Based upon this assumption and other information in the bill, CBO assumes independence would be proclaimed in fiscal year 1993.

CBO estimates the total amount of grants, programs and services for Puerto Rico in fiscal year 1993 will be $3.8 billion. This estimate was developed by excluding Social Security, other Federal pension programs, salaries and

wages, and procurement from the 1988 federal expenditures in Puerto Rico and adjusting for inflation.

The bill specifies that Social Security and other Federal pension programs would continue and therefore would not be included in the block grant. The bill also specifies--subject to negotiation--the continued U. S. operation and use of military installations; therefore, no defense expenditures in Puerto Rico would be included in the block grant.

The savings to the federal government for fiscal years 1994 and 1995 would be the difference between the 1993 base amount and the 1993 grant adjusted for inflation through 1995. The estimated savings would be $0.1 billion and $0.3 billion in fiscal years 1994 and 1995 respectively. The breakdown between direct spending and authorization levels is difficult to determine, and the bill is unclear if the grant would be an entitlement or not.

ENHANCED COMMONWEALTH STATUS

If enhanced commonwealth is certified, the relationship between Puerto Rico and the United States remains essentially the same. Under this option, the bill would establish a Caribbean Basin passport office and a Senate Liaison office. The bill also would provide for the consolidation of federal grant-in-aid programs.

Passport Office. S. 712 would require the federal government to establish a passport office in Puerto Rico for the Caribbean Basin. The State Department estimates the passport office will receive 50,000 applications per year. The cost estimate includes a one time $2.5 million cost to set-up, equip, and train office staff for the office. The annual operating expenses would be about $1 million annually. This estimate assumes 17 full-time federal employees.

Liaison Office. S. 712 would establish an Office of Senate Liaison for the Commonwealth of Puerto Rico to facilitate communications between the U.S. Senate and the Commonwealth. The bill would authorize an annual appropriation of $600,000 for salaries and $56,000 for office expenses. This estimate assumes that the Senate Liaison would be appointed by January 1992. CBO assumes that the entire appropriation will be spent in each year.

Federal Programs. If enhanced commonwealth status is elected, section 501 of Public Law 95-134--Authorization, Appropriation-U.S. Territories--would apply to Puerto Rico. Section 501 allows any government agency to consolidate grants-in-aid other than direct payments to individuals for any fiscal year(s). The grant is not to be less than the sum of all grants to which Puerto Rico is otherwise entitled. The grant is to be expended for the programs and purposes authorized, but Puerto Rico will be allowed to determine the proportion of the funds granted which shall be allocated to such programs and purposes. Each government agency shall publish the method by which Puerto Rico shall submit an application for a consolidated grant in the federal register. The agency also may waive the requirement for an application with respect to a consolidated grant. CBO estimates there will be no additional costs for these programs with enactment of this bill.

The CBO assumes that all authorizations are fully appropriated at the beginning of each fiscal year. Outlays are estimated using spendout rates computed by CBO on the basis of recent program data.

These estimates have been developed with the assistance of the General Accounting Office and the Congressional Research Service. Much of the work in this estimate is based on a report the General Accounting Office published in 1987-- Welfare and Taxes: Extending Benefits and Taxes to Puerto Rico, Virgin Islands, Guam, and the American Samoa. In addition, the General Accounting Office made available the back up materials developed while preparing the report. These materials were helpful in preparing these estimates. The Congressional Research Service provided assistance in developing the Earned Income Tax Credit estimate and provided invaluable background information on federal programs in Puerto Rico. Finally, the government of Puerto Rico has provided valuable information on the possible costs of S. 712.

6. ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS:

The costs to state and local governments would vary considerably depending upon which status option is certified. Under Enhanced Commonwealth, there would be essentially no change; therefore, CBO estimates there would be no cost the state and local governments. Under Independence, there would be savings to the federal government as indicated above. However, it is unclear to what extent Puerto Rico would pick up the difference in program spending.

Under Statehood, Puerto Rico would incur significant savings in some entitlement programs. The AABD program would be replaced with the federally funded SSI program, and Puerto Rico would save $5 million annually. Currently, Puerto Rico spends $450 million on health care, and under Statehood and the extension of Medicaid, Puerto Rico would spend $184 million on health care for a net savings of $266 million in benefit payments in fiscal year 1992. The savings would be $245 million, $225 million, and $204 million in fiscal years 1993, 1994, and 1995. Puerto Rico would save $6 million, $40 million, $70 million and $70 million in 1992, 1993, 1994 and 1995 respectively on the AFDC program. These AFDC savings would result from provisions in the bill that increase the federal match rate and eliminate the cap on federal funds.

Extending the Food Stamp program to Puerto Rico would increase administrative costs to the island, due to increased costs for eligibility certification, work programs and quality control activities. The net increase would be approximately $75 million with higher costs expected if Puerto Rico opts to distribute coupons rather than cash.

7. ESTIMATE COMPARISON: None

8. PREVIOUS CBO ESTIMATE:

On September 6, 1989, CBO prepared an estimate of S.712, The Puerto Rico Status Referendum Act. This estimate revises the independence option in

the following ways. In the original estimate, CBO assumed the amount of the block grant would be determined at the end of fiscal year 1991 and the savings to the federal government would begin in fiscal year 1992. In this estimate, the block grant is determined at the end of fiscal year 1993 and the savings to the federal government begin in fiscal year 1994. Also, in the original estimate, the block grant contained federal expenditures in Puerto Rico for Social Security benefits, Federal pensions, defense salaries and procurement. In this estimate, we removed these amounts from the calculation of the block grant.

9. ESTIMATE PREPARED BY:

Richard Curley	(226-2820)
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Janice Peskin	(226-2820)

10. ESTIMATE APPROVED BY:

for James L. Blum
Assistant Director
for Budget Analysis

Table 5. Federal Government Procurement Contracts—Value of Awards by State and Territory: Fiscal Year 1987

[Thousands of dollars. For meaning of symbols, see text]

State and territory	Total	Department of Defense	Postal Service	All other Federal
United States, total	196 325 124	147 616 385	3 459 542	45 249 197
Alabama	2 653 589	1 639 255	40 335	973 999
Alaska	792 049	558 571	9 793	223 685
Arizona	3 801 133	3 207 894	41 763	551 476
Arkansas	869 451	737 970	25 859	105 622
California	32 211 512	24 529 415	387 903	7 294 194
Colorado	3 864 984	2 710 588	52 907	1 101 489
Connecticut	5 550 989	5 070 344	55 860	424 785
Delaware	233 629	197 945	8 783	26 901
District of Columbia	2 685 105	879 466	32 755	1 772 884
Florida	7 204 003	5 798 805	169 001	1 236 197
Georgia	3 785 525	3 361 279	79 089	345 207
Hawaii	524 956	463 336	11 115	50 505
Idaho	679 786	73 957	10 297	595 532
Illinois	3 077 698	1 922 838	187 993	966 867
Indiana	2 402 415	2 209 184	65 869	127 362
Iowa	832 777	600 555	41 893	190 329
Kansas	1 529 491	1 242 378	36 079	251 034
Kentucky	743 391	445 387	40 128	257 876
Louisiana	2 464 258	1 692 190	45 799	726 269
Maine	879 369	830 370	18 133	30 866
Maryland	6 934 535	4 762 621	72 525	2 099 389
Massachusetts	9 456 473	8 687 748	111 961	656 764
Michigan	2 439 501	1 866 393	115 126	457 982
Minnesota	2 712 342	2 424 744	67 399	220 199
Mississippi	1 732 391	1 471 331	23 426	237 634
Missouri	6 940 350	5 997 626	83 795	858 929
Montana	183 970	93 489	10 631	79 850
Nebraska	373 840	256 752	25 575	91 513
Nevada	1 025 045	244 800	11 970	768 275
New Hampshire	512 136	469 021	16 624	26 491
New Jersey	4 095 447	3 288 790	144 627	662 030
New Mexico	3 049 728	582 101	15 041	2 452 586
New York	11 575 401	9 658 362	334 239	1 582 800
North Carolina	1 640 763	1 241 961	66 878	331 924
North Dakota	249 231	158 329	10 265	80 637
Ohio	5 915 020	4 549 910	145 664	1 219 446
Oklahoma	820 897	597 915	41 124	181 858
Oregon	511 917	287 038	32 715	192 164
Pennsylvania	5 285 044	3 859 906	180 385	1 244 753
Rhode Island	587 852	478 886	16 221	92 745
South Carolina	1 855 344	570 450	29 635	1 255 259
South Dakota	151 463	57 559	10 179	83 725
Tennessee	3 514 799	936 370	61 288	2 517 141
Texas	10 367 373	8 376 474	209 369	1 781 530
Utah	1 632 600	1 182 097	16 030	434 473
Vermont	145 559	113 330	9 850	212 379
Virginia	9 510 880	7 828 849	73 920	1 608 111
Washington	4 509 561	3 112 120	54 912	1 342 529
West Virginia	298 377	149 590	21 823	126 964
Wisconsin	1 249 842	942 738	58 163	248 941
Wyoming	121 032	47 378	5 635	68 019
American Samoa	1 885	1 844	41	-
Guam	117 794	115 920	537	1 337
Northern Marianas	7 216	-	33	7 183
Puerto Rico	449 738	324 334	12 564	112 840
Virgin Islands	75 222	70 887	924	3 411
Undistributed[1]	19 488 447	14 636 995	7 145	4 844 307

Note: Amounts shown for U.S. Postal Service represent actual outlays for contractual commitments, while all other amounts shown represent the value of contract actions, and do not reflect Federal Government expenditures. Nonpostal data generally involve only current year contract actions; however, multiple-year obligations may be reflected for contract actions of less than 3 years duration. Foreign procurement contract awards are excluded from United States totals. Foreign award total equals $9,472,310,000, including $8,534,810,000 for the Department of Defense and $937,500,000 for all other Federal agencies.

[1]Includes awards under $25,000 and classified location awards (Department of Defense).

11 ASAMBLEA LEGISLATIVA — 2 SESION ORDINARIA

Res. Conj. Núm. 5

(Aprobada en 14 de agosto de 1990)

(R.C. de la C. 1783)

RESOLUCION CONJUNTA

Para reclamar del Congreso de los Estados Unidos de América legislación para viabilizar la decisión trascendental del destino político del pueblo de Puerto Rico.

EXPOSICION DE MOTIVOS

POR CUANTO: El Estado Libre Asociado se estableció en 1952 como la expresión política del pueblo puertorriqueño en sus aspiraciones máximas de libertad y dignidad política y progreso económico.

POR CUANTO: El Estado Libre Asociado se forjó mediante un convenio entre el pueblo de Puerto Rico y el pueblo de los Estados Unidos que estableció una relación dinámica basada en el principio de gobierno por consentimiento mutuo y los pilares de la común moneda, el común mercado y la común defensa cimentados por el vínculo indisoluble de la ciudadanía americana.

POR CUANTO: Al crear el Estado Libre Asociado la Asamblea Constituyente contempló la deseabilidad de desarrollos futuros en la relación política entre Puerto Rico y los Estados Unidos de América.

POR CUANTO: A lo largo de cuatro décadas de extraordinario progreso económico y social se evidencia la deseabilidad de un crecimiento institucional en la fórmula política de Estado Libre Asociado, hacia una mayor autonomía dentro de la unión permanente con los Estados Unidos.

POR CUANTO: Los ciudadanos americanos de Puerto Rico tienen derecho a la participación plena en los programas federales que proveen asistencia social a personas necesitadas bajo cualquier fórmula de status político que esté fundamentada en la ciudadanía común, pero aunque en la actualidad participan en la mayoría de estos programas federales, existen algunas excepciones notables.

POR CUANTO: El pueblo de Puerto Rico ha extendido claramente un mandato para la celebración de una consulta sobre su status político, con miras a dilucidar este asunto y sentar las bases para el contínuo progreso político y económico de las generaciones futuras.

POR CUANTO: El pueblo de Puerto Rico ha extendido también un mandato para el desarrollo del Estado Libre Asociado al máximo de gobierno propio compatible con la unión permanente con los Estados Unidos, sobre las bases del mercado, moneda y defensa común, y el vínculo indisoluble de la ciudadanía americana.

POR CUANTO: Sobre estas bases y objetivos el poder legislativo y el poder ejecutivo del Estado Libre Asociado de Puerto Rico tienen el deber y la responsabilidad de realizar todas las acciones necesarias y convenientes para viabilizar la libre expresión del pueblo de Puerto Rico sobre su destino político en consonancia con el reiterado mandato del pueblo de Puerto Rico para desarrollar el Estado Libre Asociado.

POR CUANTO: La Asamblea Legislativa de Puerto Rico, consciente de su responsabilidad ulterior de aprobar legislación indispensable para la celebración de una consulta al pueblo sobre su preferencia de status político, ha observado cuidadosamente los desarrollos en torno al status político en el Congreso de los Estados Unidos, y particularmente la legislación bajo consideración en el Senado de los Estados Unidos.

POR TANTO: Resuélvese por la Asamblea Legislativa de Puerto Rico:

Sección 1.- Reafirmar su compromiso con el mandato del pueblo de Puerto Rico para la celebración de una consulta en torno al status político de Puerto Rico.

Sección 2.- Reclamar del Congreso de los Estados Unidos la pronta y debida aprobación de la legislación necesaria para que el pueblo puertorriqueño ejercite democráticamente su derecho inalienable de libre determinación mediante la celebración de una consulta en torno al status político de Puerto Rico, de acuerdo con las leyes de Puerto Rico, pero con garantías adecuadas de implementación de la voluntad del pueblo a nivel federal, de modo que la fórmula triunfante sea debidamente instituída.

Sección 3.- Establecer como requisito esencial para el verdadero y trascendental ejercicio de dicho derecho de libre determinación, que el Congreso defina claramente la forma en que está dispuesto a acordar el desarrollo del Estado Libre Asociado, y las transiciones hacia las fórmulas alternas de Estadidad Federada e Independencia, considerando todo lo concerniente a períodos de transición, arreglos fiscales, contribuciones, intercambio comercial, ciudadanía, idioma, defensa, programas de asistencia social, representación ante foros e instituciones internacionales, representación deportiva y otros asuntos relacionados con las definiciones de las fórmulas políticas, de modo que al pueblo de Puerto Rico se le presenten tres fórmulas políticas definidas y concretas.

Sección 4.- Que para garantizar el sano ejercicio del derecho de libre determinación del pueblo de Puerto Rico, las definiciones de status sometidas a la consulta deben estar en concordancia con los principios constitucionales y jurídicos establecidos para cada fórmula, respetando su dignidad y proveyendo para el justo balance entre las opciones.

Sección 5.- Establecer que el desarrollo del Estado Libre Asociado como opción real y digna, de acuerdo con el principio dispuesto en la Sección 4 de esta resolución, requiere que se reafirme la capacidad soberana del pueblo de Puerto Rico, expresada en la Constitución del Estado Libre Asociado y reconocida ampliamente y en repetidas ocasiones por las Naciones Unidas y los Tribunales Supremos de Puerto Rico y los Estados Unidos y que se desarrolle al máximo de gobierno propio compatible con la unión permanente con los Estados Unidos.

Sección 6.- Reclamar del Congreso de los Estados Unidos se restablezca bajo el Estado Libre Asociado la plena participación de los ciudadanos americanos de Puerto Rico en aquellos programas federales de asistencia social a los necesitados en los que no participan plenamente, de modo que se asegure el fiel cumplimiento del principio dispuesto en la Sección 4 de esta resolución.

Sección 7.- Ratificar las gestiones que a estos efectos ha venido haciendo el Gobernador, los presidentes de las Cámaras Legislativas y demás funcionarios públicos y encomendarle que continúen dichas gestiones de acuerdo a lo establecido en esta resolución conjunta.

Sección 8.- Que se envíe copia de esta resolución en el idioma inglés, al Presidente de los Estados Unidos, al Presidente del Senado y al Presidente de la Cámara de Representantes de los Estados Unidos y al Comisionado Residente de Puerto Rico en los Estados Unidos.

Sección 9.- Esta resolución comenzará a regir tan pronto sea aprobada y continuará en vigor hasta que se hayan cumplido sus propósitos conforme a lo dispuesto en la Sección 2 de esta resolución.

Presidente del Senado

Presidente de la Cámara

Aprobada en MAR 14 1990

Gobernador

101ST CONGRESS
2D SESSION

H. R. 4765

To enable the people of Puerto Rico to exercise self-determination.

IN THE HOUSE OF REPRESENTATIVES

MAY 9, 1990

Mr. DE LUGO (for himself, Mr. LAGOMARSINO, Mr. FUSTER, Mr. UDALL, Mr. YOUNG of Alaska, Mr. MOAKLEY, Mr. QUILLEN, Mr. CLARKE, Mr. LEWIS of Georgia, Mr. FALEOMAVAEGA, Mr. BLAZ, and Mr. DARDEN) introduced the following bill; which was referred jointly to the Committees on Interior and Insular Affairs and Rules

A BILL

To enable the people of Puerto Rico to exercise self-determination.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Puerto Rico Self-Determination Act".

SEC. 2. REFERENDUM ON STATUS OPTIONS.

(a) There are hereby authorized to be appropriated to the Executive Office of the President $4,000,000 for grants to the Government of Puerto Rico for the conduct of a refer-

endum on the following proposition, to be presented to the voters:

Which political status do you favor for the Commonwealth of Puerto Rico on terms mutually agreed to by the people of Puerto Rico and the Congress of the United States?

independence;

statehood;

an enhanced Commonwealth relationship with the United States; or

none of the above.

(b) The referendum shall be conducted on 1991 pursuant to the electoral laws of Puerto Rico.

SEC. 3. INITIAL DEFINITIONS OF STATUS OPTIONS.

For the purpose of the referendum (and the negotiations provided for in section 4) it is understood that the initial position of the people of the Commonwealth of Puerto Rico and of the Congress of the United States is that the status options encompass the principles which follow:

(a) Independence.

(b) Statehood.

(c) Enhanced commonwealth.

SEC. 4. DEVELOPMENT OF IMPLEMENTING LEGISLATION.

(a) If the referendum results in a majority for one of the three status options, representatives of the Committee on

Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives shall draft legislation to implement the selected status encompassing the principles set forth in section 3 in full consultation with representatives of the Puerto Rican political party advocating that option and with representatives of the other two political parties of Puerto Rico, representatives of the President, and other interested parties as may be appropriate.

(b) Such legislation shall be drafted no later than 1991.

(c) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of these negotiations.

SEC. 5. CONSIDERATION OF IMPLEMENTING LEGISLATION.

(a) No later than seven legislative days after the legislation provided for in section 4 is drafted, the legislation shall be introduced in the House of Representatives by the chairman of the Committee on Interior and Insular Affairs (by request, or otherwise) or by another Member or Members of the House and by the chairman of the Senate Committee on Energy and Natural Resources (by request, or otherwise) or by another Member or Members of the Senate.

(b) If any committee to which the legislation has been referred has not reported it by the end of one hundred and

eighty calendar days after its referral to such committee, it shall be in order at any time thereafter for any Member of the House of Representatives or of the Senate, respectively, to move to discharge the committee from its further consideration.

(c) Seven legislative days after the last committee has reported the legislation, or has been discharged from further consideration of the legislation, it shall be in order at any time thereafter for any Member of the House of Representatives or of the Senate, respectively, to move to consider the legislation.

(d) Enactment of this section constitutes a commitment that the United States will proceed to implement the political status selected by the people of Puerto Rico pursuant to section 2 through action on legislation establishing the appropriate mechanisms and procedures to that effect.

SEC. 6. RATIFYING VOTE ON IMPLEMENTING LEGISLATION.

(a) Upon enactment, the legislation provided for in section 4 as approved by the Congress shall be submitted to the people of Puerto Rico for ratification according to the electoral laws of Puerto Rico not later than July 7, 1992. The legislation shall take effect on October 1, 1992, but only if it is approved by the people of Puerto Rico.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the ratification vote provided for by this section.

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ellite television communications; to the Committee on Energy and Commerce.

By Mr. BROOKS (by request):

H.R. 4757. A bill to provide permanent authority for the U.S. Supreme Court Police; to the Committee on the Judiciary.

By Mr. COLEMAN of Texas:

H.R. 4758. A bill to provide for the construction, operation, and maintenance of an extension of the American Canal at El Paso, TX; to the Committee on Interior and Insular Affairs.

By Mr. CRANE:

H.R. 4759. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965 to abolish the National Endowment for the Arts and the National Council on the Arts; to the Committee on Education and Labor.

By Mr. ROSTENKOWSKI:

H.R. 4760. A bill to amend the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985 to reform the budget process, to amend the Social Security Act to enhance and protect the Social Security Program, and for other purposes; jointly, to the Committees on Ways and Means, Government Operations, and Rules.

By Mr. DORGAN of North Dakota (for himself and Mr. CHANDLER):

H.R. 4761. A bill to amend the Internal Revenue Code of 1986 to allow individuals who do not itemize deductions a deduction for charitable contributions to the extent in excess of $100 per year; to the Committee on Ways and Means.

By Mr. FAWELL:

H.R. 4762. A bill to make technical changes to Public Law 81-874; to the Committee on Education and Labor.

By Mr. FOGLIETTA (for himself, Mr. RANGEL, Mr. CROCKETT, Mr. SCHEUER, Mrs. COLLINS, Mr. FASCELL, Mr. FAUNTROY, Mr. LEVINE of California, Mr. CONYERS, Mr. BORSKI, Mr. SCHUMER, Mr. KOSTMAYER, Mrs. UNSOELD, Mr. GUARINI, and Mr. MORRISON of Washington):

H.R. 4763. A bill to provide emergency Federal assistance to drug emergency areas; to the Committee on the Judiciary.

By Mr. GEJDENSON:

H.R. 4764. A bill to amend the Communications Act of 1934 to prohibit commerce in high-definition televisions that do not contain minimum levels of domestic content; to the Committee on Energy and Commerce.

By Mr. DE LUGO (for himself, Mr. LAGOMARSINO, Mr. FUSTER, Mr. UDALL, Mr. YOUNG of Alaska, Mr. MOAKLEY, Mr. QUILLEN, Mr. CLARKE, Mr. LEWIS of Georgia, Mr. FALEOMAVAEGA, Mr. BLAZ, and Mr. DARDEN):

H.R. 4765. A bill to enable the people of Puerto Rico to excerise self-determination; jointly, to the Committees on Interior and Insular Affairs and Rules.

By Mr. GONZALEZ (for himself and Mr. WYLIE (both by request), Ms. OAKAR, and Mr. SHUMWAY):

H.R. 4766. A bill to amend the Defense Production Act of 1950 to support mobilization of the defense industrial base of the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HEFLEY (for himself, Mr. BROWN of Colorado, Mr. SCHAEFER, and Mr. CAMPBELL of Colorado):

H.R. 4767. A bill to improve the water quality of the water flowing from the Leadville Mine drainage tunnel in Colorado; to the Committee on Interior and Insular Affairs.

By Mr. HOYER:

H.R. 4768. A bill to amend title 5, United States Code, to revise the pay structure for the police forces of the Bureau of Engraving and Printing and the U.S. Mint; to the Committee on Post Office and Civil Service.

H.R. 4769. A bill to amend title 5, United States Code, to increase the limit on the uniform allowance payable to Federal employees; to the Committee on Post Office and Civil Service.

By Mr. ROYBAL (for himself, Ms. SNOWE, Mr. WAXMAN, Mr. STARK, Mr. DOWNEY, Mr. RINALDO, Mr. REGULA, and Mr. BRUCE):

H.R. 4770. A bill to amend the public Health Service Act to provide assistance for biomedical and health services research, education, treatment programs and for other purposes relating to Alzheimer's disease and related disorders; to the Committee on Energy and Commerce.

By Mr. JACOBS:

H.R. 4771. A bill prohibiting the manufacture, sale, delivery, or importation of certain motor vehicles and railcars that do not have seatbelts, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. KOLTER:

H.R. 4772. A bill to amend title XVIII of the Social Security Act to repeal the requirment that all nonparticipating physicians file Medicare claims on behalf of all of their patients who are Medicare beneficiaries; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. LAFALCE (for himself and Mr. CONTE):

H.R. 4773. A bill to authorize the President to call and conduct a National White House Conference on Small Business; to the Committee on Small Business.

By Mr. LEVINE of California (for himself, Mr. GILMAN, Mr. RANGEL, Mr. WAXMAN, and Mr. BLILEY):

H.R. 4774. A bill to ban volatile alkyl nitrites; to the Committee on Energy and Commerce.

By Mr. PARRIS:

H.R. 4775. A bill to amend title 10, United States Code, to repeal the limitation on the amount of separation pay that may be paid to an officer of the Armed Forces involuntarily separated before becoming eligible for retirement, and for other purposes; to the Committee on Armed Services.

By Mr. POSHARD:

H.R. 4776. A bill to establish a National Coal Institute which would address the current and future problems and challenges of the Nation's high-sulfur coal industry; jointly, to the Committees on Energy and Commerce; Science, Space, and Technology; and Education and Labor.

By Mr. SKEEN:

H.R. 4777. A bill to amend the Act of June 20, 1910, to clarify in the State of New Mexico authority to exchange lands granted by the United States in trust, and to validate prior land exchanges; to the Committee on Interior and Insurlar Affairs.

By Mr. SMITH of New Jersey:

H.R. 4778. A bill to direct the Secretary of the Army to conduct a study of the feasibility of implementing flood control measures on the Manasquan River to alleviate flooding in Freehold, Howell, and other affected townships in New Jersey; to the Committee on Public Works and Transportation.

By Mr. STUDDS (for himself and Mr. YOUNG of Alaska):

H.R. 4779. A bill to provide congressional approval of the Governing International Fishery Agreement between the United States and the Government of the People's Republic of China; to the Committee on Merchant Marine and Fisheries.

H.R. 4780. A bill to provide congressional approval of the Governing International Fishery Agreement between the United States and the Government of the German Democratic Republic; to the Committee on Merchant Marine and Fisheries.

By Mr. WISE:

H.R. 4781. A bill to assure the continued involvement of State, county, and local governments in the war on drugs; to the Committee on the Judiciary.

By Mr. BILIRAKIS:

H.J. Res. 565. Joint resolution designating July 22 through July 28, 1990, as "National Invent America Week"; to the Committee on Post Office and Civil Service.

By Mr. ESPY (for himself, Mr. BLILEY, Mr. WOLF, Mr. SLATTERY, Mr. MCEWEN, Mr. MONTGOMERY, Mr. HORTON, Mr. BENNETT, Mr. WEBER, Mr. TALLON, Mr. RANGEL, Mr. MCNULTY, Mr. FAUNTROY, Mr. BEVILL, Mr. LENT, Mr. PICKETT, Mr. SPENCE, and Mr. TAYLOR):

H.J. Res. 566. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 19, 1990, as "National Military Families Recognition Day"; to the Committee on Post Office and Civil Service.

By Mr. CLEMENT:

H. Res. 389. Resolution expressing the Sense of the House of Representatives that the sponsors and participants of the first National Conference on Environmental Sensitivity in Construction should be commended; to the Committee on Energy and Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

383. By the SPEAKER: Memorial of the 15th Legislature of the State Senate of Hawaii, relative to the enhancement of national and community services; to the Committee on Education and Labor.

384. Also, memorial of the Assembly of the State Legislature of California, relative to leveraged buyouts; to the Committee on Energy and Commerce.

385. Also, memorial of the Assembly of the State Legislature of California, relative to the right of self-determination of the Lithuanian people; to the Committee on Foreign Affairs.

386. Also, memorial of the State Senate of Colorado, relative to designation of additional wilderness areas in the State; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 220: Mr. MCGRATH.

H.R. 446: Mr. COURTER, Mr. MILLER of Washington, Mr. HOLLOWAY, and Mr. APPLEGATE.

H.R. 467: Ms. MOLINARI, Mr. DICKS, Mr. LENT, Mr. DURBIN, Mr. MARTINEZ, and Mr. COYNE.

H.R. 505: Mr. CONDIT.

H.R. 1068: Mr. DERRICK, Mr. HALL of Texas, Mr. HEFNER, Mr. MOODY, Mr. YOUNG of Florida, Mr. MCHUGH, Mr. PURSELL, Mr. GEREN, Mr. ANTHONY, Mr. HUNTER, Mr. BARTON of Texas, and Mr. ESPY.

H.R. 1083: Mr. WHITTAKER, Mr. ROWLAND of Connecticut, Ms. SNOWE, Mr. PRICE, Mr. GILLMOR, Mr. IRELAND, Mr. GRAY, Mr. LEWIS of Florida, Mr. SERRANO, Mr. STANGELAND, Mrs. MARTIN of Illinois, Mr. HUGHES, Mr. SYNAR, Mr. HALL of Texas, and Ms. MOLINARI.

H.R. 1249: Mr. DELLUMS.

EXTENSIONS OF REMARKS

PUERTO RICO STATUS PLEBISCITE GENERATES INTERNATIONAL INTEREST

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 1990

Mr. FUSTER. Mr. Speaker, in recent days my colleagues have heard me speak of the many dimensions of the political status debate in and about Puerto Rico—dimensions that have been explored in the last month alone in such national publications as the New York Times, the Washington Post, the Wall Street Journal, and Time magazine. But there is also an international dimension to this issue, legislation about which is pending in the Congress that would set up a political status plebiscite in Puerto Rico next year between the choices of statehood, independence, or an enhancement of the existing commonwealth status.

This international interest in and growing awareness of the plebiscite has been promoted in part by supporters of the independence option for Puerto Rico. To that end, Mr. Speaker, I am inserting in the RECORD today two interesting articles from newspapers in Puerto Rico about the proindependence aspect of the status debate, and I commend them to the attention of my distinguished colleagues.

[From El Mundo, Apr. 17, 1990]

THE DAYS OF COLONIALISM IN PUERTO RICO ARE COUNTED

MEXICO.—Rubén Berríos, president of the Puerto Rico Independence Party (PIP), said in Cuba that "The days of colonialism in Puerto Rico are counted," according to the Cuban press agency "Prensa Latina."

"The days of colonialism in Puerto Rico are counted. We are facing the 21st century and there are virtually no colonies left. Only six million people live under colonial regimes, of them, three and a half live in Puerto Rico," Berríos told the Cuban media during his visit to Havana.

According to Berríos, "The United States is faced with the problem of colonialism in Puerto Rico and the current process in the United States Congress towards a plebiscite in the Caribbean island is symptomatic of the degree of colonial deterioration that weighs heavily on Washington."

Berríos added that "spokespersons and ideologues of U.S. conservatism have stated that statehood is not a viable economic or political alternative for the United States."

"And since colonialism in the world is bankrupt, Washington will have to confront the fact that the only way out-for the Puerto Rican problem, short term or long term, is independence," Berríos stated.

Berríos and PIP Vice President [Puerto Rico Senator] Fernando Martín (PIP at-large), travelled to Havana during the weekend as part of a tour to create "a common Latin American front for the independence of Puerto Rico."

In Havana, Berríos met with President Fidel Castro and, prior to that meeting, had met with eight other Latin American presidents.

During his meeting with Castro, Berríos said the Cuban President "ratified the support of the government in Havana for the cause of Puerto Rican independence."

[From El Nuevo Día, Apr. 17, 1990]

PUERTO RICAN INDEPENDENCE PARTY MAKES APPEAL TO LATIN AMERICA

HAVANA, CUBA.—During a visit to Cuba this past weekend, Puerto Rico Independence Party (PIP) President Rubén Berríos stressed the need for Latin America's support for Puerto Rico's independence.

The PIP leader travelled to Havana with Senator Fernando Martín, the PIP's Vice President. The PIP is one of the three parties participating in the process towards a plebiscite in Puerto Rico. Berríos and Martín are on a tour of several countries in the region with the purpose of seeking support for the creation of a "common Latin American front for the independence of Puerto Rico." During his Latin American excursion, Berríos has visited Jamaica, Perú, Bolivia, Ecuador, Argentina, Venezuela, Colombia and Cuba, and has met with nine presidents.

In his meeting with the Cuban president, Fidel Castro, both politicians examined possible endeavors towards Puerto Rican independence, according to a report which appeared today in Cuba's official newspaper, "Granma."

During their meeting, Berríos said he was convinced that the contradictions of the U.S. presence in Puerto Rico, exposed during the plebiscite process, have served as evidence of the failure of the colonial system as well as of the "annexionist" (or pro-statehood) movement, according to the source. In his statements to the local media, Berríos indicated that Fidel Castro had ratified the support of his government to Puerto Rican independence. Rubén Berríos stressed that, in Puerto Rico, "the days of colonialism are counted."

"We are facing the 21st century," he added "and there are virtually no colonies left. Only six million people live under colonial regimes, of them, three and a half live in Puerto Rico." According to Berríos, the U.S. government is faced with the problem and the current process in the U.S. Congress towards a plebiscite in the Caribbean island is symptomatic of the degree of colonial deterioration that weighs heavily on Washington. He also explained that the option for the referendum, scheduled for next year if Congress approves legislation to that effect, would be statehood, Commonwealth and independence.

TRADE SANCTIONS AND THE PEOPLE'S REPUBLIC OF CHINA

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 1990

Mr. BEREUTER. Mr. Speaker, the President must decide by June 3, 1990, whether to grant a waiver of the Jackson-Vanik amendment in order to extend China's most-favored-nation [MFN] status for another 12 months. The Jackson-Vanik amendment does not allow MFN status to be granted to countries who do not allow their citizens to emigrate freely, unless a waiver is granted by the President. Following the Tiananmen Square massacre in 1989, Chinese leaders have further restricted emigration and increased their disregard for basic human rights.

While these actions have been very disappointing and could easily justify a decision to revoke MFN status, a May 3, 1990, editorial from the Journal of Commerce illustrates some interesting points which could support continuation of China's current MFN status. Most notably, MFN status makes textiles, electronics, sneakers, and toys manufactured in China competitive in the United States. These goods are manufactured by semiprivate companies which make up China's entrepreneurial sector which has developed as a result of economic reforms. Loss of the Jackson-Vanik waiver would render these firms uncompetitive in the U.S. market. United States support for these entrepreneurs, the Journal suggests, could be best illustrated by granting a waiver of the Jackson-Vanik amendment and extending MFN to the People's Republic of China for an additional 12 months. I submit this editorial to be printed in the RECORD.

SELF-DEFEATING SANCTION

Using trade policy to do a foreign policy job is a trick business: The United States could end up hurting itself by imposing broad trade sanctions to make a narrow political statement. That's what will happen if President Bush follows the advice of some in Congress who want to punish the hardliners in Beijing by canceling China's most-favored-nation tariff status.

Most-favored-nation status, which grants imports from China the same tariff treatment accorded goods from most other countries, was extended in 1980 under the U.S.-China Trade Agreement. That privilege has enabled China to become America's 10th-largest trading partner. Without it, high tariffs would make many Chinese goods uncompetitive: Customs duties on cotton sweaters, a major Chinese export, would rise from 6% to 60%.

Under the Jackson-Vanik Amendment, a 1974 law aimed at the Soviet Union, most-favored-nation status may not be granted to any country that restricts its citizens' right to emigrate. Each year since 1980, the United States has granted China a waiver of the Jackson-Vanik requirement, renewing its tariff preferences with little debate.

Beijing's murderous repression in Tiananmen Square last June and the subsequent crackdown on the emigration of students and dissidents, mean that the Jackson-Vanik waiver is no longer a routine matter. By June 3, President Bush must decide whether to issue a waiver for another 12 months. The president is under pressure to vindicate himself for his mistake in sending two secret missions to Beijing for high-level talks last year while publicly proclaiming a moratorium on official visits. But responding to that pressure by stripping China of its most-favored-nation status would be a mistake.

A reversal in U.S. trade policy, effectively abrogating the 1980 trade agreement, would

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

by constituents who have been deliberately misinformed about the congressional process and the intentions of Members of Congress. This Member appreciates how important local arts programs are to Nebraskans who don't have access to the Kennedy Centers and Lincoln Centers of the Nation. Thus, as one way to actively combat the disingenuous strategy that would destroy Federal support for the arts, this Member seeks to share persuasive comments from home. The following letter speaks eloquently of the important role the arts play in Nebraska:

APRIL 9, 1990.

HON. DOUGLAS BEREUTER,
Rayburn House Bldg., Washington, DC.

DEAR CONGRESSMAN BEREUTER: I am writing to urge you to support the National Endowment of the Arts, and therefore, public support of the arts.

You know well the citizenry of Nebraska, and the geography of Nebraska, and the hunger for equal opportunity for quality art programs in rural schools and communities. State Art Councils are in place to monitor the funding, and the Nebraska Council members know what Nebraskans feel, need, and want, but funding is essential. We take the delegation of federal monies as a moral obligation to do what is best for Nebraska.

To burn all books because of the words in one;

To halt all music because of the content of one song;

And to silence all art in Nebraska because of one non-Nebraskan artist is to stifle the quality of life for our most important product, the children.

Please study the issue and give thought to the possibility of school children in our state having to do without opportunities to hear, see, and learn the greater forms of art.

Respectfully,

(Signed by a Nebraska constituent.)

THE PUERTO RICO SELF-DETERMINATION ACT

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 1990

Mr. DE LUGO. Mr. Speaker, as you know, I am introducing a bill today to enable the people of Puerto Rico to exercise self-determination with your support and that of the minority leader and with the bipartisan cosponsorship of the other leaders of the Interior and Insular Affairs Committee on this issue as well as the leaders of the Rules Committee.

The bill would fully respond to the request of the leaders of Puerto Rico's three political parties early last year for the Federal Government to authorize a referendum on the island's future political status and, importantly, to commit to act on implementing the winning status according to a specific and expeditious timetable.

It would, further, clearly define the three status options as they would apply to the island: an enhancement of the current commonwealth relationship with the United States; statehood; and independence so that the people of Puerto Rico can make an informed choice.

The bill provide for a self-executing, binding process to act on their self-determination decision; but it does not contain the perceived flaws that have bogged down a Senate committee bill on this important issue.

As Members will recall, President Bush endorsed Puerto Rico's self-determination request in an address to us. I understand from the minority leader that the White House is happy that we are proposing this legislation.

It would enable the stalemate on the complicated Puerto Rican status issue—that has effectively prevented action on the many serious needs of the island for so long—to finally be broken. And it would do this in a realistic and fair way.

Last year, as chariman of the Insular and International Affairs Subcommittee, I agreed with the chariman of the Senate committee of primary jurisdiction to have the Senate act first on this sensitive matter, with House action to follow to minimize confusion over the differences in the Senate and House bills.

Chairman JOHNSTON drafted three bills on this issue, all calling for a referendum among the status options next year.

One, S. 710, would call for the choice to be made among three undefined options and provide for negotiations to develop implementing legislation. The legislation would only be effective if approved by the people of Puerto Rico as well as the Federal Government.

Another bill, S. 711, is similar except that it would define the three status options.

A third bill, S. 712, would preapprove each of the three status options—and related changes in law—and automatically put the status that won the referendum next year into effect the same year.

Although you, Mr. Speaker, expressed concern about S. 712's unprecedented process, the Senate Energy and Natural Resources Committee narrowly approved S. 712 last summer.

Your concerns were shared by other Members of Congress. And the changes in law that S. 712 proposed for the statuses generated even greater concerns about the bill, in the Senate as well as the House.

Chairman JOHNSTON, who has done the Nation a great service by his work on this issue, intended to have S. 712 sent to the House by last fall, in keeping with our understanding on scheduling; but the Senate still has not acted on it. The bill remains in the Finance Committee to which it was referred after the Energy and Natural Resources Committee's action.

Because of the delay, other leaders of the Interior and Insular Affairs Committee and I asked the leaders of Puerto Rico's parties last November to agree on a more realistic alternative to the bill.

But the promises of S. 712 made it understandably impossible for them to do so.

Now, time for the Federal Government to respond to their request to enable their people to finally make a status choice next year is running out.

The reason for the inaction is clear to us up here; but less clear to the people of the island: Both the process and the principles set forth in S. 712 are so skewed that the prevailing view is that the Washington Post was right when it said that it would be better to pass no bill at all.

And that would be a tragic result for the people of Puerto Rico and for the United States. So, I decided to go ahead and sponsor an alternative to S. 712 that would enable the people of Puerto Rico to exercise self-determination next year; but would also have a realistic chance of becoming law.

I discussed the need to do this with my friend Chairman JOHNSTON and he completely understood my need to shift the approach I agreed to with him last year and introduce an alternative bill at this time.

The new bill is based on another of his bills, S. 711; but it is, I believe, an improvement on that original bill, particularly in that it would provide commitments and timetables for final action on this issue.

I am joined in introducing this bill today by the ranking Republican of my subcommittee, BOB LAGOMARSINO, and by the chairman and the ranking Republican of the full Interior and Insular Affairs Committee, MO UDALL and DAN YOUNG, respectively. The chairman and ranking Republican of the Rules Committee, which may also have to act on this matter, JOE MOAKLEY and JIMMY QUILLEN, are sponsors as well and a number of other sponsors will be added to it shortly. Finally, you, Mr. Speaker, and the minority leader have also indicated support of this bill.

Our bill would do what the people of Puerto Rico have asked for—provide a chance for them to exercise meaningul self-determination next year.

It would authorize a referendum between options that are clearly defined in 1991. I had originally intended for this date to be in May—a time earlier next year than the Senate committee bill provides for—but there are those in Puerto Rico who have suggested that more time or an education process prior to the referendum is needed because of the delay in completing action on this legislation due to the Senate. I want it to be as early as possible. But whatever date in 1991 we finally select, it will not delay the effective date of status development proposed in this bill.

Our bill would require the development of legislation to implement a winning status next year after the referendum in consultation with the Puerto Rican party advocating that status, with the other two parties, and with the President.

It would commit the Federal Government to quick action on that legislation in early 1992.

But it provide that this final Federal action would only take effect if it is approved by the people of Puerto Rico in a second vote in July 1992, so that they make the final decision on this issue. The status development would then be effective in October 1992.

As introduced, the bill provides for—but does not contain—definitions of the statuses. These definitions will be added by the subcommittee after consultation with the leaders of Puerto Rico's status-based political parties.

The Insular and International Affairs Subcommittee can be expected to act on this bill shortly. We have had extensive briefings on the many issues involved. We have also had many hours of hearings both here and in Puerto Rico on them.

We will have other hearings next month—in New York at the request of our colleagues CHARLIE RANGEL, STEVE SOLARZ, BILL GREEN, FRANK HORTON, and JOSE SERRANO so that we can hear from the many Puerto Ricans in that State—and in Washington to hear from the administration and once again from Puerto Rico's parties on the details of the bill.

I intend for the subcommittee to act as quickly as possible on the bill immediately afterwards so that a law can be enacted this

year that will enable the people of Puerto Rico to exercise self-determination.

In concluding, I want to express my special appreciation and admiration for my subcommittee's ranking Republican, BOB LAGOMARSINO, for his patriotic cooperation in developing this legislation. This is an example of the reason I value his friendship so highly.

THE PUERTO RICO SELF-DETERMINATION ACT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 1990

Mr. LAGOMARSINO. Mr. Speaker, I unequivocally support self-determination for the people of Puerto Rico. They have abided patiently for the realization of the words of General Miles when he arrived in Puerto Rico in 1898 during the Spanish-American War to establish United States sovereignty over Puerto Rico.

In the prosecution of the war against the Kingdom of Spain, the people of the United States in the cause of liberty, justice, and humanity, its military forces have come to occupy the Island of Puerto Rico. They come bearing the banner of freedom. * * * They bring you the fostering arm of a nation of free people, whose greatest power is in justice and humanity to all those living within its fold. * * * We have not come to make war against a people of a country that for centuries has been oppressed, but on the contrary, to bring you protection * * * to promote your posterity, and to bestow upon you the immunities and blessings * * * of our government.

The people of Puerto Rico have undergone a slow process of increased self-government and economic development over the years. In 1900, they were authorized to elect a "Resident Commissioner" to Washington but not a "Delegate" as the term delegate was believed to have an implied promise of statehood.

The people of Puerto Rico were finally bestowed United States citizenship in 1917, primarily due to America's participation in World War I and the need for additional forces to protect the Panama Canal. Thousands of Puerto Ricans served with distinction with many losing their lives in defense of their long-awaited and cherished United States citizenship.

However, the Supreme Court's 1922 decision in Balzac versus People of Puerto Rico created a different type of citizenship than that which was enjoyed by the residents of the then territories of Alaska and Hawaii. The Court determined that the United States Constitution did not fully apply to the United States citizens of Puerto Rico. The reasoning was that the law extending citizenship to the people of Puerto Rico did not include the certain phraseology which had been earlier applied to Hawaii and Alaska.

The Constitution of the United States, and all the laws thereof which are not locally inapplicable, shall have the same force and effect within the said Territory as elsewhere in the United States. (37 Stat. 512.)

The result was the creation of a third-tier citizenship. Those in the several States enjoyed the protection of the Constitution and full political representation and voting rights; residents of Alaska and Hawaii were accorded the full application of the Constitution, but lacked the right to vote for President and voting representation in Congress, while the third-tier citizens could only claim limited constitutional protection.

The people of Puerto Rico have endured this anamalous citizenship for over 73 years because most of them have believed in the American system of equality. To be sure, some have been impatient at times yielding to the specter that racism and bigotry would prevail over their quest for equal rights among their fellow citizens elsewhere in the several States.

I have worked with my colleague from the Virgin Islands to develop legislation which provides a legitimate and meaningful response to both the people of Puerto Rico and the leaders representing the status options. I strongly support the legislation even though I introduced H.R. 3536 in October 1989 to provide a referendum on the status question. H.R. 3536 is nearly identical to Senate bill S. 712, introduced by Senators JOHNSTON, MCCLURE, and SIMON, which provides the implementing provisions of each of the three options and is considered to be self-executing.

The Puerto Rico Self-Determination Act being introduced today provides a commitment by the United States to expeditiously implement the majority will of the people of Puerto Rico.

The time limits for action required of Congress by the bill is extremely unusual but demonstrates the sincerity of Congress to act on the people's choice. This proposed process is very complex. Members of Congress will need to make decisions which affect the future relationship of the United States and the nearly 2½ million United States Citizens of Puerto Rico. The change in status is also of enormous concern to the 2½ million Americans of Puerto Rican ancestry who reside throughout the 50 States.

This is a matter which the Congress has a moral and constitutional responsibility to address. There are profound political consequences to both Houses of Congress and to the executive branch. The cost of the three options vary considerably and corporations who now enjoy annual tax credits of nearly $2½ billion will be fighting to prolong their benefits. Positive net revenues to the U.S. Treasury are projected under one status. The international implications, of fair treatment by the United States of the Puerto Rican people in respecting their right to self-determination, will have positive consequences, particularly in Latin America and developing countries.

It will be difficult to grapple with these numerous issues. But the level of complexity, possible political ramifications, and cost of the statuses should not deter Members of Congress from confronting a self-determination issue as profound as that of Lithuania, Latvia, and Estonia or in a number of other countries throughout the world.

France recently dealt with the complicated self-determination of the people of the French territory of New Caledonia, in the South Pacific. A referendum has been scheduled for 1998 and funding of $1 billion per year is being provided to the 150,000 residents for local self-government. If the United States followed the French formula, the proportionate level of funding for the 3½ million residents of Puerto Rico would total an astronomical $23 billion per year. However, Puerto Rico is at a significantly higher level of economic development and therefore such funding would not be appropriate and the length of time is unacceptably long.

Many individuals have participated to varying degrees in bringing Puerto Rico's self-determination before the Congress. President Bush requested action by the Congress in his first address to a joint session of the Congress on February 9, 1989:

There's another issue I have decided to mention here tonight. I've long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I strongly favor statehood. But I urge the Congress to take the necessary steps to allow the people to decide in a referendum.

This was not the first time George Bush had requested congressional action on Puerto Rico's status. In 1987, then Vice President Bush asked me to introduce legislation to provide a referendum for the people of Puerto Rico. I introduced H.R. 2849 to provide a referendum on statehood and a second ratifying vote on terms defined by the Congress. I am pleased to note that the bill being introduced today follows in the 1987 bill in many ways.

I must also emphasize that the introduction of the 1987 legislation was based on the receipt of over 350,000 individually signed petitions for statehood submitted by a nonpartisan grassroots organization, Puerto Ricans in civic action. The president of the nonprofit, nonpartisan organization is Dr. Miriam Ramirez de Ferrer, a tireless pursuer of equal citizenship rights for the people of Puerto Rico. Over the years that I have known Dr. Ramirez de Ferrer, I have been impressed by her zeal and passion for the enligthened cause of Puerto Rico statehood. She exemplifies the United States citizens of Puerto Rico who are unquestionably patriotic and fiercely proud of the rich culture and heritage of Puerto Rico.

In addition to agreeing with President Bush's support for Puerto Rico statehood, I join the President in defending the right of the people of Puerto Rico to freely choose their desired status with the United States, whether it be independence, commonwealth, or statehood.

I commend the leaders of Puerto Rico's three political parties for their diplomatic approach to this often locally partisan matter.

I have discussed the legislation being introduced today with two individuals in the White House who President Bush has charged with the collateral responsibility for Puerto Rico. Andrew Card, Assistant to the President and Deputy to the Chief of Staff and Chase Untermeyer, Assistant to the President for Presidential Personnel, both expressed delight in action by the House to further the objective of the President to provide a meaningful referendum to the people of Puerto Rico which results in the timely implementation of the will of the majority. Both Andrew Card and Chase Untermeyer have devoted themselves to carry out the President's commitment to the United States citizens of Puerto Rico. The level of the President's commitment is indeed indicated by the assignment of Puerto Rico to individuals in the highest levels within the Executive Office of the President.

I want to acknowledge the energetic cooperation of RON DE LUGO of the Virgin Islands, chairman of the Subcommittee on Insular and International Affairs. RON DE LUGO has

worked closely with me in developing the legislation in a bipartisan manner. Our goal is to provide for the self-determination for the people of Puerto Rico. We will continue to work together to refine the legislation as necessary to provide a responsive mechanism for the self-determination of the people of Puerto Rico. My appreciation also to the Speaker and Republican leader, and the chairman and vice chairman of the Committee on Interior and Insular Affairs for their bipartisan support of this initiative.

By timely addressing this measure, the Congress will have responded to the 350,000 first amendment petitions from the people of Puerto Rico, the President's request to "take the necessary steps to let the people of Puerto Rico decide in a referendum," and the echoing 1898 promise of General Miles for "justice and humanity to all those living within its fold."

The following is the text of the legislation:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America and in Congress assembled, That this Act may be cited as the "Puerto Rico Self-Determination Act".

SEC. 2. REFERENDUM ON STATUS OPTIONS.

(a) There are hereby authorized to be appropriated to the Executive Office of the President $4 million for grants to the Government of Puerto Rico for the conduct of a referendum on the following proposition, to be presented to the voters:

Which political status do you favor for the Commonwealth of Puerto Rico on terms mutually agreed to by the people of Puerto Rico and the Congress of the United States?

Independence;

Statehood;

an enhanced Commonwealth relationship with the United States; or

none of the above.

(b) The referendum shall be conducted on _____ 1991 pursuant to the electoral laws of Puerto Rico.

SEC. 3. INITIAL DEFINITIONS OF STATUS OPTIONS.

For the purpose of the referendum (and the negotiations provided for in Section 4) it is understood that the initial position of the people of the Commonwealth of Puerto Rico and of the Congress of the United States is that the status options encompass the principles which follow:

(a) Independence— _____,

(b) Statehood— _____; and

(c) Enhanced Commonwealth—

SEC. 4. DEVELOPMENT OF IMPLEMENTING LEGISLATION.

(a) If the referendum results in a majority for one of the three status options, representatives of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives shall draft legislation to implement the selected status encompassing the principles set forth in Section 3 in full consultation with representatives of the Puerto Rican political party advocating that option and with representatives of the other two political parties of Puerto Rico, representatives of the President, and other interested parties as may be appropriate.

(b) Such legislation shall be drafted no later than _____ 1991.

(c) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of these negotiations.

SEC. 5. CONSIDERATION OF IMPLEMENTING LEGISLATION.

(a) No later than seven legislative days after the legislation provided for in Section 4 is drafted, the legislation shall be introduced in the House of Representatives by the Chairman of the Committee on Interior and Insular Affairs (by request, or otherwise) or by another Member or Members of the House and by the Chairman of the Senate Committee on Energy and Natural Resources (by request, or otherwise) or by another Member or Members of the Senate.

(b) If any committee to which the legislation has been referred has not reported it by the end of 180 calendar days after its referral to such committee, it shall be in order at any time thereafter for any Member of the House of Representatives or of the Senate, respectively, to move to discharge the committee from its further consideration.

(c) Seven legislative days after the last committee has reported the legislation, or has been discharged from further consideration of the legislation, it shall be in order at any time thereafter for any Member of the House of Representatives or of the Senate, respectively, to move to consider the legislation.

(d) Enactment of this section constitutes a commitment that the United States will proceed to implement the political status selected by the people of Puerto Rico pursuant to Section 2 through action on legislation establishing the appropriate mechanisms and procedures to that effect.

SEC. 6. RATIFYING VOTE ON IMPLEMENTING LEGISLATION.

(a) Upon enactment, the legislation provided for in Section 4 as approved by the Congress shall be submitted to the people of Puerto Rico for ratification according to the electoral laws of Puerto Rico not later than July 7, 1992. The legislation shall take effect on October 1, 1992 but only if it is approved by the people of Puerto Rico.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the ratification vote provided for by this section.

THE PUERTO RICAN SELF-DETERMINATION ACT

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 1990

Mr. FUSTER. Mr. Speaker, Delegate RON DE LUGO, chairman of the Insular Affairs Subcommittee, has introduced today an important bill, the Puerto Rican Self-Determination Act, which I am cosponsoring. If enacted, this bill would authorize a referendum on Puerto Rico's future relationship with the United States, giving the people the opportunity to choose between the options of statehood, independence or enhanced Commonwealth status and committing Congress to implement the winning option.

Chairman DE LUGO's bill as introduced does not fully meet the expectations of my constituents in Puerto Rico. However, it is a well-intentioned bill that was drafted taking into consideration not only the concerns of the leaders of the three political parties in Puerto Rico but also the realities of the legislative process in Congress. It is a bill that stands a reasonable chance of being enacted.

I have cosponsored Chairman DE LUGO's bill because I feel it is a strong step forward in Puerto Rico's renewed quest for self-determination and because I am hopeful that as we proceed along in the process of discussing and approving this bill, we will be able to improve upon it and work out a final piece of legislation that will be fully acceptable to my constituents.

In my view, the end result must include the following three fundamental elements:

First, a clear and adequate definition of each of the three options to be presented to the people of Puerto Rico, so that they will be able to choose intelligently, with a full understanding of what each formula means and what they concretely entail.

Second, an unequivocal commitment from Congress to respect and abide by the result of the plebiscite. This process must be a real act of self-determination, not a mere popularity contest. The bill must be binding enough so as to insure that Congress will implement whatever option is chosen by the majority of the people of Puerto Rico.

Third, finally, the options presented to the people of Puerto Rico must all be of equal dignity and fairly balanced. All the options must be free from any colonial taint, and Congress in setting them up cannot in any way show preference for one over the others.

Chairman DE LUGO has expressed to me his commitment to see that these three requirements are fully met. I am hopeful that with his support and that of the other cosponsors we will be able finally to enact a bill that the people of Puerto Rico find acceptable and that will allow us to exercise true self determination.

INTRODUCTION OF LEGISLATION RE PUERTO RICAN SELF-DETERMINATION

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 1990

Mr. UDALL. Mr. Speaker, today we are taking an important step in the history of Puerto Rico and of the United States.

We are introducing a bill to permit the people of Puerto Rico to exercise the right of self-determination. By agreement with the major political parties of the Commonwealth of Puerto Rico, we are, by this legislation, providing for a referendum which will ask the people of Puerto Rico to select their preferral political status—independence, statehood, or enhanced commonwealth—or none of the above—"on terms mutually agreed to by the people of Puerto Rico and the Congress of the United States."

The general principles on which each status option would be based will be briefly outlined in the legislation as it proceeds through consideration by the Committee on Interior and Insular Affairs. That outline is intended to provide the people of Puerto Rico with an overview of what each status option means and what the Congress will seek to incorporate about that option into any subsequent implementing legislation.

If the referendum results in a major vote for one of the three major political statuses, then representatives of the Committee on Interior and Insular Affairs and of the Senate Energy

and Natural Resources Committee would develop the terms of implementing legislation to be considered by those respective committees. If the Congress approves the legislation and it is signed into law by the President, final approval of whether to implement it would depend on the people of Puerto Rico voting to approve or disapprove the final version of an implementation act.

There are few actions which the House may take this year which would more directly affect virtually every aspect of life of a group of people within the American political family than this legislation. Because of our concern over the advisability of its self-implementation procedures, over the lack of balance provided for in the Puerto Rico status bill under consideration in the Senate, and over our desire to move the process forward without delay, we will be encouraging our colleagues to join with us to pass the bill we are introducing today.

That bill recognizes the inherent rights of the people of Puerto Rico to determine the political status under which they wish to live but also recognizes that the status selected must be mutually agreeable to both the United States and Puerto Rico. In the past there have been frustrating episodes in the history of Puerto Rico regarding its political status. Status questions have long been the source of interminable political discussions thoughout the island. It is our intent today to provide an outlet for an expession of self-determination by the people of Puerto Rico and to do all that we can to obtain enactment of appropriate implementing legislation of the status the people choose.

I do not wish to raise the expectations of the people of Puerto Rico beyond that which we can be assured of achieving; therefore, it must be made very clear that the exact details of status-implementing legislation cannot be determined with precision in advance, and that while can assure through this legislation that a winning status will be considered by both Houses of Congress, we cannot assure enactment or that the bill will be precisely what the winning political party would prefer.

The people of Puerto Rico have my commitment to do all that I can to obtain passage of this legislation and appropriate implementation legislation.

I look forward to working with the people of the Commonwealth of Puerto Rico in their quest to determine under which political status would like to live.

I urge my colleagues to study the implications of this important and historic legislation and assist in the work that faces the Congress in coming months regarding it.

RECOGNIZING ENTENMANN'S "PROUD TO BE DRUG FREE" PROGRAM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, today I want to bring to your attention a program which proves that a business can care. On January 16, 1990, Entenmann's, the people that have been baking for us since 1898, initiated a strong program encouraging the youth of America to live their lives free of drug use. The theme of the campaign is "Proud to be Drug Free" and the initiative they have displayed in this project is immense and highly commendable.

Six markets have been targeted for this program in the southeast. These cities include Miami, West Palm Beach, Tampa, Orlando, Jacksonville, and Atlanta. One of the first measures taken by Entenmann's was conducting research to determine how best to influence our youth. This wise decision lead the company to develop a campaign targeted at parents, as well as creating several parent and teacher programs. The study by Entenmann's concluded that intimate bonds with the family reduced the potential for drug use among youths. By encouraging strong family values, the "Proud to be Drug Free" program will bring parents and families together to help prevent drug dependencies.

One of the highlights of the program includes professional and local athletes visiting more than 500 elementary schools. With Marcus, Allen, running back for the Los Angeles Raiders, as the official spokesman for the project, youth will undoubtedly be positively affected by this program.

I applaud Entenmann's for their hard work in assisting in our social problems. The "Proud to be Drug Free" project will certainly be beneficial for all who participate. The concern and interest in the people of America demonstrated by Entenmann's proves that the business community can help in the fight in the war on drugs.

WHAT GIVES? A CHARITABLE DEDUCTION FOR NONITEMIZERS

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, today Mr. CHANDLER and I are introducing legislation to provide a Federal income tax deduction to taxpayers who make charitable contributions, but who are now prevented from deducting those contributions because they file a short form tax return. This bill would give nonitemizers the same tax treatment for supporting charitable organizations as already exists for itemizers.

Under current law, only those taxpayers who itemize deductions receive tax incentives for charitable giving. Consequently, only upper-income taxpayers, who generally itemize, are encouraged by the tax laws to make charitable contributions. It makes no sense to me that those with low to moderate incomes, who generally are unable to itemize, do not receive the same encouragement to make charitable contributions.

I've introduced this legislation for discussion in Congress because it's time we reexamined the rationale behind current policy which, in my view, is not in step with our efforts toward establishing a more equitable Tax Code.

The consideration of restoring the charitable deduction for the many Americans of modest incomes who do not itemize is now particularly timely, in light of recent studies confirming that tax incentives for nonitemizers would stimulate their charitable giving.

More than 77 million taxpayers who do not itemize their returns are now told by our Tax Code that their charitable giving is going to be treated less generously than the charitable giving by upper income folks. That doesn't make sense to me.

I believe a nonitemizer who contributes $500 to charity should receive the same tax benefit as the itemizer who contributes $500 to charity. The rationale underlying the deduction applies to all taxpayers, that is—all individuals should be encouraged to make donations by excluding from taxation the income they contribute for a public purpose.

Allowing a deduction for nonitemizers will stimulate more charitable giving which will provide more funding for worthwhile nonprofit organizations, many of which provide services that otherwise might have to be provided by the Federal Government. Studies demonstrate that lower income households—nonitemizers—have historically contributed a higher percentage of household income to charity than higher income households. Further, nonitemizers tend to give to causes that serve low and middle income individuals. These important social obligations require and deserve the same encouragement from tax policy as causes supported by upper income individuals.

Some argue that the standard deduction which is allowed nonitemizers already takes into account charitable contributions. But it is not clear how much, if any, attribution for charitable deductions is assumed in the standard deduction. And even if one would accept the proposition that a portion of the standard deduction includes charitable giving, a lower bracket taxpayer's charitable deduction represents significantly less value then the same deduction afforded upper bracket taxpayers. This legislation addresses any concern about double benefits by limiting a nonitemizers deduction to that amount exceeding $100 of their charitable contributions. The $100 floor will also help reduce IRS compliance concerns by reducing the number of potential returns for filing.

The point is, lower income Americans should be afforded the same opportunity under our tax laws to give to charities of their choice by allowing them the same charitable deduction available to upper income bracket taxpayers, and we should change our tax laws to provide for that.

DAVID KIRKWOOD: 15 YEARS OF JOURNALISM EXCELLENCE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 1990

Mrs. LOWEY of New York. Mr. Speaker, today I rise to pay tribute to a man whose service to the community has been unique and exemplary.

On May 11, the Scarsdale Public Library will honor David Kirkwood for his 15 years of leadership in the profession of journalism. Since 1975, David Kirkwood has served as editor and publisher of the Scarsdale Inquirer, a newspaper published in the 20th Congressional District. In this role, he has demonstrated enormous commitment and dedication both to the community and to the highest standards of journalistic excellence.

PRESS CONFERENCE WITH THE

SPEAKER OF THE HOUSE

MAY 9, 1990

2:38 p.m.

The Speaker's page. Mr. Speaker, it is time for you to leave.

Q Mr. Speaker, if I can take you off the continent for a moment on a different subject, the House bill that refers to Puerto Rico is supposed to be introduced, and it is a different approach from the Senate. Can you comment on that?

The Speaker. Well, as I understand it, the bill is being introduced by Mr. de Lugo and and co-sponsored by Mr. Young, Mr. Lagomarsino, and perhaps Mr. Michel -- I am not sure about that -- which provides for an opportunity for a referendum on Puerto Rico or status preferences for Puerto Rico, which would

then be reported to Congress, and Congress would have an opportunity to consider the wishes of the people of Puerto Rico so expressed, and there would be a response made then by the Congress which would be sent back to Puerto Rico for approval.

That is, as I understand it, the gist of it. I think that is a sound approach. I am personally very anxious to see legislation passed that would implement the expressed opportunity of the people of Puerto Rico and to express their views on the future status of the Commonwealth, and I think that the approach taken by Mr. de Lugo is a very sound one.

Q As opposed to the self-executing approach of the Senate?

The Speaker. Yes. My own preference is for the approach taken by Mr. de Lugo. I cannot cosponsor the legislation. That is not something that traditionally Speakers do, but I think that if I were a sitting Member and not the Speaker, I would cosponsor his bill.

Q Thank you.

The Speaker. Thank you.

(Whereupon, at 2:58 p.m., the press conference was concluded.)

** TOTAL PAGE.004 **

Statement of the House Republican Leader
Robert H. Michel
May 9, 1990

I am pleased to support the initiative calling for a referendum for self determination for the Commonwealth of Puerto Rico. I am happy to join with Speaker Foley, and Reps. de Lugo, Young, and Lagomarsino in supporting legislation that will make this referendum in order.

In the spirit of democracy and self-determination that is sweeping all the other quarters in our world, I am hoping that this referendum can go forward soon so that the options of statehood, commonwealth status, and independence can be considered by the residents of Puerto Rico.

STATEMENT OF HONORABLE ROBERT LAGOMARSINO
Press Conference Thursday, May 10, 1990
Washington, D.C.

Re: President Bush reiterates support for Puerto Rico Self-determination and Statehood

I have asked my colleague from the Virgin Islands, Ron DeLugo, who is Chairman of the Subcommittee on Insular and International Affairs to join me as I share a letter from President George Bush regarding his commitment to the self-determination of the people of Puerto Rico.

I wrote to the President in March of this year after the Subcommittee completed three extensive days of hearings in three cities of Puerto Rico and after hearing some question the level of commitment of the President to actually allow the people to choose a status preference. After all, the President had not publicly commented on the issue since his February 9, 1989 address to the joint session of Congress when he stated:

> "There's another issue I have decided to mention here tonight. I've long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I strongly favor Statehood. But I urge the Congress to take the necessary steps to allow the people to decide in a referendum."

During the many times I have met with the President since his statement, he has remained unwavering in his fervent commitment to the self-determination of the people of Puerto Rico. I have been fortunate to hear the energetic tenor of his voice and see the proud sparkle in his eyes when he has talked of providing an opportunity for the United States citizens of Puerto Rico to choose a closer relationship with the United States. In order to allay any doubts that may have arisen regarding the President's commitment due to unfounded rumors often started by speculating political pundits and social analysts, I asked the President to clarify in writing what I already knew to be true.

The following is the response I received from President George Bush:

THE WHITE HOUSE

WASHINGTON

May 9, 1990

Dear Bob:

Thank you for your letter of March 21.

I strongly believe that this is the year when our nation must move to allow our fellow citizens in Puerto Rico to choose their political fate. We owe it to them as a people and to ourselves as the leader of the Free World. How can we applaud the exciting and momentous movements toward freedom in Eastern Europe, Latin America, and elsewhere while refusing to grant to our own citizens the right of self-determination?

This is why I wholeheartedly support legislation to give the people of Puerto Rico the right to vote on the three principal options for their political future: statehood, continued status as a commonwealth, or independence. I further believe that we should have enough faith in the principles of democracy to let their choice be self-executing under provisions that Congress may prescribe.

My own view on the political future of Puerto Rico is well known: I want it to become the 51st State. The 3.3 million citizens of Puerto Rico deserve to be full members of the American Union, for whose freedoms (and those of other nations) Puerto Ricans have fought so courageously in all of the wars of this century. Before statehood or any other status can come about, however, the people of Puerto Rico must have the right to express their own views on their future. That is why I urge the Congress to act this year to allow a binding plebiscite on the island next year.

I look forward to continuing to work with you on this important issue.

Sincerely,

George Bush

The Honorable Robert J. Lagomarsino
House of Representatives

I am very pleased to have Ron DeLugo with me at this time as he has taken the lead by working in a bi-partisan manner to develop legislation which provides the binding commitment which the President asks for in his letter. I also want to thank Chairman DeLugo for incorporating some of the language and substance of my 1987 bill, H.R. 2849, in the current legislation. The Chairman exerted a serious effort to develop acceptable alternative language to the legislation, until the 1988 general elections became a complicating factor due to timing.

I look forward to working closely with Chairman DeLugo as we move the legislation through the Congress to final enactment. We have a compelling moral and constitutional responsibility to the 3.3 million United States citizens of Puerto Rico to provide an informed and free choice of their future relationship with the United States with a binding commitment to implement the will of the people whether it be independence, commonwealth, or Statehood.

"The Puerto Rican Federal Relations Act" is amended according to the following PRINCIPLES:

• The Commonwealth of Puerto Rico is an autonomous body politic with a distinct character, language and culture joined by Compact in permanent union with the United States. This Compact may only be altered by mutual consent expressed by the People of Puerto Rico through the provisions of Article VII of the Puerto Rico Constitution.

• The Commonwealth is sovereign over matters governed by the Puerto Rico Constitution. The U. S. Constitution applies to Puerto Rico under the terms of this Compact and the full measure of its protection of individual rights extends to residents of Puerto Rico.

• Under this relationship U. S. citizenship is equal in all rights privileges and immunities and guaranteed to the same extent as that of U. S. citizens born in the several States.

• United States citizens in Puerto Rico shall receive the same benefits under federal programs that provide grants or services to U. S. citizens as individuals, as U. S. citizens residing in the several States. Towards this end, the Commonwealth will make an appropriate contribution.

• The Puerto Rico Constitution will henceforth govern all matters necessary to the economic, social and cultural development of the People of Puerto Rico except those entrusted to the Federal Government in order to provide for vital national interests of the United States.

To that effect, the Commonwealth of Puerto Rico shall be authorized to enter into international agreements consistent with U. S. foreign policy and the Governor may certify from time to time to the Speaker of the House of Representatives, the President of the Senate, and the President of the United States, that the Legislative Assembly of Puerto Rico has adopted a resolution that a federal statutory law or provision thereof should no longer apply to the Commonwealth of Puerto Rico. Unless, within the term of the Congress, a statute is enacted finding that the inapplicability of such law to the Commonwealth of Puerto Rico would imperil a vital national interest of the United States, the President shall issue a proclamation that such federal statutory law or provision thereof is not applicable, in Puerto Rico.

• The Commonwealth of Puerto Rico shall assume the expenses inherent in all governmental authority transferred pursuant to this Act.

Find / find

DEFINITION OF STATEHOOD TO BE INCLUDED IN H.R. 4765

The Commonwealth of Puerto Rico would be admitted as a sovereign State of the Union, with its current constitution and laws, on an equal footing and in true permanent union with the other fifty states.

The new state of Puerto Rico would be known as The Commonwealth of Puerto Rico and its citizens would enjoy the same security and stability as enjoyed by U.S. citizens of the other fifty states.

The current Constitution of the Commonwealth of Puerto Rico, as amended, would be found by Congress to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence.

The new state would consist of all of the territory, together with the waters and submerged lands included in the seaward boundary of the Commonwealth of Puerto Rico.

In recognition of the unique federal tax provisions and programs affecting the Commonwealth of Puerto Rico which differ from those applied to all territories admitted into the Union as states, Congress would provide for a smooth and fair economic transition to the federal system.

Upon admission as a state of the Union, all citizens residing in Puerto Rico would be entitled to vote for the President and Vice President of the United States and would elect a proportional congressional delegation of senators and representatives with full voting power, in political equality with citizens of the several states.

Upon admission as a state, full parity would be provided for residents of Puerto Rico in all federal programs. The new state and its residents would also assume all the responsibilities of a state of the union.

SEC. 3. INITIAL DEFINITIONS OF STATUS OPTIONS.

. . .

(a) Independence - In order to ensure the legitimate interests of Puerto Rico and the United States, to strengthen bonds of freindship and cooperation, and to provide for equitable economic relations between both nations, the United States shall recognize the independence of Puerto Rico in accordance with the principles set forth below, thus guaranteeing the necessary conditions for a rational and mutually advantageous transition, before and after the proclamation of independence:

(1) TREATY OF FRIENDSHIP AND COOPERATION. To ensure the effectiveness of the purposes of this Act after the proclamation of Puerto Rico's independence, the United States and the Republic of Puerto Rico shall set forth the details of their bilateral relations in a Treaty of Friendship and Cooperation, including the ground rules for future negotiations after the transition periods established herein for the different areas.

(2) ECONOMIC ASSISTANCE shall be guaranteed through an annual transfer block grant equal to the total amount of grants, programs and services provided by the federal government in Puerto Rico, adjusted for inflation, for a period of ten years immediately following the proclamation of independence, and thereafter as negotiated.

(3) VESTED RIGHTS. Veterans benefits, federal pensions, and Social Security rights, as well as any other vested rights and benefits accruing to residents of Puerto Rico under the laws of the United States are hereby guaranteed until the normal expiration of such benefits; provided that all necessary agreements to protect the rights of workers who acquire permanently insured status during 5 years following the proclamation of independence, but are not yet beneficiaries under the Old Age, Survivors and Disability Insurance programs under title II of the Social Security Act, shall be established through negotiations; further provided that all contributions made by those who have not yet achieved permanently insured status at the time of the proclamation of independence shall be transferred 5 years thereafter, with interest, to the government of the Republic of Puerto Rico in order to assist in the establishment of an efficient system of social insurance.

(4) TAXATION. The United States shall guarantee that the tax credit currently allowed pursuant to section 936 of the Internal Revenue Code shall remain in full effect upon the proclamation of Puerto Rico's independence for no less than 10 years thereafter.

(5) TRADE. Trade arrangements between Puerto Rico and the U.S. shall continue as currently provided by law, provided that, to the extent that limitations on imports or exports are mutually agreed upon by both nations, those limitations shall ensure mutual benefits and assist each nation in meeting its trade and economic development objectives.

(6) PUBLIC DEBT. The Republic of Puerto Rico shall assume the outstanding debts and obligations of the Commonwealth of Puerto Rico. Federal tax exmption on interest on the public debt of the Commonwealth of Puerto Rico, its instrumentalities, and municipalities shall continue until maturity. Interest on debt issued by Puerto Rico during a period of no less than 10 years after the proclamation of independence shall also be exmpt until maturity.

(7) CURRENCY AND FINANCE AGREEMENTS shall be negotiated to assist the Republic of Puerto Rico in the design and establishment of a deposit insurance system, and to make the necessary arrangements with respect to the use of United States currency by Puerto Rico, if so requested. Similarly, legislation shall provide that United States guarantees to investors in the secondary market shall continue until maturity for Puerto Rico-originated loans that are issued prior to the proclamation of independence, and ten years thereafter.

(8) CITIZENSHIP. United States citizenship shall be guaranteed to all Puerto Rican citizens who choose to retain their U.S. citizenship.

(9) HUMAN RIGHTS. The people of Puerto Rico shall, through a Constitutional Convention, establish a republican form of government which shall guarantee the full protection of fundamental human rights.

(10) DEFENSE. The United States and the Republic of Puerto Rico shall enter into agreements that will make possible the eventual demilitarization of the Republic of Puerto Rico.

(b) Statehood - . . .; and

(c) Enhanced Commonwealth - . . .

SEC. 4. DEVELOPMENT OF IMPLEMENTING LEGISLATION.

. . .

(b) If the referendum results do not show a majority for one of the three status options, a Commission of Inquiry shall be established with representatives of the Committee on Energy and Natural Resources of the United States Senate, the Committee on Interior and Insular Affairs of the United States House of Representatives, the President of the United States, and each of the three principal political parties under Puerto Rican law to draft legislation to implement a status option on terms mutually agreeable to the Congress of the United States and the people of Puerto Rico.

(c) If the referendum results show a majority for one of the status options, but Congress does not enact implementing legislation in the time provided for in Section 5, that alternative shall be considered denied by Congress; in which case the Commission of Inquiry provided for under this Section shall be permanently constituted to draft legislation to implement a change in Puerto Rico's status on terms mutually agreeable to the Congress of the United States and the people of Puerto Rico.

(d) **(Sec. 4 (b) of the original draft.)**

(e) **(Sec. 4 (c) of the original draft.)**

SEC. 5. CONSIDERATION OF IMPLEMENTING LEGISLATION.

. . .

(d) Enactment of this section constitutes a commitment that the United States will **[proceed]** work to implement **[the political status selected by the people of Puerto Rico pursuant to Section 2 through action on]** a change to the current political status of Puerto Rico through legislation establishing the appropriate mechanisms and procedures to that effect.

SEC. 6. RATIFYING VOTE ON IMPLEMENTING LEGISLATION.

(a) Any implementing legislation arrived at pursuant to Section 4 of this Act shall require ratification by the people of Puerto Rico.

(b) . . .

COMUNICADO DE PRENSA CONJUUTO DE LOS
PRESIDENTES DEL PPD, EL PNP Y EL PIP

La reunion de hoy de los presidentes de los tres pactidos principales de Puerto Rico con el liderato del Sub-comite de Asuntos Insulares de la Camara de Representantes de Estados Unidos ha resultado en un paso decisivo para el logro de la celebracion de una consulta en Puerto Rico en 1991.

Los presidentes pudieron constatar la existencia de un amplio apoyo bipartidista en la Camara para la consecucion de este objetivo comun.

Resulta especialmente significativo que los tres partidos, si bien no endosan el contenido de las propuestas de definicion que cada oto partido ha formulado, sí han acordado que sus discrepancias en ese respecto no serviran para obstaculizar la aprobacion del proyecto en la presente sesion.

Los presidentes de los partidos expresan ademas su satisfaccion de que el liderato del sub-comite haya aceptado en este monento, con leves modificaciones de forma, las propuestas de definicion de cada partido. Las definiciones, sin embargo, quedan sujetasa clarificacions y en mientras tecnicas por el Congreso.

El Sub-Comite se ha comprometido a explorar, además, posibles enmiendas procesales - en consulta con los partidos - que fortalezcan la efectividad del proceso plebiscitario y garanticen la pronta aprobación del proyecto. Para este propósito, y para afinar las respectivas propuestas de definicion, el Comité del Diálogo se reunira mañana con los asesores del Sub-Comite.

Por ultimo, si bien el proyecto de la Camara no dispone para una autoejecutabilidad automatica y requerira un proceso de implementacion en el Congreso luego de la consulta, al igual que una eventual ratificacion por el pueblo, ciertamente viabiliza el que el pueblo de Puerto Rico pueda expresarse sobre alternativas claramente definidas con respecto a las cuales el congreso haya manifestado previamente su compromiso politico.

news

Committee on Interior and Insular Affairs
Morris K. Udall, Chairman

House of Representatives
Washington, D.C. 20515

FOR RELEASE: June 5, 1990

CONTACT: Gail Mukaihata
(202) 225-9297

Statement by Chairman Ron de Lugo and
Ranking Republican Robert J. Lagomarsino
of the Subcommittee on Insular and International Affairs
after meeting with the Presidents of Puerto Rico's Political Parties

As you know, we introduced legislation to enable the people of Puerto Rico to exercise self-determination last month.

The legislation provided for -- but did not contain -- descriptions of the status developments Congress would act on in 1992 in acting on legislation to implement a status favored by a majority of the people of Puerto Rico in a referendum in 1991.

We explained when introducing the bill that the description of the status options would be developed by the Subcommittee in consultation with Puerto Rico's political parties, each of which advocates one of the status options: an enhancement of the current commonwealth with the U.S., statehood, or independence.

Last week, we invited the presidents of the parties to discuss descriptions of the status developments they advocate with us today in preparation for a hearing on the bill June 19th.

Each of the parties has been very helpful in drafting descriptions of the status options appropriate for our bill. Their presidents and their representatives are to be complimented for their dedication to helping us construct legislation which has a realistic chance of being enacted in this Congress.

Each of the parties' proposals are well thought out and worthy of serious consideration by the Subcommittee.

With the necessary clarifications and technical revisions the proposals provide a reasonable basis for Subcommittee approval.

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news

Committee on Interior and Insular Affairs
Morris K. Udall, Chairman

House of Representatives
Washington, D.C. 20515

FOR RELEASE: June 6, 1990 CONTACT: Gail Mukaihata
(202) 225-9297

Hearing on Puerto Rico Self-Determination Bill Rescheduled

House Insular and International Affairs Subcommittee Chairman Ron de Lugo (D-VI) today set a new date of June 25th for a hearing in New York City on legislation to enable the people of Puerto Rico to exercise self-determination.

The hearing, originally scheduled for June 8th, was rescheduled because de Lugo is undergoing serious medical care in the Washington, D.C. area following a recent hospitalization and is unable to travel June 8th.

De Lugo set the new date today after discussing the hearing's importance with Representatives Charles B. Rangel and Jose Serrano, both New York Democrats.

The hearing will enable Puerto Ricans living in the United States to comment on H.R. 4765, a bill introduced by de Lugo and other House Democratic and Republican leaders on the Puerto Rican political status issue. The bill would fully respond to a request by the presidents of Puerto Rico's three political parties for the federal government to authorize a referendum between enhancing the island's current commonwealth relationship with the U.S. and granting statehood or independence and to commit to act to implement a winning status.

The hearing is expected to focus on the participation of non-resident Puerto Ricans in a 1991 status referendum, an issue de Lugo said he "considers very important". Serrano has proposed that all persons born on the island be able to vote in the referendum.

In announcing the new date, de Lugo thanked "those Puerto Ricans in the New York area who have expressed their concern for my health". He said the delay in the hearing will enable him to hear fully from the New York Puerto Rican community on the issue of non-resident participation. He also said these views would be considered as H.R. 4765 is acted upon.

The hearing will be held in the East Harlem area of New York City at 10:00 a.m. at Julio de Burgos Junior High School 99 at 410 E. 100th Street. The area is represented by Rangel who originally requested the hearing along with Representatives Stephen J. Solarz (D), Bill Green (R), and Frank Horton (R), all also of New York.

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101ST CONGRESS
2D SESSION

S. 712

[Report No. 101–120]

[Report No. 101–481]

To provide for a referendum on the political status of Puerto Rico.

IN THE SENATE OF THE UNITED STATES

APRIL 5 (legislative day, JANUARY 3), 1989

Mr. JOHNSTON (for himself, Mr. MCCLURE, and Mr. SIMON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

SEPTEMBER 6, 1989

Reported by Mr. JOHNSTON, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

SEPTEMBER 26 (legislative day, SEPTEMBER 18), 1989

Ordered, jointly referred to the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry, for the consideration of matters within their respective jurisdictions, with instructions that if either committee has not reported the legislation by the close of business November 1, that the majority leader, after consultation with the Republican leader, be authorized to order the bill discharged from either or both of the committees which have failed to report

SEPTEMBER 28 (legislative day, SEPTEMBER 10), 1990

Ordered, that the Finance Committee be authorized to report the bill S. 712, that the Committee on Agriculture be discharged from further consideration of the bill, and that the bill, as reported, be then sequentially referred to the Committee on Agriculture, and that the majority leader, after consultation with the Republican leader, be authorized to order the bill discharged from the Committee on Agriculture at any time

SEPTEMBER 30 (legislative day, SEPTEMBER 10), 1990

Reported by Mr. BENTSEN, with amendments

[Omit the part enclosed in boldface brackets and insert the part printed in boldface italic]

SEPTEMBER 30 (legislative day, SEPTEMBER 10), 1990

Referred to the Committee on Agriculture, Nutrition, and Forestry pursuant to the order of September 28, 1990

A BILL

To provide for a referendum on the political status of Puerto Rico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ~~That—~~

~~(1) the United States of America recognizes the principle of self-determination and other applicable principles of international law with respect to Puerto Rico; and~~

~~(2) the United States is committed to a process of consultation and negotiation with the people of Puerto Rico leading to a referendum on the issue of political status to be conducted in a fair and equitable manner.~~

~~TITLE I~~

~~SEC. 2. REFERENDUM.~~

~~(a) IN GENERAL.—An island-wide referendum shall be held in Puerto Rico in which qualified voters of the Commonwealth of Puerto Rico shall be presented a choice of three status options for Puerto Rico as follows:~~

~~(1) statehood;~~

~~(2) independence; or~~

~~(3) commonwealth~~

~~as set forth in titles II, III, and IV of this Act.~~

~~(b) DATE OF REFERENDUM.—The first referendum shall occur on , 1991, or on a date as may be mutually agreed by the three principal political parties, and during the summer of calendar year 1991.~~

~~(c) RETURNS OF REFERENDUM.—The returns of the referendum held under this Act shall be made to the Governor of Puerto Rico, who shall cause them to be canvassed in the manner provided by law for the canvass of votes cast in general elections in the Commonwealth of Puerto Rico. If there is not a majority in favor of one of the three options, then there shall be, on , 1991, or on a date as may be mutually agreed by the three principal political parties, and during the summer of calendar year 1991, a runoff referendum between the two status options which had received the largest number of votes. Such referendum shall also include an option of "None of the Above". The Governor shall certify to the President and to the Congress of the United States that decision of the people of Puerto Rico which received a majority of the votes cast, if a majority is obtained.~~

(d) APPLICABLE ELECTION LAWS.—The election laws of the Commonwealth of Puerto Rico shall apply to the referendum held under this Act.

(e) Upon the effective date of this Act, the status option which has been certified by the Governor pursuant to subsection (c), shall go into effect in accordance with the appropriate title of this Act.

TITLE II—STATEHOOD

Whereas: Upon admission as a State, Puerto Rico would cease being a territory of the United States.

Whereas: The Commonwealth of Puerto Rico would be admitted as a sovereign State of the Union, with its current Constitution, on an equal footing and in true permanent union with the other fifty States.

Whereas: The new State of Puerto Rico shall be known as the Commonwealth of Puerto Rico; in Spanish it shall be known as "Estado Soberano de Puerto Rico".

Whereas: Admission to the Union has historically been a flexible and varied process which has been adapted to the individual circumstances of each new State.

Whereas: Congress, has the constitutional power to facilitate the admission of new States.

Whereas Congress is willing to provide for a smooth process of adjustment from the tax structure of the territorial status to the Federal fiscal system.

Whereas: The Commonwealth of Puerto Rico assured of its reserved state right under the Constitution to continue to maintain both Spanish and English as its official languages, as well as of its right to preserve and enhance its particular cultural characteristics.

Whereas: Statehood creates the only permanent union with the United States that is consistent with the "more perfect union" of equal States established by the United States Constitution.

Whereas: Statehood entails fundamental political and economic betterment for the Commonwealth of Puerto Rico.

Whereas: Statehood entails economic self-reliance and social justice, including parity for its residents in those aspects of Federal legislation that cover the residents of the several States.

Whereas: Statehood means political equality, and, specifically, the right to participate in the process of election of the President and Vice-President of the United States as well as the right to elect two United States Senators and the corresponding number of Members of the United States House of Representatives.

Whereas: Statehood means that all benefits and protections of the United States Constitution would be fully bestowed on the People of the Commonwealth of Puerto Rico

together with the guarantee of full protection by the Federal judicial system.

Whereas: Statehood entails the immediate full extension of Federal entitlements and legislation providing parity for the residents of Puerto Rico in all Federal programs.

Whereas: The Commonwealth will assume all responsibilities of a State of the Union.

Whereas: Statehood is a political formula recognized by the international community through Resolution 1541 (XV) of the General Assembly of the United Nations and through Resolution 1469 (XIV) of that body, which was adopted upon the admission of the new States of Alaska and Hawaii.

Whereas: Statehood embodies the highest degree of autonomy and sovereignty in a true permanent union with the several States.

Therefore: *Be it resolved:*

SEC. 2. Subject to the provisions of this Act, and upon issuance of the proclamation required by section 7 of this Act, the Commonwealth of Puerto Rico (hereinafter referred to also as "the State") is declared to be a State of the United States of America, is declared admitted into the Union on an equal footing with the other States in all respects whatever, in compliance with the democratic mandate of the plebiscite held on for the resolution of Puerto Rico's final political status. The Constitution adopted by a vote of the

People of Puerto Rico in the election held on June 4, 1951, has been found by Congress to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and was accepted, ratified, and confirmed, through Public Law 447 of the 82nd Congress, March 3, 1952.

CONSTITUTION

SEC. 3. The Constitution of the Commonwealth of Puerto Rico shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. The current Constitution of the Commonwealth of Puerto Rico is hereby accepted as the constitution of the State.

TERRITORY AND BOUNDARIES

SEC. 4. Subject to the provisions of this section, the State shall consist of all of the territory, together with the territorial waters, of the Commonwealth of Puerto Rico.

STATE TITLE TO LANDS AND PROPERTY

SEC. 5. (a) The State and its political subdivisions shall have and retain title to all property, real and personal, which it currently holds.

(b) Any lands and other properties that, as of the date of admission of Puerto Rico into the Union, are set aside pursuant to law for the use of the United States under any (A) Act of Congress, (B) Executive order, (C) proclamation of the President, or (D) proclamation of the Governor of the Com-

monwealth of Puerto Rico, shall remain the property of the United States; except that the Commonwealth of Puerto Rico (the State) shall have the exclusive right to explore, exploit, lease, possess and use all seabed, natural, and mineral resources lying within the two hundred mile economic zone continental shelf boundary around the waters of the Archipelago of Puerto Rico; however, all other rights of sovereignty in regards to the continental shelf and waters, shall belong to the United States except those already vested in Puerto Rico.

(c) Not later than five years after the date of admission of the Commonwealth of Puerto Rico as a State of the Union, each Federal agency having control over any land or property that is retained by the United States pursuant to this section shall submit a report to the President and the Congress concerning the need for such land or property. If the President determines that any such land or property is no longer needed by the Federal Government, it shall be forthwith conveyed to the Commonwealth of Puerto Rico.

(d) All laws of the United States reserving to the United States the free use or enjoyment of property which vests in or is conveyed to the Commonwealth of Puerto Rico or its political subdivisions pursuant to this section or reserving the right to alter, amend, or repeal laws relating thereto, shall

cease to be effective upon the admission of the State into the Union.

COMPACT WITH THE UNITED STATES: CLAIMS TO FEDERAL LANDS AND PROPERTY

SEC. 6. (a) As a compact with the United States, the Commonwealth and its people recognize all rights and titles to any lands or other property not granted or conferred to the Commonwealth or its political subdivisions by or under the authority of this Act, the right or title to which is now held by the United States or subject to disposition by the United States.

(b)(1) Nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by applicable laws of the United States.

(2) Nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any applicable law authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the determination of the applicability of any law to any such claim shall be unaffected by anything in this Act.

(c) No taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States.

(d) Nothwithstanding any other provisions of this Act or any other provision of law, in compensation for the lands now

held by the United States, the Congress shall appropriate Federal payments to be assigned to the Commonwealth of Puerto Rico, in the amount of annually, during the next years, for the sole purpose of assisting the State in the payment of its present public debt and liabilities.

ELECTIONS AND ADMISSION REFERENDUM

SEC. 7. (a)(1) Not more than sixty days after the date of certification by the Governor of the Commonwealth of Puerto Rico as provided by this Act, the President of the United States shall certify the admission of Puerto Rico into the Union to the Governor of the Commonwealth of Puerto Rico. Not more than thirty days after such certification, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation for the election of two United States Senators and the corresponding number of the United States Representatives in Congress as provided in this Act. The Governor of the State shall certify the election of the Senators and Representatives in the manner required by law. The Senators and Representatives elected shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of the other States in the Congress of the United States. The office of Resident Commissioner shall cease to exist upon the swearing in of the first Member of the House so elected.

(2) In the first election of Senators from the State (pursuant to section 7(a)(1)) the two senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No such identification or designation of either of the two senatorial officers shall refer to or be taken to refer to the terms of such offices, or in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

(b) Election returns shall be made and certified in such manner as provided by the electoral laws of Puerto Rico and in such a manner as the Commonwealth of Puerto Rico may prescribe. The Governor of the Commonwealth of Puerto Rico shall certify the results of such elections to the President of the United States.

(c) The constitution of the Commonwealth of Puerto Rico, ratified by the people at the referendum held on June 4, 1951, shall become the Constitution of the State of Puerto Rico. The new State of Puerto Rico shall be known as The Commonwealth of Puerto Rico.

(3) Any legal dispute or controversy arising out of the electoral processes conducted under this act shall be adjudicated by the United States District Court for the District of Puerto Rico, and the Appellate Federal Court System. The Courts of the Commonwealth of Puerto Rico shall not have jurisdiction to entertain any suit, appeal, writ of revision or

legal action, arising out of these elections, plebiscites and referendums.

(4) The individuals holding legislative, executive, and judicial offices of the Commonwealth of Puerto Rico, shall continue to discharge the duties of their respective offices. Upon the issuance of the proclamation by the President of the United States and the admission of the Commonwealth of Puerto Rico as a State of the Union, the officers elected or appointed under the provisions of the constitution and laws of the Commonwealth shall proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of the States, as provided by the constitution and laws of the State.

SEC. 8. The Commonwealth of Puerto Rico upon its admission into the Union shall be entitled to Representatives, until the taking effect of the next reapportionment, and such Representatives shall be in addition to the membership of the House of Representatives as now prescribed by law.

LAWS IN EFFECT

SEC. 9. Upon admission of the Commonwealth of Puerto Rico into the Union, all of the territorial laws then in force in the Commonwealth of Puerto Rico shall be and continue in force and effect throughout the State, until amended, modified or repealed by the Commonwealth. All of the laws of the United States shall have the same force and effect within the State as elsewhere in the United States.

CONTINUATION OF SUITS

SEC. 10. (a) No writ, action, indictment, cause, or proceeding pending in any court of the Commonwealth of Puerto Rico, shall abate by reason of the admission of the Commonwealth of Puerto Rico into the Union, but shall proceed within such appropriate State courts as are now established under the Constitution of the Commonwealth, or shall continue in the United States District Court for the District of Puerto Rico, as the nature of the case may require.

(b) All civil causes of action and all criminal offenses, which shall have arisen or been committed prior to the admission of the Commonwealth, but as to which no writ, action, indictment, or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropiate State courts or in the United States District Court for the District of Puerto Rico in like manner, to the same extent, and with like right of appellate review, as if such State had been created and such State courts had been established prior to the accrual of such causes of action or the commission of such offenses. The admission of the State shall effect no change in the procedural or substantive laws governing causes of action and criminal offenses which shall have arisen or been committed, and any such criminal offenses as shall have been committed against the laws of the Commonwealth of Puerto Rico, shall be tried and punished

by the appropriate courts of the State, and any such criminal offenses as shall been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Puerto Rico.

APPEALS

SEC. 11. Parties shall have the same rights of judicial review of final decisions of the United States District Court for the District of Puerto Rico or the Supreme Court of the Commonwealth of Puerto Rico, in any case finally decided prior to the admission of the State of Puerto Rico into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission. The United States Court of Appeals for the First Circuit and the Supreme Court of the United States, shall have the same jurisdiction in such cases as by law provided prior to the admission of the State into the Union. Any mandate issued subsequent to the admission of the State, shall be to the United States District Court for the District of Puerto Rico or a court of the State, as appropriate. Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Puerto Rico and of the Supreme Court of Puerto Rico, in any case pending at the time of admission of the State into the Union, and the Supreme Court of the Commonwealth of Puerto Rico and the Supreme Court of the United States shall have the same

jurisdiction therein, as by law provided in any case arising subsequent to the admission of the State into the Union.

MILITARY LANDS

SEC. 12. (a) Subject to the subsection (b) and notwithstanding the admission of the Commonwealth of Puerto Rico into the Union, authority is reserved in the United States for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of lands as, immediately prior to the admission of the State, are controlled or owned by the United States and held for defense or Coast Guard purposes.

(b)(1) The Commonwealth of Puerto Rico shall always have the right to serve civil or criminal process within such tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the State but outside of such tracts or parcels of land.

(2) The reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over such lands shall not operate to prevent such lands from being a part of the Commonwealth of Puerto Rico, or to prevent the State from exercising over or upon such lands, concurrently with the Federal Government, any jurisdiction which it would have in the ab-

sence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation or authority.

(3) The power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for defense or Coast Guard purposes, except that the United States shall continue to have sole and exclusive jurisdiction over such military installations as have been or may be determined to be critical areas as designated by the President of the United States or the Secretary of Defense.

UNITED STATES NATIONALITY

SEC. 13. No provision of this Act shall operate to confer United States nationality, to terminate nationality lawfully acquired, or to restore nationality terminated or lost under any law of the United States or under any treaty to which the United States is or was a party.

REPEAL AND AMENDMENT OF INCONSISTENT LAWS

SEC. 14. All Acts or parts of Acts in conflict with the provisions of this Act, whether passed by the Legislature of the Commonwealth of Puerto Rico or by Congress, are hereby repealed or amended to conform with the provisions of this Act.

NATIONAL FEDERAL LANDS AREA

SEC. 15. (a) The Federal Lands reserved for the United States Government referred to in section 4 are those now held by the Federal Government.

ECONOMIC ADJUSTMENT FROM TERRITORY TO STATE

SEC. 16. Congress adopts the following economic provisions to expedite the adjustment of the Commonwealth of Puerto Rico from the tax structure of the territory to the fiscal and economic system of the State.

(a) Provisions of the Internal Revenue Code concerning Federal Income Taxes shall immediately apply to Puerto Rico, provided that the proceeds of said taxes shall be transferred to the Treasury of Puerto Rico in an amount to be diminished by percent of the monies collected each year for a year period. Existing income tax laws of the Commonwealth shall stand repealed upon admission of the State.

(b) Provision shall be made by Congress so that economic and fiscal exceptions of the Internal Revenue Code, already granted, such as those allowed under section 936 of said code, shall remain in full effect for years and will be smoothly and gradually phased out thereafter, in such a way as to eliminate the prevalent uncertainty which impairs an orderly planning and which impedes the fulfillment of the job creation requirements for such credit, thus promoting investments

and higher rate of employment, which will in turn reduce governmental and individual dependence while enhancing the economy of the State and the fiscal soundness of its government.

(c) Pursuant to Congress, powers under the Constitution, an omnibus act with multiple provisions shall be enacted to ensure that the people of Puerto Rico attain equal social and economic opportunities with the residents of the several States. Said omnibus act shall also provide for measures necessary to assure appropriate continuity in the treatment given to Puerto Rico as a principal coffee producer and in the treatment of alcohol excise taxes; and shall also continue to provide for the transfer to the Treasury of Puerto Rico, for a period of years, of the proceeds of Federal customs and duties levied on imports coming from foreign sources to Puerto Rico.

[Detailed economic provisions, addressing the above proposals among others, will be furnished to the committee as soon as final technical work is completed.]

TERMS AND CONDITIONS

SEC. 17. The Commonwealth of Puerto Rico is assured of its reserved State right under the Constitution to continue to maintain both Spanish and English as its official languages, as well as of its right to preserve and enhance its rich Hispanic cultural heritage. However, all records and

proceedings of all agencies, departments, offices and courts of the United States Federal Government operating in Puerto Rico, shall continue to be conducted and kept in the English language as heretofore. The Commonwealth of Puerto Rico's present Official Languages Act, 1 L.P.R.A. 51–55 (Laws of Puerto Rico, 1902), making Spanish and English official State languages is a State prerogative protected by the Constitution of the United States.

SEC. 18. The State shall never enact any law restricting or abridging the right of suffrage on account of race, color, previous condition of servitude, or ability to read, write, speak, and understand any language sufficiently; and the rights, privileges and immunities of citizens of the United States shall be respected in Puerto Rico according to the provisions of paragraph 1 section 2 of article IV of the Constitution of the United States.

TITLE III—INDEPENDENCE

SUBTITLE 1—STATEMENT OF PURPOSES

First: The United States hereby recognizes that Puerto Rico is historically, socially and culturally a Latin American nation which has been under the sovereignty of the United States since 1898.

Second: The United States recognizes Puerto Rico's inalienable right to independence.

Third: In order to best promote Puerto Rico's development according to its needs and resources and within the framework of present day interdependence, the United States recognizes Puerto Rico's sovereignty as a means to provide Puerto Rico with the political powers and the flexibility necessary to achieve this objective.

Fourth: In order to insure lasting friendship, equitable economic relations, and the gradual elimination of the burden which Puerto Rico's extreme economic dependence represents for both nations, the United States declares its intention to guarantee all necessary conditions for a rational and mutually advantageous transition before and after independence.

Fifth: It is the purpose of this title to recognize the independence of Puerto Rico as a sovereign and democratic nation, to provide the conditions necessary for an orderly transition from the present status to independence, and to guarantee the legitimate interests of both Puerto Rico and the United States.

SUBTITLE 2—TRANSITION PROCESS PRIOR TO PROCLAMATION OF INDEPENDENCE

SEC. 2.1. CONSTITUTIONAL CONVENTION.

(a) Should the results of the referendum provided for in title I of this Act favor independence as a status alternative for Puerto Rico, the Legislative Assembly of the Commonwealth of Puerto Rico shall provide for the election of delegates to a Constitutional Convention to formulate and draft a Constitution for the Republic of Puerto Rico. The election of delegates must by held within six months after the celebration of the aforementioned referendum.

(b) Those qualified to vote in the election of delegates to the Constitutional Convention shall be: (1) all persons born and residing in Puerto Rico; (2) all persons residing in Puerto Rico and one of whose parents was born in Puerto Rico; (3) all persons who at the time of the adoption of this Act shall have resided in Puerto Rico for a period of twenty years or more; and (4) all persons who established their residence in Puerto Rico prior to attaining voting age and still reside in Puerto Rico; and (5) spouses of all persons included in (1), (2), (3), and (4) above.

(c) The laws of the Commonwealth of Puerto Rico relating to additional voter qualifications and the electoral process shall apply to this election.

(d) The Constitutional Convention shall meet within three months of the election of delegates at such time and place as the Legislative Assembly of the Commonwealth of Puerto Rico shall determine.

(e) The Constitutional Convention shall exercise jurisdiction over all of the territory of Puerto Rico ceded to the

United States by Spain by virtue of the Treaty of Paris the 10th day of December 1898.

SEC. 2.2. CHARACTER OF THE CONSTITUTION.

(a) The Constitutional Convention mandated under the previous section shall formulate and draft a Constitution establishing a republican form of government which shall guarantee the protection of fundamental human rights.

(b) The fundamental human rights guaranteed by the aforementioned Constitution shall include such rights as due process and equal protection under the law, freedom of speech, press, assembly, association, and religion, as well as the rights of the accused. and economic, social and cultural rights such as the right to education, adequate nutrition, health services, adequate housing, and work or employment.

SEC. 2.3. RATIFICATION OF THE CONSTITUTION.

(a) The Constitution elaborated by the Constitutional Convention shall be sumitted to the people of Puerto Rico for its ratification or rejection.

(b) The Legislative Assembly of the Commonwealth of Puerto Rico shall call for a special election for such ratification or rejection, to be held within three months of the adoption of the Constitution elaborated by the Constitutional Convention.

(c) The special election providing all qualified voters the opportunity to cast a vote for or against the proposed Constitution shall be held in the manner prescribed by the Legislative Assembly of the Commonwealth of Puerto Rico.

(d) Those qualified to vote in this election shall be those possessing the qualifications established in section 2.1 of this title.

SEC. 2.4. ELECTION OF OFFICERS OF THE REPUBLIC.

(a) Within thirty days of the ratification of the Constitution as provided for by section 1.3 of this title, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation calling for the election of such officers of the Republic of Puerto Rico as may be required by the ratified Constitution.

(b) The election of officers of the Republic shall be held not later than six months after the date of ratification of the Constitution.

(c) The aforesaid election shall be held in accordance with the procedures and requirements established in the Constitution of the Republic of Puerto Rico.

(d) The Governor of the Commonwealth of Puerto Rico shall certify the results of the election to the President of the United States.

SEC. 2.5. JOINT TRANSITION COMMISSION.

(a) A Joint Transition Commission shall be appointed in equal numbers by the President of the United States and the Constitutional Convention of Puerto Rico as soon as the fa-

vorable results for the independence option in the referendum provided for in title I of this Act are announced.

(b) The Joint Transition Commission shall be responsible for expediting the orderly transfer of all functions currently exercised by the Government of the United States in Puerto Rico, or in relation to Puerto Rico; including the recommendation of appropriate legislation.

(c) Any necessary task forces under the aegis of the Joint Transition Commission shall be constituted in the same manner as the Commission.

(d) The Government of the Commonwealth of Puerto Rico and the agencies of the Government of the United States shall collaborate with the Joint Transition Commission and subsequently with the new officers of the Republic of Puerto Rico, to provide for the orderly transfer of the functions of government.

(e) All members representing the Puerto Rican side on the Joint Transition Commission or on any task force shall be bona-fide supporters of Puerto Rican independence.

SEC. 2.6 RESOLUTION OF CONTROVERSIES PRIOR TO INDEPENDENCE.

(a) From the date of the referendum provided for in title I of this Act, and until the date of proclamation of independence, the Supreme Court and all inferior courts of the United

States shall have no jurisdiction over any case or controversy arising from the operation of this Act.

(b) Any question arising from the operation of this Act shall be referred to the Joint Transition Commission established in section 2.5 for disposition through negotiation. Should the Commission be unable to reach a negotiated solution to a question, it shall submit all points in question to international arbitration.

SUBTITLE 3—PROCLAMATION OF INDEPENDENCE

SEC. 3.1. PROCLAMATIONS BY THE PRESIDENT OF THE UNITED STATES AND THE HEAD OF STATE OF THE REPUBLIC OF PUERTO RICO.

(a) Not later than one month after the official certification of the elected officers of the Republic of Puerto Rico under section 2.4, the President of the United States shall by proclamation withdraw and surrender all rights of possession, supervision, jurisdiction, control or sovereignty then existing and exercised by the United States over the territory and people of Puerto Rico, and shall furthermore recognize on behalf of the United States of America the independence of the Republic of Puerto Rico and the authority of the government instituted by the People of Puerto Rico under the Constitution of their own adoption. The proclamation shall state that the effective date of withdrawal of the sovereignty of the United States and recognition of independence shall be the

same as the date of the proclamation of independence, as provided in subsection (c).

(b) The President of the United States shall forward a copy of the proclamation issued by him to the presiding officer of the Constitutional Convention of Puerto Rico within a week after signature.

(c) Within one week after receiving the presidential proclamation and with the advice of the officer elected as head of state of the Republic, the presiding officer of the Constitutional Convention shall determine the date in which the Government of the Republic shall take office, and shall so notify the Governor of the Commonwealth of Puerto Rico and the President of the United States.

(d) Upon taking office, the head of state of the Republic of Puerto Rico shall immediately issue a proclamation declaring: (1) that Puerto Rico has become a sovereign, independent nation; (2) that the Constitution of the Republic is thenceforth in effect; (3) that the Commonwealth of Puerto Rico and its Government have ceased to exist; and (4) that the Government of the Republic will henceforth exercise its powers and duties under its Constitution.

SUBTITLE 4—EFFECTS OF THE PROCLAMATION OF INDEPENDENCE

SEC. 4.1. ON LEGAL AND CONSTITUTIONAL PROVISIONS.

(a) Upon the proclamation of independence as provided in this subtitle, and except as otherwise provided in this title or in any separate agreements hereinafterwards concluded between the United States and the Republic of Puerto Rico—

(1) all property, rights and interests which the United States may have acquired over Puerto Rico by virtue of the Treaty of Paris of 1898, and thereafter by cession, purchase, or eminent domain, with the exception of such land and other property, rights, or interests as may have been sold or otherwise legally disposed of prior to the enactment of this Act, shall vest ipso facto on the Republic of Puerto Rico;

(2) all laws of the United States applicable to the Commonwealth of Puerto Rico immediately prior to the proclamation of independence shall no longer apply in the Republic of Puerto Rico; and

(3) all laws and regulations of the Commonwealth of Puerto Rico in force immediately before the proclamation of independence shall continue in force and shall be read with such modifications, adaptions, qualifications and exceptions as may be necessary to bring

them into conformity with the Constitution of the Republic of Puerto Rico until such time as they shall be replaced with the new legislation: *Provided,* That any provisions that may be incompatible with the sovereignty of the Republic of Puerto Rico shall be deemed invalid.

SEC. 4.2. ON JUDICIAL PRONOUNCEMENTS.

(a) The Republic of Puerto Rico shall recognize and give effect to all orders and judgments rendered by United States or Commonwealth courts prior to the proclamation of independence pursuant to the laws of the United States then applicable to the Commonwealth of Puerto Rico.

(b) All judicial proceedings pending in the courts of the Commonwealth of Puerto Rico prior to the proclamation of independence shall be continued in the corresponding courts under the Constitution of the Republic of Puerto Rico.

(c) Upon the proclamation of independence, the judicial power of the United States shall no longer extend to Puerto Rico. All proceedings pending in the United States District Court for the District of Puerto Rico shall be transferred to the corresponding Puerto Rican courts of competence under the Constitution of the Republic of Puerto Rico for disposition in conformity with laws applicable at the time when the controversy in process arose. All proceedings pending in the United States Court of Appeals for the First Circuit, or in

the Supreme Court of the United States, which may have initiated in the courts of the Commonwealth or in the United States District Court for the District of Puerto Rico shall continue until their final disposition and shall be submitted to the competent authority of the Republic of Puerto Rico for proper execution: *Provided,* That neither the United States nor any of its officers is a party, in which case any final judgment shall be properly executed by the competent authority of the United States.

SUBTITLE 5—TRANSITION ASPECTS SUBSEQUENT TO PROCLAMATION OF INDEPENDENCE

SEC. 5.1. CITIZENSHIP AND MIGRATION.

(a) Every person who, having been born in Puerto Rico, is on proclamation of independence a citizen of the United States and a resident of Puerto Rico, shall become a citizen of the Republic of Puerto Rico on that date.

(b) Every person born in Puerto Rico after proclamation of independence, and subject to the jurisdiction thereof, shall be a citizen of the Republic of Puerto Rico.

(c) Every person born in Puerto Rico but not a resident thereof on proclamation of independence shall become a citizen of the Republic of Puerto Rico upon residing for six months and taking the oath of allegiance.

(d) Every person not born in Puerto Rico before or after proclamation of independence, and residing therein, shall

become a citizen of the Republic of Puerto Rico if either of his parents becomes a citizen of the Republic of Puerto Rico pursuant to subsections (a), (b), and (c).

(e) Every person not born in Puerto Rico but married to a citizen of the Republic of Puerto Rico before or after proclamation of independence shall become a citizen of the Republic upon residing in Puerto Rico for six months and taking the oath of allegiance.

(f) All other persons not specified in subsections (a), (b), (c), (d), and (e) but residing in Puerto Rico shall be granted citizenship in accordance with the Constitution and laws of the Republic.

(g)(1) Every person who is a citizen of the United States and a citizen of the Republic of Puerto Rico in accordance with subsections (a), (b), (c), (d), (e), and (f) shall retain his United States citizenship and all rights, privileges, benefits and obligations pertaining thereto in an equal footing with all other United States citizens: *Provided*, That while residing in Puerto Rico that person shall not be subject under United States laws to compulsory military registration and service or to any other condition or obligation contrary to the sovereignty of the Republic of Puerto Rico.

(2) Every person specified in subsection (g)(1) shall retain his Puerto Rican citizenship and all rights, privileges and benefits pertaining thereto in an equal footing with all

other Puerto Rican citizens, and shall retain all of his obligations as a Puerto Rican citizen, except that while residing in the United States that person shall not be subject under Puerto Rican laws to compulsory military registration and service or to any other condition or obligation contrary to the sovereignty of the United States.

(h) Every citizen of the United States who becomes a citizen of the Republic of Puerto Rico in accordance with subsections (a), (b), (c), (d), (e), and (f), can elect: (1) to relinquish his United States citizenship in accordance with United States laws; or (2) to relinquish his Puerto Rican citizenship in accordance with the laws of the Republic.

(i) United States citizens residing in Puerto Rico, but not citizens thereof shall be entitled to the fundamental rights and freedoms accorded to all persons in Puerto Rico but shall not be eligible for political office and shall not be entitled to vote. They shall also be entitled to be naturalized as citizens of the Republic in accordance with nondiscriminatory laws of the Republic.

(j) Citizens of the Republic of Puerto Rico residing in the United States but not citizens thereof shall be entitled to the fundamental rights and freedoms accorded to all persons in the United States but shall not be eligible for political office and shall not be entitled to vote in the United States. They shall also be entitled to be naturalized as citizens of the

United States in accordance with nondiscriminatory laws of the United States.

(k) Citizens of the Republica of Puerto Rico who are not United States citizens may, for a period of twenty-five years after proclamation of independence, enter into, lawfully engage in occupations, and establish residence as immigrants in the United States. These immigrants may be subject to nondiscriminatory limitations as provided for by laws and regulations of the United States.

(l) Every resident of the United States born in Puerto Rico but not a citizen thereof, and his sons and daughters, may enter into, lawfully engage in occupations, and establish residence as immigrants in Puerto Rico subject to nondiscriminatory laws and regulations of the Republic.

(m) Every person lawfully admitted for permanent residence within the United States and who is a resident of Puerto Rico on proclamation of independence shall continue as resident and shall be entitled to be naturalized as citizen of the Republic of Puerto Rico in accordance with nondiscriminatory laws of the Republic.

SEC. 5.2. DEFENSE.

(a) The UnitedStates shall collaborate with the Republic of Puerto Rico toward the ultimate goal of disarmament, peace, and international relations based on the principles of equality, mutual respect and interdependence. Furthermore,

the United States recognizes the right of the People of Puerto Rico to strive toward the total demilitarization of its territory, with the purpose of gearing all its efforts and resources to the goals of economic and social development.

(b) The Republic of Puerto Rico shall be closed to any and all military forces of foreign nations. In furtherance of this policy, and to expedite the orderly and gradual transfer of properties presently under the control of the United States for military purposes in Puerto Rico, the Governments of the United States and the Republic of Puerto Rico shall subscribe a separate agreement for a reasonable and mutually convenient period of transition.

(c) Negotiations leading to the eventual agreement provided in paragraph (b) shall begin in a special task force designated for such purposes by the President of the United States and the Constitutional Convention of Puerto Rico pursuant to section 2.5 of this title. Should this special task force be unable to reach an agreement prior to the proclamation of independence, the negotiations shall continue between representatives appointed by the United States and the Republic of Puerto Rico, until such time as an agreement may be reached.

(d) The Republic of Puerto Rico shall be a nuclear free zone. The United States and the Republic of Puerto Rico shall adhere and fully comply with the provisions of the

Treaty for the Proscription of Nuclear Weapons in Latin America of 1967 (Treaty of Tlatelolco).

(c) The Government of the Republic of Puerto Rico shall, as soon as may be practicable, seek integration into the Inter-American defense system by subscribing the provisions of the Treaty of Mutual Defense of 1948 (Treaty of Rio de Janeiro).

SEC. 5.3. TRADE RELATIONS.

(a) Until proclamation of independence: (1) no trade barriers or quotas of any kind shall be imposed on merchandise and articles going into Puerto Rico from the United States or coming into the United States from Puerto Rico; and (2) trade relations shall be as currently provided by law.

(b) during the twenty years following the proclamation of independence, the United States shall not impose trade barriers or quotas of any kind on merchandise and articles coming into the United States from the Republic of Puerto Rico.

SEC. 5.4. TAXATION.

(a) The tax credit currently allowed under section 936 of the United States Internal Revenue Code shall remain in full effect upon proclamation of independence and during the fifteen years thereafter with respect to income derived by corporations that begin to fulfill or continue to fulfill the current requirements for such credit.

(b) On the tenth year after proclamation of independence, a Joint Commission on Taxation shall be appointed in equal numbers by the President of the United States and the head of state of the Republic of Puerto Rico to study and report on changes to be made, if any, to the tax credit allowed under subsection (a) at the expiration of the fifteen-year period. If no agreement is reached with respect to such changes, then all earning repatriations received by residents of the United States shall be subject to taxation by the United States, beginning on the sixteenth year after the proclamation of independence, at a rate that shall increase on a straight-line basis by 10 percent of the regular United States corporate tax rate each year until it reaches 100 percent of said regular rate in the twenty-fifth year after the proclamation of independence, provided that a tax credit will be allowed on such earning repatriations pursuant to subsection (c). If the regular corporate tax rate of the United States is changed before said twenty-fifth year, the difference between the rate to which the earning repatriations are subject during the year of said change and the new regular rate shall be divided, if the latter is higher, by the number of years remaining from the year which follows the year of said change until said twenty-fifth year, and the result of such division shall constitute the extent to which the rate applicable to the dividends shall increase every year from the year which fol-

lows the year of said change until said twenty-fifth year. If the new regular United States corporate tax rate is lower than the rate to which the earning repatriations are subject during the year of said change, then the new lower rate shall immediately apply to such repatriations. No other change shall occur before the expiration of said twenty-fifth year with respect to income derived by companies subject to this subsection.

(c) With respect to income not subject to subsections (a) or (b), the profits of an enterprise of either nation shall be taxable only on the nation of residence of said enterprise, unless the enterprise carrier on business in the other nation through a permanent establishment situated therein. If the enterprise carriers on business as aforesaid, the profits of the enterprise may be taxed in the other nation but only so much of them as is attributable to that permanent establishment.

(d) Each nation shall have taxing jurisdiction over income earned by individuals who are residents of either nation from sources within its territorial jurisdiction, property situated therein, including transfers of such property by gift or at death, and products consumed therein.

(e) Where a resident of either nation derives income from the other nation, the amount of tax payable in that other nation in respect to that income pursuant subsections (c) and (d), and the amount of tax payable in the Republic of

Puerto Rico that does not exceed for any specific year the amount of tax payable in the United States for that same year pursuant to subsection (b), shall be allowed as a credit against the tax payable in respect to that income in the nation of residence of the taxpayer. A withholding tax on dividends shall be considered a tax on income for these purposes. If the United States amend its laws concerning the provision of tax sparing credits or if the United States reaches an agreement on the provision of a tax sparing credit with any other nation, Puerto Rico shall ipso facto be granted the most favorable degree of tax sparing credit allowed under such amended laws or under such agreement or agreements.

(f) The determination under this section of the residence of any taxpayer, the source of any income, the situs of any property or any other necessary definitions shall be made according to the terms of a joint treaty for the avoidance of double taxation to be entered into by both nations promptly upon the proclamation of the Republic of Puerto Rico. Negotiations leading to such treaty shall be initiated by a special task force designated pursuant to section 2.5 of this title. Until such treaty is executed, such determination shall be made according to the current tax laws of the United States and the Commonwealth of Puerto Rico.

SEC. 5.5 CURRENCY AND FINANCE.

(a) After proclamation of independence, the Republic of Puerto Rico shall have all powers concerning the issuance and control of currency and all powers concerning monetary and financial matters, provided that during the ten years following the proclamation of independence both United States currency and Puerto Rican currency shall be accepted as legal tender in all transactions in Puerto Rico.

(b) The current value of all stock bought by Puerto Rican banks in the Federal Reserve System, Federal Deposit Insurance Corporation and the Federal Home Loan Bank System will be transferred to the Republic of Puerto Rico, including the proportion held by United States national, Spanish and Canadian banks that correspond to the level of their activities of its branches operating in Puerto Rico during the year immediately prior to the proclamation of independence.

(c) The monetary authority of the Republic of Puerto Rico shall establish an integrated system of insurance for deposits in Puerto Rico's financial institutions similar to the Federal Deposit Insurance Corporation. Negotiations will be undertaken with United States monetary authorities to obtain their assistance in the design and establishment of the insurance system. and to determine the extent of financial support to be provided for the system by United States insurance

organizations in which Puerto Rico's financial institutions currently participate.

(d)(1) The guarantees provided by the Government of the United States to investors in the secondary market for loans, particularly mortgage loans guaranteed by the Government National Mortgage Association (G.N.M.A.), the Federal National Mortgage Association (F.N.M.A.), the Federal Home Loan Mortgage Corporation (F.H.L.M.) and other United States Government instrumentalities, shall be maintained for Puerto Rico-originated loans until maturity.

(2) Negotiations shall be carried out to ensure that after proclamation of independence Puerto Rico-originated loans, particularly housing mortage loans, can continue to be guaranteed by G.N.M.A., F.N.M.A., F.H.L.M. and other United States Government instrumentalities and can continue to be sold to investors in the United States secondary markets.

SEC. 5.6. PUBLIC DEBT.

(a) The debts, liabilities, and obligations of the Commonwealth of Puerto Rico, its municipalities and instrumentalities, valid and outstanding upon proclamation of independence, shall be assumed by the Republic of Puerto Rico.

(b) After proclamation of independence the United States shall maintain full income tax exemption, as currently provided by law, on interest payments derived from debts of

the Commonwealth of Puerto Rico assumed by the Republic, as specified in subsection (a).

(c) During the twenty-five years following the proclamation of independence, the United States shall extend full income tax exemption, as currently provided by law, to interest payments derived from debts of the Republic of Puerto Rico.

SEC. 5.7. INDIVIDUAL RIGHTS TO ECONOMIC BENEFITS AND GRANTS TO THE REPUBLIC OF PUERTO RICO.

(a) All vested rights and benefits which accrue to residents of the Commonwealth of Puerto Rico under the laws of the United States from past services or contributions, such as rights and benefits for veterans or relatives of veterans of the Armed Forces of the United States, retired Government employees, or beneficiaries of old age, disability of survivors' insurance benefits under the Social Security Act, shall not be interrupted after the proclamation of independence but will continue until such time as said rights and benefits are completely extinguished according to the applicable laws of the United States. All services which must be rendered as part of these rights and benefits shall be made available through the Government of the Republic of Puerto Rico in accordance with agreements reached by the two nations.

(b) Notwithstanding the provisions in subsection (a), all contributions made by employees and employers in Puerto

Rico to the Social Security System with respect to persons who, upon the proclamation of independence, are residents of the Republic of Puerto Rico and are not yet eligible for old age, disability, or survivors' insurance benefits under the system, shall be transferred to the Government of the Republic of Puerto Rico once said Government establishes its own social security system. The Government of the Republic of Puerto Rico may not use these funds for any purpose other than the establishment and operation of a social security system. Upon the transfer described herein, the obligations of the United States Government under the Social Security Act with respect to such residents of the Republic of Puerto Rico shall cease.

(c) All other Federal transfer payments to individuals and to the Government of the Commonwealth of Puerto Rico shall be maintained in the form of annual block grants to be used discretionally by the Government of the Republic of Puerto Rico—

(1) During the ten fiscal years following the proclamation of independence, the annual block grants shall amount to the annual aggregate funding of all programs which currently extend to the Commonwealth of Puerto Rico, or of all programs which shall have been extended to the Commonwealth of Puerto Rico during

the fiscal year immediately prior to the proclamation of independence, whichever shall be greater.

(2) The annual block grants shall decrease thereafter on a straight-line basis, at the rate of ten percent each year, beginning on the eleventh fiscal year after the proclamation of independence. At any time during the aforementioned transition period the terms of this subsection may be modified by agreement between the United States and the Republic of Puerto Rico.

SUBTITLE 6—RELATIONS BETWEEN THE UNITED STATES AND THE REPUBLIC OF PUERTO RICO

SEC. 6.1. TREATY OF FRIENDSHIP AND COOPERATION.

To insure that all provisions of this title which shall have effect after the proclamation of independence will in effect be binding, the United States and the Republic of Puerto Rico shall embody said provisions in a treaty of friendship and cooperation.

TITLE IV—COMMONWEALTH

SUBPART 1. STATEMENT OF PURPOSES

In 1952 the Congress of the United States, fully recognizing the principle of government by consent, and the People of Puerto Rico, in the exercise of their right to self-determination, entered upon a compact which established a Commonwealth relationship between Puerto Rico and the United States.

Under the compact the People of Puerto Rico adopted in their own sovereign right their own Constitution and formed an autonomous political community in permanent union with the United States of America based on the irreversible bond of American citizenship.

In 1953 the General Assembly of the United Nations recognized the creation of the Commonwealth and removed Puerto Rico from the list of non-self-governing territories. This association has enabled the People of Puerto Rico to advance their economic and social development and to preserve their distinct historical heritage and cultural personality.

As inherent in all political relationships freely entered upon, it was based on the understanding that it would evolve and develop within its particular political nature upon mutually agreeable terms.

It is the purpose of this Act to provide for the enhancement of the Commonwealth relationship by enlarging the scope of self-government of the Puerto Rican people upon the approval of a proposition to that effect by a majority of the eligible voters of the Commonwealth of Puerto Rico.

SUBPART 2. REFERENDUM PROPOSITION:

COMMONWEALTH

The referendum proposition regarding Commonwealth, to be presented to, and voted upon, by the People of Puerto Rico shall be as follows:

"The Commonwealth association with the United States shall be enhanced to enable the People of Puerto Rico to accelerate their economic and social development and attain maximum cultural and political autonomy within permanent union with the United States based on the irreversible bond of American citizenship, a common defense, a common market, and a common currency."

The proposition will appear in the ballot, in Spanish, as follows:

"El Estado Libre Asociado se fortalecerá para acelerar el desarrollo económico y social y alcanzar la máxima autonomía cultural y política del pueblo de Puerto Rico en su unión permanente con los Estados Unidos sobre los pilares de común defensa, común mercado, común moneda, y el vínculo indisoluble de la ciudadanía americana."

SUBPART 2. PRINCIPLES OF COMMONWEALTH

Section 1 of the Puerto Rico Federal Relations Act, 39 Stat. 954, as amended, 48 U.S.C. section 731, shall be repealed, and replaced by the following:

"(1) The provisions of this Act shall apply to the Commonwealth of Puerto Rico, an autonomous body politic joined in permanent union with the United States on the basis of common citizenship, common defense, common market and common currency.

(2) The policy of the United States shall be to enhance the Commonwealth relationship enjoyed by the Commonwealth of Puerto Rico and the United States to enable the People of Puerto Rico to accelerate their economic and social development and attain maximum cultural and political autonomy within permanent union with the United States, to secure more equitable participation for the People of the Commonwealth of Puerto Rico in all Federal programs that provide grants or services to citizens of the United States as individuals, to secure increased participation by the People of Puerto Rico in United States governmental decisions affecting them, to safeguard the distinct cultural identity of the People of Puerto Rico, and to protect the bilateral nature of the relationship between the Commonwealth of Puerto Rico and the United States.

SUBPART 4. IMPLEMENTATION OF FEDERAL

POLICY

Section 9 of the Federal Relations Act, 39 Stat. 954, as amended, 48 U.S.C. section 734, is amended by inserting at

the beginning thereof the term "(a)" and by adding at the end thereof the following:

"(b) A Federal statutory law, or provision of such law, is locally inapplicable unless it is consistent with the policy established under subpart 3 and unless such Federal statutory law has proper regard for the economic, cultural, ecological, geographic, demographic and other local conditions of the Commonwealth of Puerto Rico. This subsection shall not apply to:

(i) any Federal statutory law in which the Congress makes a specific finding that there is an overriding national interest that such law should apply to the Commonwealth of Puerto Rico, or

(ii) any Federal statutory law, or provision thereof, establishing directly or indirectly grants and/or services to civilizen of the United States as individuals, or

(iii) any Federal statutory law or provision thereof relating to citizenship, or

(iv) any Federal statutory law or provision thereof pertaining to the foreign relations, defense or national security of the United States that requires uniform applicability throughout the United States, including the Commonwealth of Puerto Rico, to achieve its intended purposes.

(c) In addition to judicial determinations of the inapplicability of Federal laws under subsection (b), the Governor of the Commonwealth of Puerto Rico may certify from time to time to the Speaker of the House of Representatives, the President of the Senate, and the President of the United States, that a Federal statutory law or provision thereof, other than one excluded from the operation of subsection (b), is inconsistent with a Puerto Rican statute and the policy established under subsection (b). Unless within sixty days of the receipt of such certification, a statute is enacted embodying the finding required under subsection (b)(i), the President shall issue a proclamation that such Federal statutory law or provision thereof identified in the Governor's certification is not applicable in Puerto Rico.

(d)(i) The Commonwealth of Puerto Rico may continue to enter in its own name into international cultural, commercial, educational and sports agreements, and other agreements of like nature.

(ii) In addition, the Governor of the Commonwealth of Puerto Rico may take any official action to promote the international interests of Puerto Rico that requires the consent of the United States Government and is not expressly prohibited by law. The Governor of the Commonwealth of Puerto Rico shall provide written notice to the President of the United States of any official action he contemplates

taking pursuant to the authorization of this part of this subsection and not pursuant to any other authorization of consent. The President may, within thirty days of his receipt of such notice, sign and transmit to the Governor of the Commonwealth of Puerto Rico a document expressing his determination that the contemplated official action would imperil the foreign relations or national defense of the United States, in which case the authorization hereby granted shall be withdrawn as regards such contemplated official action.

(e) All departments and agencies of the Government of the United States shall be guided by the policy stated in subpart 3 when carrying out their duties under Federal statutory laws and Federal regulations applicable in or affecting the Commonwealth of Puerto Rico. Every such department or agency shall, before taking any major Federal action applicable in or affecting the Commonwealth of Puerto Rico, separately evaluate the consistency of such action with such policy and shall state, in a document accompanying the major Federal action, the extent, nature, and result of its consideration.

(f) Any rule, as defined in 5 U.S.C. section 551(4), issued by an agency, as defined in 5 U.S.C. section 551(1), shall apply in the Commonwealth of Puerto Rico only to the extent that it is consistent with the policy set forth in subsection (b). After the effective date of this amendment, when any

such rule, other than a rule issued after notice and hearing required by statute, that does not in terms provide that it is inapplicable in the Commonwealth of Puerto Rico is published in the Federal Register, the Governor of the Commonwealth of Puerto Rico may submit to the agency within thirty days in writing (or such longer period as the agency may have prescribed as the period between publication of the rule and its effectiveness) the Governor's determination that such rule is inconsistent with the policy stated in subsection (b). Thereupon, the agency shall reconsider the question of consistency of the rule with the policy stated in subsection (b) and shall, within forty-five days of its receipt of the Governor's determination, publish in the Federal Register its finding either that there is an overriding national interest that the rule be applicable in the Commonwealth of Puerto Rico, in which case the rule, whether or not previously applicable in the Commonwealth of Puerto Rico, shall thereafter be so applicable, or that the rule is not compatible with such policy, in which event such rule, whether or not previously applicable in the Commonwealth of Puerto Rico, shall not be so applicable. Unless the agency for good cause finds that a rule that is the subject of such determination by the Governor of Puerto Rico as is described in this subsection shall be applicable to the Commonwealth of Puerto Rico pending its consideration of such determination, and publishes such find-

ing in the Federal Register, such rule. whether or not previously applicable in the Commonwealth of Puerto Rico, shall not be so applicable pending such consideration. An agency's decision to make a rule applicable or inapplicable in Puerto Rico shall be subect to judicial review.

(g) The laws, rules and reguations of the United States applicable in the Commonwealth of Puerto Rico when the new Federal policy is established in accordance with subpart 3 shall continue in effect except to the extent repealed or modified by this Act, or inconsistent with it, and except as hereafter modified, suspended or repealed in accordance with law.

SUBPART 5. AVIATION

Section 1102 of the Federal Aviation Act is amended by adding a new section (c) to read as follows:

"(c)(i) The Government of the Commonwealth of Puerto Rico shall have authority to negotiate on its own behalf bilateral air transportation agreements governing the operation of air services by United States and foreign air carriers between the Commonwealth and foreign points. Such agreements may also include authorization of service by United States and foreign air carriers to use any point in the Commonwealth as an intermediate or beyond point on routes between points in the United States and foreign nations for which the carrier holds certificate or foreign air carrier operating authority

from the Department of Transportation. Such agreements may authorize such carriers to engage in common carriage of persons and property between such authorized points in the United States and the Commonwealth, notwithstanding the provisions of sections 416(6)(7) and 1108 of this Act.

"(ii) Operating rights contained in Commonwealth bilateral air transportation agreements shall be subject to the grant of necessary operating authority by the Department of Transportation and the Administrator. The responsibilities of the Department and the Administrator under subsection (a) of this section shall extend to such bilateral agreements.

"(iii) Operating authority issued by the Department of Transportation in implementation of bilateral agreements negotiated by the Government of the Commonwealth of Puerto Rico shall be subject to the President's right of disapproval as contained in section 801(a) of this Act.

"(iv) The officials of the Federal Aviation Administration of the United States are directed to assist and cooperate with the appropriate officials of the Commonwealth of Puerto Rico in the implementation of any air transportation agreement entered into pursuant to the authority herein established.".

SUBPART 6. DEVELOPMENT OF TOURISM

Section 4a(l) of the Coastal Barrier Resources Act of 1982, 16 U.S.C. section 3503(a)(l), is amended by adding to

the end of the subsection: "Notwithstanding the foregoing, no area within the Commonwealth of Puerto Rico shall be included within the Coastal Barrier Resources System.".

SUBPART 7. INTERNATIONAL TRADE

(a) Section 2 of the Act of April 12, 1900, 48 U.S.C. 739, is amended by inserting the following subsection:

"1. To the extent consistent with the international obligations of the United States, the Commonwealth of Puerto Rico is authorized to impose tariff duties on foreign origin products imported into Puerto Rico. Such tariff duties shall be in addition to the general tariff duties applicable to products imported into the customs territory of the United States.".

(b) Section 1102 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. 2902, is amended by adding a new subsection (c) as follows:

"(c) During the negotiation of any trade agreement affecting Puerto Rico under subsections (a), (b), and (c), the President shall seek the participation of the Commonwealth of Puerto Rico in the negotiation process, and shall consult with the Governor of the Commonwealth of Puerto Rico concerning the potential impact of any proposed tariff rate change on the economy of Puerto Rico.

The Government of the United States shall seek to obtain favorable treatment from foreign countries for exports

from the Commonwealth of Puerto Rico and shall encourage other countries to consider Puerto Rico as a developing area for purposes of their respective General Systems of Trade Preferences, and any such regional systems of trade preferences.".

SUBPART 8. MARITIME

(a) Section 9 of the Puerto Rican Federal Relations Act, 48 U.S.C. section 744, is amended to add at the end of the provision: "except that those provisions of the Shipping Act, 1916, administered by the Federal Maritime Commission shall not be applicable to the trade between Puerto Rico and the States of the United States. The Commonwealth of Puerto Rico is authorized to establish its own maritime commission which, when established in accordance with Puerto Rico law shall exercise exclusive jurisdiction over service, rates, fares, and practices governing the trade between Puerto Rico and the states of the United States."

(b) Section 1 of the Shipping Act, 1916, as amended, 46 U.S.C. App. section 801, is amended by inserting after the second "possession of the United States" and at the end of the provision, the following phrase: "not including the Commonwealth of Puerto Rico.".

SUBPART 9. JURISDICTION OVER MARITIME RESOURCES

(a) Amend section 3(21) of the Magnuson Fishery Conservation and Management Act, as amended, 16 U.S.C. 1802(21) to read as follows:

"(21) The term 'State' means each of the several States, the District of Columbia, American Samoa, the Virgin Islands, Guam, and any other territory or possession of the United States, but does not include the commonwealth of Puerto Rico.".

(b) Amend the first sentence of section 2(6) of the Magnuson Fishery Conservation and Management Act, as amended, 16 U.S.C. 1802(6) to read as follows: "The term 'exclusive economic zone' means the zone established by Proclamation Numbered 5030, dated March 10, 1983, except that such zone shall not include zones contiguous to the territorial sea of the Commonwealth of Puerto Rico, provided that the Commonwealth of Puerto Rico shall take no action that would purport to restrict or charge fees to vessels of the United States for the right to fish for highly migratory species of fish within any fishing jurisdiction the 'Commonwealth of Puerto Rico may establish beyond its territorial waters.".

SUBPART 10. INTELLECTUAL PROPERTY

(a) Section 101 of title 17 of the United States Code is amended as follows:

(1) By inserting the following new definitions in alphabetical order:

"The 'design of a useful article,' hereinafter referred to in this Title as a 'design,' consists of those aspects or elements of the article, including its two dimensional or three dimensional features of shape and surface, which make up the appearance of the article, and shall include a 'typeface' as herein defined.

"A design is 'of Puerto Rican origin' (a) if more than 50 percent of its development costs have been incurred within the Commonwealth of Puerto Rico, irrespective of whether such design is fixed in a useful article in the Commonwealth of Puerto Rico; or (B) if it is first fixed in the Commonwealth of Puerto Rico in a useful article intended to be distributed to the public for commercial purposes.

"A 'typeface' consists of a set of letters, numbers, or other symbolic characters, whose forms are related by repeating design elements consistently applied in a national system, to the extent that the repeating design elements in the combination employed in a notational system are (A) original, (B) distinct, and (C) incorporated in a

useful article whose normal use is in composing text or other cognizable combination of characters.".

(2) By adding, after the semicolon in the second sentence of the definition of "Pictorial, graphic, and sculptural works," the following: "except where a design of Puerto Rican origin is involved,".

(b) Section 102 of title 17 of the United States Code is amended by adding a new subsection 102 (a)(8) as follows:

"(8) designs of useful articles, where such designs are of Puerto Rican origin.".

(c) Section 113 of title 17 of the United States Code is amended by adding a new subsection (d) as follows:

"(d) In the case of a design of Puerto Rican origin, the scope of exclusive rights in a copyrighted work does not extend to a design that is (i) staple or commonplace, such as a standard geometric figure, familiar symbol, emblem, or motif, or other shape, pattern, or configuration which has become common, prevalent, or ordinary; (ii) different from a design excluded by (i) hereof only in insignificant details or in elements which are variants commonly used in the relevant trades; (iii) dictated primarily by a utilitarian function of the article in which it is fixed; (iv) composed of three-dimensional features of shape and surface with respect to men's, women's, and children's apparel; or (v) fixed in a semiconductor chip product that is protected under chapter 9 of this title. Notwithstanding the foregoing, the scope of exclusive rights shall not be limited by the employment in the design of subject matter excluded under (i) through (iii) hereof, if the design is a substantial revision, adaptation, or rearrangement of said subject matter: *Provided, however,* That such exclusive rights shall be available for a design employing subject matter protected under chapters 1 through 8 of this title or title 35 of the United States Code, only if such protected subject matter is employed with the consent of the proprietor thereof. Such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any rights to subject matter excluded from protection or as extending any subsisting protection."

(d) Chapter 3 of title 17 of the United States Code is amended by the addition of a new section 306 as follows:

"§ 306. Designs of Puerto Rican origin

(a) The provisions of section 302 through 305 of this chapter shall not apply to copyrights in designs of Puerto Rican origin.

(b) Copyright in a design of Puerto Rican origin subsists from its creation and endures for a period of ten years.

(c) A term of copyright provided by this section shall run to the end of the calendar year in which in would otherwise expire.".

(e) Section 407 of title 17 of the United States Code is amended by adding the following language before the semicolon in section 401(b)(1): ", or, in the case of a design of Puerto Rican origin, the symbol D (the letter D in a circle), or the words "Design Copyright," or the abbreviation 'Des. Copr.'.".

(f) Section 407 of title 17 of the United States Code is amended by striking the period the end of section 407 (c) and adding the following language: ", or the work is a design of Puerto Rican origin.".

(g) Section 901 (a) of title 17 of the United States Code is amended by adding a new subsection (10) as follows:

"(10) a mask work is 'of Puerto Rican origin' (a) if more than 50 percent of its development costs have been incurred within the Commonwealth of Puerto Rico, irrespective of whether such mask work is fixed in a computer chip in the Commonwealth of Puerto Rico; or (B) if it is first fixed in the Commonwealth of Puerto Rico in a computer chip intended to be distributed to the public for commercial purposes.".

(h) Section 906 of title 17 of the United States Code is amended by adding at the end thereof the following:

"(c) The limitations on exclusive rights provided under subsections (a) and (b) of this section shall not apply to mask works of Puerto Rican origin.".

(i) The foregoing sections (a) through (h) shall apply after the date of enactment to all acts of manufacture or distribution that occur in the United States after such date, to all acts of importation into the United States that occur after such date, and to all violations of the exclusive rights of the copyright's owner under of title 17, United States Code that occur after such date.

SUBPART 11. FEDERAL PROGRAMS

(a) CONSOLIDATION OF GRANT-IN-AID PROGRAMS.—The Puerto Rico Federal Relations Act is amended by inserting a new section 59, as follows:

SECTION 59.

In order to minimize the burden caused by existing application and reporting procedures for grant-in-aid programs available to the Commonwealth of Puerto Rico it is hereby declared to be the policy of the Congress, notwithstanding any provision of law to the contrary, that:

"(a) At the request of the Governor of the Commonwealth, any department or agency of the Government of the United States which administers any Act of Congress which specifically provides for making grants to the Commonwealth under which payments received may be used by the Com-

monwealth only for certain specified purposes (other than direct payments to classes of individuals, including, but not limited to, Aid to Families with Dependent Children, title IV–A of the Social Security Act, 42 U.S.C. 601; Medicaid, title XIX of the Social Security Act, 42 U.S.C. 2396; Supplemental Security Income, title XVI of the Social Security Act, 42 U.S.C. 1381; Foster Care, title IV–E of the Social Security Act, 42 U.S.C. 670; and Nutrition Assistance Program, 7 U.S.C. 2028) shall, acting through appropriate administrative authorities of such department of agency, consolidate any or all grants made to the Commonwealth for any fiscal year or years.

"(b) Any consolidated grant for the Commonwealth shall not be less than the sum of all grants which the Commonwealth would otherwise be entitled to receive for such year.

"(c) The funds received under a consolidated grant shall be expended in furtherance of the programs and purposes authorized for any of the grants which are being consolidated, which are authorized under any of the Acts administered by the department or agency making the grant, and which would be applicable to grants for such programs and purposes in the absence of the consolidation, but the Commonwealth shall determine the proportion of the funds granted which shall be allocated to such programs and purposes.

"(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which the Commonwealth may submit: (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated grant shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications, and (ii) a single report to such department or agency with respect to each such consolidated grant: *Provided,* That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receiving benefits from any consolidated grant. The administering authority of any department or agency, in its discretion, may (i) waive any requirement for matching funds otherwise required by law to be provided by the Commonwealth and (ii) waive the requirement that the Commonwealth submit an application or report in writing with respect to any consolidated grant.

(b) EQUITABLE TREATMENT IN SOCIAL PROGRAMS.—The Puerto Rican Federal Relations Act is amended by inserting a new section 60 as follows:

"SECTION 60.

"(a) It is the policy of the United States that the allocations to the Commonwealth of Puerto Rico of the following programs shall achieve full parity with the States of the Union as soon as possible but in no event later than the fifth anniversary of the date of enactment hereof with allocations to States of the Union in the following programs or their successor thereof: Nutrition Assistance Program (NAP); Aid to Families with Dependent Children (AFDC); and Medicaid; and in no event later than the ninth anniversary of the date of enactment hereof with allocations to States of the Union for the Supplemental Security Income (SSI) program, or its successor.".

SUBPART 12. PROTECTION OF WORKERS

(a) Amend section 2 of the Labor Management Act, as amended, (29 U.S.C. 152(b)), by adding after the first sentence: ", with the exception of cases arising under the jurisdiction of the Commonwealth of Puerto Rico which are hereby exclusively delegated to the Labor Relations Board of Puerto Rico. Decisions of the Labor Relations Board of Puerto Rico may be appealed to the Federal Court of Appeals for the First Circuit.".

(b) The Puerto Rican Federal Relations Act is amended by adding a new section 61, as follows:

"Puerto Rico shall maintain exclusive jurisdiction over employee benefits, other than the benefits currently covered

under the Fair Labor Standards Act, the Employee Retirement Income Security Act, and the Occupational Safety and Health Act. Puerto Rico's exclusive jurisdiction shall include, but not be limited to Christmas bonuses, sick and vacation pay, worksman's compensation, and any other benefits not covered under the current aforementioned Federal legislation.".

SUBPART 13. PUERTO RICO PARTICIPATION IN FEDERAL APPOINTMENTS

Section 301 of title 3, is amended by inserting at the beginning thereof the term "(a)" and by adding at the end thereof the following:

"(b) The highest ranking Federal officer serving in the Commonwealth of Puerto Rico for any Federal department and agency, or division thereof, and any other appointment in the Commonwealth of Puerto Rico subject to Senate confirmation, shall be appointed by the President from a list of eligible candidates recommended by the Governor of the Commonwealth of Puerto Rico.".

SUBPART 14. REPRESENTATION IN UNITED STATES SENATE

Section 36 of the Puerto Rican Federal Relations Act, 48 U.S.C. section 891–895, is amended as follows:

"SUBCHAPTER V. RESIDENT COMMISSIONERS

SECTION 801. RESIDENT COMMISSIONERS; ELECTION.

"The qualified electors of Puerto Rico shall choose a Resident Commissioner to the United States Senate and a Resident Commissioner to the United States House of Representatives at each general election, whose terms of office shall be four years from the 3rd of January following such general election, and who shall be entitled to receive official recognition as such commissioner by all of the departments of the Government of the United States, upon presentation, through the Department of States, of a certificate of election of the Governor of Puerto Rico.

"SECTION 802. QUALIFICATIONS OF COMMISSIONERS; APPOINTMENT TO FILL VACANCY.

"No person shall be eligible to election as a Resident Commissioner who is not a bona fide citizen of the United States and who is not more than twenty-five years of age, and who does not read and write the English language. In case of a vacancy in either office of Resident Commissioner by death, resignation, or otherwise, the Governor by and with the advice and consent of the Senate of the Commonwealth of Puerto Rico shall appoint a Resident Commissioner to fill the vacancy, who shall serve until the next general election and until his successor is elected and qualified.

"SECTION 803. SALARY OF COMMISSIONERS; ALLOWANCES; FRANKING PRIVILEGE.

"The Resident Commissioners shall receive a salary payable monthly by the United States. The Resident Commissioners shall be allowed the same sum for stationary and for the pay of necessary clerk hire as is allowed Members of the Senate of the United States and Members of the House of Representatives of the United States. The Resident Commissioners shall be allowed the franking privilege granted Members of Congress.

"SECTION 804. SALARY AND TRAVELING EXPENSES; PAYMENT.

"The salary and traveling expenses of the Resident Commissioners from Puerto Rico to the United States shall be paid in the same manner as the salaries of the Members of the Senate and the House of Representatives are paid.

"SECTION 805. OTHER PRIVILEGES.

"The appropriate sections of title 2 of the United States Codes and any other statutory law that relates to the privileges afforded United States Senators shall be amended to include the Resident Commissioner from the Commonwealth of Puerto Rico to the United States Senate.".

SUBPART 15. JUDICIARY

Section 42 of the Puerto Rico Federal Relations Act, 48 U.S.C. section 864, is amended by deleting the last sentence and inserting the following paragraph:

"Notwithstanding any other provision of law:

"(1) The District Court shall not undertake construe a theretofore unconstrued Puerto Rico stat or regulation or decide a theretofore undecided poin substantive Puerto Rico nonstatutory law with having given the Supreme Court of Puerto Rico opportunity to construe such statute or regulation or rule upon such point of Puerto Rico law.

"(2) The proceedings of the United States Dist Court for the District of Puerto Rico shall be condu ed in the Spanish language upon the request of a party to the proceedings.

"(3) Any issue of law arising under the Pue Rico Federal Relations Act in any action or controv sy brought in federal court shall be certified to the D trict of Columbia Court of Appeals. In addition, Commonwealth of Puerto Rico, its departments, age cies and instrumentalities, as well as officials a agents, in both their official and personal capacity, m transfer any action brought against them in the D trict Court for Puerto Rico to the District Court the District of Columbia.".

SUBPART 16. PASSPORTS

(a) Section 211a of title 22, is amended by adding at the provision "by the chief or other executive officer of i

insular possessions of the United States,"; "and the Gover nor of the Commonwealth of Puerto Rico,".

(b) The following new section shall be added to title 22 as section 211b:

"SECTION 211b. UNITED STATES PASSPORT OFFICE IN PUERTO RICO.

"The Secretary of State shall establish a Passport Office for the Caribbean located in San Juan, Puerto Rico and shall authorize the Governor of the commonwealth to administer such office as required by law.".

(c) Section 212 of the Immigration and Nationality Act, 8 U.S.C. section 1182 is amended by adding a new subsection (m) as follows:

"(m) COMMONWEALTH OF PUERTO RICO; WAIVER OF REQUIREMENTS; NONIMMIGRANT VISITORS.—

"(1) The requirement of paragraph 26(B) of subsection (a) of this section shall be waived by the Attorney General upon the request of the Government of the Commonwealth of Puerto Rico, in the case of an alien applying for admission as a nonimmigrant visitor at the invitation of the Government of the Commonwealth and solely for entry into and stay in the Commonwealth of Puerto Rico for a period not to exceed thirty days. The District Office for Puerto Rico of the Immigration and Nationality Service shall issue the

special temporary entry visit visas, as well as other entry visas.

"(2) If adequate appropriated funds to carry out this subsection are not otherwise available, the Director of the Immigration and Nationality Service is authorized to accept from the Government of the Commonwealth of Puerto Rico such funds as may be tendered to cover all or any part of the costs of administration and enforcement of this subsection.".

SUBPART 17. LAW ENFORCEMENT

Section 287 of the Immigration and Nationality Act, 8 U.S.C. section 1357, is amended as follows:

"(a) Any officer or employee of the Service authorized under regulations proscribed by the Attorney General, and any officer or employee of and within the Commonwealth of Puerto Rico authorized by the Governor of the Commonwealth of Puerto Rico shall have the power without warrant.".

SUBPART 18. HISTORIC SITES AND CONSERVATION LANDS

Section 8 of the Puerto Rico Federal Relations Act, 48 U.S.C. section 749 is amended by redsignating it section 8A and enacting a new Section 8B:

"SECTION 8b.

"(a)(i) Lands. Title to all lands, buildings, and interests in lands. and other property now owned by the United States

and within the territorial limits of the Commonwealth of Puerto Rico, and the harbor areas and navigable streams and bodies of water and submerged lands underlying the same in and around the island of Puerto Rico and the adjacent islands and waters, owned by the United States, which may have been acquired in Puerto Rico by the United States under the cession of Spain in the treaty of peace entered into on December 10, 1898, and the lands owned by the United States, and administered under the Caribbean National Forest, is hereby conveyed to the people of Puerto Rico and placed under the control of the Government of the Commonwealth of Puerto Rico; *Provided,* That the United States and the Commonwealth of Puerto Rico may negotiate to establish mutually agreed terms and conditions for the continued use and administration of such lands and properties.

(ii) The conveyance described in subsection (i) of this section shall be effective thirty days after the enactment of this section and the Legislature of the commonwealth of Puerto Rico shall have the authority to legislate as it shall deem advisable with respect to all such Crown Lands conveyed under this section.".

SUBPART 19. COMMUNITY VALUES

The Puerto Rican Federal Relations Act is amended by inserting a new section 61 as follows:

"SECTION 61.

"(a) DEFINITIONS.—

"(1) The term 'antitrust laws' has the same meaning given such term in the first section of the Clayton Act, 15 U.S.C. section 12, and shall also include section 5 of the Federal Trade Commission Act, 15 U.S.C. section 45.

"(2) The term 'person in the entertainment industry' means any organization, or an individual connected with any organization, that produces, distributes, transmits, or exhibits any form of audio or visual entertainment.

"(3) The term 'audio or visual entertainment' includes:

"(i) video, audio, or mixed programs transmitted via electromagnetic waves of any frequency, whether transmitted to all receivers of a given type within transmission range, or to only selected receivers on the basis of a subscription fee or any other criteria;

"(ii) programs transmitted by cable systems as defined in section 602(5)–(6) of the Cable Communications Policy Act of 1984, 47 U.S.C. section 522(5)–(6), except that reference in 47 U.S.C. section 522(6) to 'video' shall be read as 'video or audio' and references in 47 U.S.C. section 522(6) to 'television' shall be read as 'television or radio'; and

"(iii) motion pictures, which include entertainment, using film, videotapes, videocassettes, compact discs, or any other functionally substantially equivalent medium, if admission is generally charged for such entertainment, or if such entertainment is generally made available to the public on a rental or purchase basis for private viewing.

"The term 'audio or visual entertainment' does not include printed or otherwise written material unless such printed or otherwise written material is used in any form of audio or visual entertainment described above.

"(b) Upon declaration by the Governor of Puerto Rico (the Governor) and publication of such declaration in the official register of the Commonwealth of Puerto Rico, the antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the entertainment industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate the negative impact of violence, pornography, alcohol and drugs in all audio or visual entertainment in Puerto Rico, or in any subset of audio or visual entertainment in

Puerto Rico as the Governor may designate in any declaration under this section, provided that

"(1) no declaration by the Governor under this section shall operate to exempt from the antitrust laws any joint discussion, consideration, review, action, or agreement that results in a boycott of any person; and

"(2) no declaration by the Governor under this section shall operate to exempt from the antitrust laws any activities conducted more than 36 months after such declaration by the Governor. The Governor may limit the effect of any declaration to a shorter period if he or she does so in the declaration itself.

"(c) A declaration by the Governor under section 2 concerning any forms of audio or visual entertainment shall not limit his or her authority to make future declarations concerning those forms of audio or visual entertainment."

SUBPART 20. ASSUMPTION OF BUDGETARY RESPONSIBILITIES AND TRANSFER OF FEDERAL FUNCTIONS

The Puerto Rican Federal Relations Act is amended by inserting a new section 63, as follows:

"The Commenwealth of Puerto Rico shall assume the expenses inherent in all governmental authority transferred pursuant to this Act. The Government of the United States, or any agency thereof, may from time to time delegate to the

Commonwealth of Puerto Rico the total or partial performance of functions vested in the United States, including the administration of such Federal laws and programs on the island, as may be mutually agreed.".

SUBPART 21.

The enhancements to the Commonwealth relationship adopted pursuant to this Act shall form part of the Compact entered upon by the Congress and the People of Puerto Rico in 1952. It may be amended in the same manner as entered upon in order to provide for the continuing enhancement of the Commonwealth relationship.

That—

(1) the United States of America recognizes the principle of self-determination and other applicable principles of international law with respect to Puerto Rico; and

(2) the United States is committed to a process of consultation and negotiation with the people of Puerto Rico leading to a referendum on the issue of political status to be conducted in a fair and equitable manner.

SEC. 2. This Act may be cited as the "Puerto Rico Status Referendum Act".

TITLE I

SEC. 101. REFERENDUM.

(a) IN GENERAL.—An islandwide referendum shall be held in Puerto Rico in which qualified voters of the Commonwealth of Puerto Rico shall be presented a choice of three status options for Puerto Rico. The options shall appear on the ballot as follows:

(1) Statehood as set forth in title II of the Puerto Rico Status Referendum Act;

(2) Independence as set forth in title III of the Puerto Rico Status Referendum Act; and

(3) Commonwealth as set forth in title IV of the Puerto Rico Status Referendum Act.

(b) DATE OF REFERENDUM.—The first referendum shall occur on June 4, 1991, or on a date during the summer of calendar year 1991 as may be mutually agreed by the three principal political parties of Puerto Rico.

(c) RETURNS OF REFERENDUM.—The returns of the referendum held under this Act shall be made to the Governor of Puerto Rico, who shall cause them to be canvassed in the manner provided by law for the canvass of votes cast in general elections for Federal office in the Commonwealth of Puerto Rico. If there is not a majority in favor of one of the three options, then there shall be, on August 6, 1991, or on a date during the summer of calendar year 1991 as may be

mutually agreed by the three principal political parties, a runoff referendum between the two status options which had received the largest number of votes. Such referendum shall also include an option of "None of the Above". The Governor shall certify to the President and to the Congress of the United States that decision of the people of Puerto Rico which received a majority of the votes cast, if a majority is obtained.

(d) APPLICABLE ELECTION LAWS.—The election laws of the Commonwealth of Puerto Rico for a general election for the election of a Federal officer, and as in effect on July 15, 1989, shall apply to the referendum held under this Act, except as otherwise specifically provided in this Act, and as necessarily modified to recognize that it is a referendum on status options. The Attorney General of the United States shall provide for adequate monitoring of the referendum by United States marshals.

(e) JUDICIAL REVIEW.—Any legal dispute or controversy arising out of this referendum shall be adjudicated in accordance with local laws and procedures, except that:

(1)(A) Any aggrieved person (including, without limitation, and political party), within sixty days after the certification by the Governor of the results of the referendum pursuant to title I, section 101(c), may institute an action to challenge the choice certified by the

Governor on the basis that (1) an electoral irregularity or irregularities had occurred, and (2) that the irregularity or irregularities were so significant as to affect the outcome of the referendum and call into question the choice certified by the Governor.

(B) The three-judge court provided for in paragraph (2) shall have exclusive jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the aggrieved shall have exhausted any administrative or other remedies provided by Federal law or the law of Puerto Rico.

(C) In any proceeding instituted pursuant to this paragraph of this subsection, if the court finds that there has been an electoral irregularity or irregularities so significant as to affect the outcome of the referendum and call into question the choice certified by the Governor, the court is empowered to grant appropriate relief, including nullification of the entire referendum, ordering a recount or recounts, or any other relief deemed appropriate to preserve the integrity of the electoral process.

(D) The Attorney General of the United States is empowered to intervene at the request of the court in any proceeding brought under this section in order to

assist in the gathering and presentation of evidence. Any aggrieved person with a Federal constitutional or Federal statutory claim arising out of the same factual nexus as an action brought under this section may intervene in that action in a manner deemed timely by the court in its discretion. Failure of such an aggrieved person to timely intervene will result in foreclosure of that person's Federal constitutional or statutory claim.

(E) The court may give such weight as it deems appropriate to the determination of the Commonwealth Elections Commission, the courts of the Commonwealth and any other local authority or tribunal. The court is not required to provide de novo review of any and all claims of irregularities already determined by a local authority or tribunal, except as it deems necessary.

(2)(A) Any claim brought under the United States Constitution or a Federal statute, or any claim brought to challenge the result certified by the Governor, whether brought under this Act or under the law of the Commonwealth of Puerto Rico, shall be heard by a three-judge court which shall have exclusive jurisdiction over all such claims.

(B) The court shall receive evidence and hear argument, as it deems necessary. The provisions of sec-

tion 2284(b)(3) of title 28, United States Code, shall apply to proceedings of the three-judge court. It shall be the duty of the Chief Judge of the First Circuit Court of Appeals, with proper authorization by the Chief Justice of the United States under section 291(a) of title 28, United States Code, where necessary, to designate three judges, of whom at least one shall be a circuit judge and the remaining judge or judges shall be district court judges, to hear and determine any such claim. No judge resident in Puerto Rico shall be designated. Hearings of the three-judge court shall be conducted in Puerto Rico. An appeal from a final judgment of the three-judge court will lie to the Supreme Court of the United States by way of certiorari.

(f) IMPLEMENTATION.—The procedures for implementing the status option which has been certified by the Governor pursuant to subsection (c), shall go into effect on October 1, 1991, in accordance with the appropriate title of this Act.

(g) REFERENDUM INFORMATION OFFICER.—The President shall appoint, from a list provided by the three principal political parties of Puerto Rico, a Referendum Information Officer to be responsible for the translation and distribution of information and educational materials on the

referendum. If the President is not satisfied with the qualifications of those persons on the initial list, the political parties shall submit such additional lists as may be necessary until an appointment is made. There are authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

TITLE II—STATEHOOD

SEC. 201. PROCLAMATION.

[Should statehood be certified, under section 101 of this Act, as having obtained a majority of the votes cast in the referendum, and upon the certification of the election of the officers required to be elected as provided in section 206 of this Act, the President shall issue his proclamation announcing the results of said election as so ascertained. Upon the issuance of said proclamation, the Commonwealth of Puerto Rico (hereinafter referred to also as "the State") shall be declared to be a State of the United States of America, and shall be declared admitted into the Union on an equal footing with the other States.]

(a) If, under section 101(c) of this Act, statehood is certified as having obtained a majority of the votes cast in the referendum, the President shall issue a proclamation announcing the results of the election as so ascertained.

(b) Upon the issuance of the proclamation under subsection (a), the Commonwealth of Puerto Rico (hereafter in this title also referred to as "the State") shall, effective on January 1 of the 5th calendar year following the calendar year in which the certification under section 101(c) of this Act occurs, be declared to be a State of the United States of America, and shall be declared admitted into the Union on an equal footing with the other States.

SEC. 202. CONSTITUTION.

The Constitution of the Commonwealth of Puerto Rico shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. The Constitution adopted by a vote of the people of Puerto Rico in the election held on June 4, 1951, has been found by Congress to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and was accepted, ratified, and confirmed, through Public Law 447 of the Eighty-second Congress, March 3, 1952. The current Constitution of the Commonwealth of Puerto Rico as ratified by the people at the referendum held on June 4, 1951, is hereby accepted as the Constitution of the State.

SEC. 203. TERRITORY AND BOUNDARIES.

The State shall consist of all of the territory, together with the waters included in the seaward boundary, of the Commonwealth of Puerto Rico.

SEC. 204. STATE TITLE TO LANDS AND PROPERTY.

(a) The State and its political subdivisions shall have and retain title to all property, real and personal, which it currently holds, including, but not limited to, title to submerged lands heretofore granted to Puerto Rico.

(b) Any lands and other properties that, as of the date of admission of Puerto Rico into the Union, are set aside pursuant to law for the use of the United States under any (A) Act of Congress, (B) Executive order, (C) proclamation of the President, or (D) proclamation of the Governor of the Commonwealth of Puerto Rico, shall remain the property of the United States.

(c) Not later than five years after the date of admission of the Commonwealth of Puerto Rico as a State of the Union, each Federal agency having control over any land or property that is retained by the United States pursuant to this section shall submit a report to the President and the Congress concerning the continued need for such land or property. If the President determines that any such land or property, or portion thereof, or any interest therein, is no longer needed by the Federal Government, it shall be conveyed to the Commonwealth of Puerto Rico at no cost. This

section does not authorize the transfer of any interest in the Caribbean National Forest or the San Juan Historic Site.

(d) All laws of the United States: (1) reserving to the United States the free use or enjoyment of property which vest in or is conveyed to the Commonwealth of Puerto Rico or its political subdivisions pursuant to this section; or (2) reserving the right to alter, amend, or repeal laws relating to the ownership of such land; shall cease to be effective upon the conveyance of the land.

SEC. 205. CLAIMS TO FEDERAL LANDS AND PROPERTY.

(a) As a compact with the United States, the Commonwealth and its people recognize all rights and titles to any lands or other property not granted or conferred to the Commonwealth or its political subdivisions by or under the authority of this Act, the right or title to which is now held by the United States or subject to disposition by the United States.

(b)(1) Nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by applicable laws of the United States.

(2) Nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any applicable law authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the

determination of the applicability of any law to any such claim shall be unaffected by anything in this Act.

(c) No taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States.

SEC. 206. ELECTIONS AND ADMISSION REFERENDUM.

[(a)(1) Within thirty days after the date of the certification of the results of the referendum under title I of this Act, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation for the election of two United States Senators and for such number of United States Representatives in Congress as provided in this Act. The Governor of the Commonwealth shall certify the election of the Senators and Representatives in the manner required by law. The Senators and Representatives elected shall be entitled, upon the proclamation issued under section 201, to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of the other States in the Congress of the United States. The Office of Resident Commissioner shall cease to exist upon the swearing in of the first Member of the House of Representatives so elected.]

(a)(1)(A) Not later than January 1 of the 4th calendar year following the calendar year in which the certification under section 101(c) of this Act occurs, the Governor of the Commonwealth of

Puerto Rico shall issue a proclamation for the election of two United States Senators and for such number of United States Representatives in Congress as provided in this Act. Such proclamation shall provide that such elections shall occur on the first Tuesday in November of such 4th calendar year (or on another date during the fall of such calendar year as may be provided by legislation enacted by the Commonwealth of Puerto Rico).

(B) The Governor of the Commonwealth of Puerto Rico shall certify the election of the Senators and Representatives in the manner required by law. The Senators and Representatives elected shall be entitled, upon the date of admission of the Commonwealth of Puerto Rico as a State of the Union, to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of the other States in the Congress of the United States. The Office of Resident Commissioner shall cease to exist upon the swearing in of the first Member of the House of Representatives so elected.

(2) In the first election of Senators from the State, the two senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No such identification or designation of either of the two senatorial officers shall refer to or be taken to refer to the terms of such offices, or in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

(b)(1) Election returns shall be made and certified in such manner as provided by the electorial laws of Puerto Rico and in such a manner as the Commonwealth of Puerto Rico may prescribe. The Governor of the Commonwealth of Puerto Rico shall certify the results of such elections to the President of the United States.

(2) The new State of Puerto Rico shall be known as the Commonwealth of Puerto Rico.

(3) The individuals holding legislative, executive, and judicial offices of the Commonwealth of Puerto Rico, shall continue to discharge the duties of their respective offices, pending the issuance of the proclamation by the President of the United States and the admission of the Commonwealth of Puerto Rico as a State of the Union. The officers elected or appointed under the provisions of the constitution and laws of the Commonwealth shall thereupon proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of the State, as provided by the constitution and laws of the State.

SEC. 207. CONGRESSIONAL REPRESENTATION.

The Commonwealth of Puerto Rico upon its admission into the Union, and until the next reapportionment, shall be entitled to such additional Representatives as would be provided based upon the 1990 census. The permanent membership of the House of Representatives as now prescribed by law, is hereby increased from four hundred and thirty-five to four hundred and thirty-five plus the number of additional Representatives to which the Commonwealth of Puerto Rico is entitled.

SEC. 208. LAWS IN EFFECT.

(a) Upon admission of the Commonwealth of Puerto Rico into the Union, all of the local laws then in force in the Commonwealth of Puerto Rico shall be and continue in force and effect throughout the State, except as modified or changed by this Act, and shall be subject to repeal or amendment by the legislature of the Commonwealth. All of the laws of the United States shall have the same force and effect within the State as on the date immediately prior to the date of admission of the State of Puerto Rico, except as otherwise provided in section 213 ***or 214*** *or elsewhere in this Act, and except for any provisions of law which provide for grants or other assistance to States or other units of local government or individuals and for which the Commonwealth of Puerto Rico or residents thereof are either excluded or whose eligibility is less than that provided on a uniform basis to other*

States. Any regulatory or other provision of law, other than grants and other assistance, which does not apply to Puerto Rico solely on the basis of particular geography, especially if such provision does not also apply to either Alaska or Hawaii, shall continue to not apply unless specifically extended by Congress.

(b) Within sixty days of the certification of a majority vote for statehood in the referendum, the President shall appoint a Commission on Federal Laws to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not applicable to the Commonwealth of Puerto Rico should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner. The Commission will consist of seven persons (at least four of whom will be residents of Puerto Rico who are and have been for at least five years domiciled continuously in Puerto Rico at the time of their appointments) who will be representative of the Federal, local, private and public interests in the applicability of laws of the United States to the Commonwealth of Puerto Rico. The Commission will make its final report by January 1, 1994, and before that time will make such interim reports and recommendations to the Congress as it considers appropriate. In formulating its recommendations the Commission

will take into consideration the potential effect of each law on local conditions within the Commonwealth of Puerto Rico, the policies embodied in the law and the provisions and purposes of this title. The United States will bear the cost of the work of the Commission. There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

SEC. 209. CONTINUATION OF SUITS.

(a) No writ, action, indictment, cause, or proceeding pending in any court of the Commonwealth of Puerto Rico, shall abate by reason of the admission of the Commonwealth of Puerto Rico into the Union, but shall proceed within such appropriate State courts as are now established under the Constitution of the Commonwealth, or shall continue in the United States District Court for the District of Puerto Rico, as the nature of the case may require.

(b) All civil causes of action and all criminal offenses, which shall have arisen or been committed prior to the admission of the Commonwealth, but as to which no writ, action, indictment, or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Puerto Rico in like manner, to the same extent, and with like right of appellate review, as if such State had been created and such State courts had been established prior

to the accrual of such causes of action or the commission of such offenses. The admission of the State shall effect no change in the procedural or substantive laws governing causes of action and criminal offenses which shall have arisen or been committed, and any such criminal offenses as shall have been committed against the laws of the Commonwealth of Puerto Rico, shall be tried and punished by the appropriate courts of the State, and any such criminal offenses as shall have been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Puerto Rico.

SEC. 210. APPEALS.

Parties shall have the same rights of judicial review of final decisions of the United States District Court for the District of Puerto Rico or the Supreme Court of the Commonwealth of Puerto Rico, in any case finally decided prior to the admission of the State of Puerto Rico into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission. The United States Court of Appeals for the First Circuit and the Supreme Court of the United States, shall have the same jurisdiction in such cases as by law provided prior to the admission of the State into the Union. Any mandate issued subsequent to the admission of the State, shall be to the United States District Court for the District of Puerto Rico or a court of the State, as appropri-

ate. Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Puerto Rico and of the Supreme Court of Puerto Rico, in any case pending at the time of admission of the State into the Union, and the Supreme Court of the Commonwealth of Puerto Rico and the Supreme Court of the United States shall have the same jurisdiction therein, as by law provided in any case arising subsequent to the admission of the State into the Union.

SEC. 211. MILITARY LANDS.

(a) Subject to subsection (b) and notwithstanding the admission of the Commonwealth of Puerto Rico into the Union, authority is reserved in the United States for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of land as, immediately prior to the admission of the State, are controlled or owned by the United States and held for defense or Coast Guard purposes.

(b)(1) The Commonwealth of Puerto Rico shall always have the right to serve civil or criminal process within such tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes

committed within the State but outside of such tracts or parcels of land.

(2) The reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over such lands shall not operate to prevent such lands from being a part of the Commonwealth of Puerto Rico, or to prevent the State from exercising over or upon such lands, concurrently with the Federal Government, any jurisdiction which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation or authority.

(3) The power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for defense or Coast Guard purposes, except that the United States shall continue to have sole and exclusive jurisdiction over such military installations as have been or may be determined to be critical areas as designated by the President of the United States or the Secretary of Defense.

SEC. 212. UNITED STATES NATIONALITY.

No provision of this title shall operate to confer United States nationality, to terminate nationality lawfully acquired, or to restore nationality terminated or lost under any

law of the United States or under any treaty to which the United States is or was a party.

SEC. 213. ECONOMIC ADJUSTMENT.

The following provisions ***and the provisions of section 214*** *are enacted pursuant to Congress's power to admit new States, in recognition of the unique Federal tax provisions and programs affecting the Commonwealth of Puerto Rico which differ from those which applied to any other newly admitted State, and solely for the purposes of effecting a smooth and fair transition for the new State with a minimum of economic dislocation and to permit Federal agencies to assume or expand responsibilities for the administration and enforcement of Federal taxes and programs affecting the citizens residing in the new State.*

[(a) APPLICATION OF EXCISE TAXES.—Effective on the date of admission of the State of Puerto Rico, all Federal excise taxes not heretofore applicable to the former Commonwealth of Puerto Rico are hereby extended to the State in the same manner as otherwise applicable in the several States.]

[(b)](a) APPLICATION OF FEDERAL LAWS.—Effective upon the certification of the results of the referendum, the heads of all Federal agencies are directed, as a priority matter, to examine the application of all programs within the jurisdiction of their respective agencies and, after consultation with the Governor of Puerto Rico, to recommend to the

President, and to the Commission established under section 208(b), what changes, if any, and what additional administrative requirements, if any, will be needed to properly achieve the application of Federal laws in or to the new State with proper regard for the economic, geographic, and cultural circumstances of the new State.

[(c) TRANSITION FOR CERTAIN ENTITLEMENTS.—Except as otherwise provided in this subsection, effective on the date of admission of the State of Puerto Rico, all Federal programs which provide assistance to or on behalf of individuals, including, but not limited to, Aid to Families with Dependent Children, Medicaid, Medicare, Foster Care and Adoption Assistance, Social Services block grant, and the Food Stamp Program, shall apply in the Commonwealth of Puerto Rico as they apply within the several States: Provided, That, reimbursements under Medicare shall not exceed the actual cost of providing equivalent health care to the levels of care provided in the several contiguous States: Provided further, That the Secretary of Agriculture may, with the consent and agreement of the Governor of Puerto Rico continue to obligate the amount of funds for which Puerto Rico becomes eligible under the Food Stamp Program as a block grant rather than as coupons as a pilot program until October 1, 1997, unless otherwise provided by Congress. Solely for the purposes of transition and as a matter of administra-

tive necessity, to enable the Secretary of Health and Human Services to properly administer and provide benefits under the Supplemental Security Income Program, such program shall not commence until January 1, 1994. Until such date, the present Program for Aid to the Aged, Blind and Disabled is continued.

[(d) TRANSITION FOR TAX.—The current tax treatment applicable to Puerto Rico is continued until January 1, 1994. Effective upon the certification of the results of the referendum, the Secretary of the Treasury shall consult with the Governor of Puerto Rico on the transition of the new State from a foreign tax jurisdiction. The Secretary is authorized, on a nonreimbursable basis, to provide such technical and other assistance as the Governor may require to reform the present revenue situation of Puerto Rico prior to January 1, 1994. The heads of all Federal agencies are directed to assist the Secretary and to provide such support as the Secretary may request. Effective January 1, 1994, the Federal internal revenue laws shall apply within the State of Puerto Rico as within the several States subject to such transitional rules or other provisions as Congress may have enacted prior to such date: Provided, That, the credit previously allowed under section 936 of the Internal Revenue Code with respect to income or investments from activity in Puerto Rico shall be reduced to 80 per centum for taxable years beginning

in 1994, 60 per centum for taxable years beginning in 1995, 40 per centum for taxable years beginning in 1996, 20 per centum for taxable years beginning in 1997, and shall not be available with respect to such income or investments thereafter. Congress explicitly reserves authority to enact appropriate transitional rules regarding the implementation of the above credit reductions and the tax treatment of corporations with respect to which an election under Internal Revenue Code section 936 is in effect during the transition period, and the Secretary of the Treasury is authorized to promulgate and implement such regulations as are necessary therefor.

[(e) STATEHOOD GRANTS AND ASSISTANCE.—

[(1) The current payment provided by permanent indefinite appropriations of customs duties and equivalency payments on alcohol are hereby continued as a statehood grant.

[(2) Until otherwise provided by law, all revenues derived from excise taxes which became applicable in the State pursuant to subsection (a) of this section, or any new excise taxes which become applicable thereafter, shall be deposited into the Treasury of Puerto Rico. As a compact with the State of Puerto Rico, no alteration in the transfer of funds under this paragraph and paragraph (1) above may be made until after Oc-

tober 1, 1998. The prohibition under section 7652(d)(2) of the Internal Revenue Code shall apply to such funds.

[(3) As a transitional statehood grant to the new State to assist in maintenance of government services and to provide for maintenance of infrastructure, and to minimize the impact on local revenues from the transition from being a foreign tax jurisdiction, all revenues derived from the application of the Federal internal revenue laws in 1994 and 1995 within the State of Puerto Rico shall be deposited into the Treasury of Puerto Rico. The measure of the amount of income which is so derived will be determined according to such transitional rules or other provisions as Congress may have enacted prior to January 1, 1994.]

(b) TRANSITION FOR CERTAIN ENTITLEMENTS.—

(1) Except as otherwise provided in this subsection, effective on the date of admission of the State of Puerto Rico, all Federal programs which provide assistance to or on behalf of individuals, including, but not limited to Aid to Families with Dependent Children, Medicaid, Foster Care and Adoption Assistance, Social Services block grant, and the Food Stamp program, shall apply in the Commonwealth of Puerto Rico as they apply within the several States.

(2) Beginning on January 1 of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, amounts applicable under sections 1611(a)(1)(A) and 1611(b)(1) of the Social Security Act may not exceed 50 percent and under section 1611(a)(2)(A) and 1611(b)(2) of such Act may not exceed 75 percent of the per capita income of the State (as determined on the basis of the most recent reliable data available from the Secretary of Commerce) in which the applicant for or recipient of benefits under title XVI of such Act resides. An individual shall, regardless of legal residence, be considered to reside in a State for purposes of this paragraph for any month in which such individual is physically present in such State throughout the entire month. The Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall promulgate the amounts determined under this paragraph for the State at the same time and

in the same manner as amounts are promulgated for cost-of-living adjustments in benefits under section 1617 of the Social Security Act.

(3)(A) Beginning on January of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, the Secretary shall implement the Supplemental Security Income for the Aged, Blind, and Disabled program as provided under title XVI of the Social Security Act in Puerto Rico. The benefit standards provided under section 1611 (a) and (b) of the Social Security Act shall, after any reduction under the per capita limitation described in paragraph (2) be set at—

(i) 25 percent of the otherwise applicable level in such 2nd calendar year;

(ii) 50 percent of such level in the calendar year immediately following such 2nd calendar year; and

(iii) 75 percent of such level in the 2nd calendar year following such 2nd calendar year.

(B) The Secretary and the Government of Puerto Rico may enter into an agreement

under which the implementation of the Supplemental Security Income program described in this paragraph in Puerto Rico will be deferred to a date later than January 1 of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act (but not later than the effective date of admission of the State of Puerto Rico). Any such agreement must provide that payment levels under the program of Aid to the Aged, Blind, and Disabled as in effect in Puerto Rico shall be based on the levels that would otherwise be in effect there under the Supplemental Security Income program and the Federal contribution to the cost of such payments shall not exceed what would have been the Federal costs under such Supplemental Security Income program.

(4)(A) Except as provided in this paragraph or in any agreement between the Government of Puerto Rico and the Secretary, the Medicaid program provided for under title XIX of the Social Security Act shall, prior to the effective date of admission of the State of Puerto Rico, continue to operate in Puerto Rico as it is

operated on the date of the enactment of this Act.

(B) The Federal medical assistance percentage rate determined under section 1905(b) of the Social Security Act without regard to clause (2) of such section shall apply with respect to benefits paid under such program on or after January 1 of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act.

(C) Section 1108(c) of the Social Security Act—

(i) shall be inapplicable to Puerto Rico on and after the date of admission of the State of Puerto Rico; and

(ii) shall apply to fiscal years ending after the 1st calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, and prior to such date of admission, as though the amount set forth in paragraph (1)(C) thereof were increased by the applicable percentage of the excess of the amount that would be payable to Puerto Rico without regard to such section 1108(c) over $79,000,000.

For purposes of clause (ii), the applicable percentage is 25 percent for the 1st such fiscal year, 50 percent for the 2nd such fiscal year, and 75 percent for the 3rd such fiscal year.

(5) Prior to the effective date of admission of the State of Puerto Rico, the Aid to Families with Dependent Children program provided for under part A of title IV of the Social Security Act shall continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act, except that—

(A) the Federal matching rate for program expenditures after December of the 1st calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act shall equal the Federal medical assistance percentage rate determined under section 1905(b) of the Social Security Act without regard to clause (2) thereof, and

(B) the limitation on expenditures provided for under section 1108(a)(1) of the Social Security Act shall not apply with

respect to such expenditures under such title.

(6) The Medicare Hospital Insurance Benefits for the Aged and Disabled program provided for under part A of title XVIII of the Social Security Act shall continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act, except that the Prospective Payment Assessment Commission shall examine current levels of reimbursement under such part and advise the Secretary within 6 months of the date of the enactment of this Act as to whether the system in place on the date of the enactment of this Act accurately and appropriately reflects cost differentials between Puerto Rico and the States. If such study finds that the system in effect on the date of the enactment of this Act does not accurately reflect such cost differentials, the Secretary shall submit to the appropriate committees of Congress within 6 months of the date of completion of such study a legislative proposal to correct any deficiencies in the reimbursement system.

(7) The Secretary shall reduce the amounts otherwise payable to Puerto Rico under titles IV, XVI (as in effect before the date of the enactment of Public Law 92-603), and XIX of the Social Security Act with respect to expenditures under such titles for any fiscal year which ends after the end of the 1st calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act and prior to the date of the admission of Puerto Rico as a State, to the extent that the sum of such amounts and any expenditures under the Supplemental Security Income program under title XVI of the Social Security Act with respect to residents of Puerto Rico exceeds the sum of $161,000,000 and any increase in Federal revenues by reason of section 214(d) of this Act. The Secretary of the Treasury shall make an annual determination of such amount and provide for appropriate adjustments in such amount as determined for prior years.

SEC. 214. PROVISIONS RELATING TO TAXATION AND REVENUE TRANSFERS.

(a) GENERAL RULE.—Except as otherwise provided in this section—

(1) all Federal tax laws shall be applicable to the State of Puerto Rico on and after the date of its admission as a State of the Union in the same manner as applicable to all other States; and

(2) all Federal tax laws which are applicable to the Commonwealth of Puerto Rico before the date of the enactment of this Act shall continue to apply until such date of admission.

(b) TRANSITION PERIOD FOR APPLICATION OF INCOME TAXES.—

(1) Except as provided in paragraph (2), in the case of any taxable year in the transition period, the Federal income tax laws shall be applied—

(A) to all persons in the same manner as if the Commonwealth of Puerto Rico were a State, and

(B) without regard to section 933 of the Internal Revenue Code of 1986.

(2) The amount of any increase (or decrease) in any Federal income tax by reason of the application of paragraph (1) shall be equal to the applicable percentage of the amount by

which such tax is greater (or less) than such tax computed without regard to this subsection.

(3) For purposes of this subsection—

(A) The applicable percentage with respect to any taxable year in the transition period shall be determined in accordance with the following table:

In the case of the following year in such period:	*The applicable percentage is:*
1st	*25 percent*
2nd	*50 percent*
3rd	*75 percent*
4th and succeeding	*100 percent.*

(B) If, but for this subparagraph, the applicable percentage for the taxable year in the transition period which includes the date of admission of Puerto Rico as a State is less than 100 percent, the applicable percentage shall be treated as 100 percent with respect to the amount which bears the same ratio to the amount of the increase or decrease under paragraph (2)(A) (or the credit under paragraph (2)(B)) as—

(i) the number of months in the taxable year after the month preceding the month including such date, bears to

(ii) the total number of months in such taxable year.

(4) For purposes of this subsection, the term "transition period" means, with respect to any taxpayer, the period beginning with the taxpayer's 2nd taxable year beginning after the date of the certification of the referendum under section 101(c) of this Act and ending with the taxpayer's taxable year which includes the date of admission of Puerto Rico as a State. For purposes of the preceding sentence, a taxpayer whose 1st taxable year begins after such certification date shall be treated as if such taxpayer had such a taxable year (and subsequent taxable years) in effect on (and after) such date.

(5)(A) Paragraph (1) shall not apply to a corporation which is a FSC (as defined in section 922 of such Code) organized and operated under the laws applicable to the Commonwealth of Puerto Rico.

(B) Notwithstanding paragraph (1), if any portion of the foreign source income of a Puerto Rican corporation is not subject to United States tax by reason of paragraph (2),

such corporation shall be treated as a foreign corporation for purposes of applying the antideferral provisions to such portion.

(C) For purposes of subparagraph (B), the term "antideferral provisions" means subchapter G, subpart F of part III of subchapter N, and part VI of subchapter P of chapter 1 of such Code.

(c) EMPLOYMENT, EXCISE, AND ESTATE AND GIFT TAXES.—

(1) Except as provided in paragraph (3), and notwithstanding any other provision of law, in the case of any calendar year during the transition period, the following taxes shall be imposed in the same manner as if the Commonwealth of Puerto Rico were a State:

(A) Chapter 24 of the Internal Revenue Code of 1986 (relating to income tax collected at source).

(B) Any excise tax imposed under the Internal Revenue Code of 1986 other than sections 3111 and 3301 of such Code.

(2) In the case of any transfer of property after September 27, 1990, and before the date of admission of Puerto Rico as a State by a

donor to whom section 2501(c) of the Internal Revenue Code of 1986 applies by reason of being a resident of Puerto Rico—

(A) if such donor dies on or after such date of admission, the value of such property shall be included in the donor's gross estate if the donor or the donor's spouse retains directly or indirectly any beneficial interest in such property as of the date of death or disposes of such interest within 3 years before such date of death, and

(B) for purposes of applying subtitle B of such Code to any transfer, or to the estate of any decedent dying, after such date of admission, such transfer of property shall be taken into account in computing taxable gifts and adjusted taxable gifts.

(3)(A) A tax imposed under paragraph (1) shall be equal to the applicable percentage of such tax determined without regard to this paragraph.

(B) For purposes of this paragraph, the applicable percentage for any calendar year in

the transition period shall be determined in accordance with the following table:

In the case of the following year in such period:	*The applicable percentage is:*
1st year	*25 percent*
2nd year	*50 percent*
3rd year	*75 percent*
4th year	*100 percent.*

(4) For purposes of this subsection, the term "transition period" means the 4-calendar year period beginning with the 2nd calendar year following the calendar year in which the date of the certification of the referendum under section 101(c) of this Act occurs.

(5) Paragraph (1)(B) shall not apply to any article to which section 7652 of the Internal Revenue Code of 1986 applies.

(6)(A) In the case of any article which is held for sale in Puerto Rico on January 1 of the 1st, 2nd, 3rd, or 4th calendar year of the transition period, and which on such date is beyond the point at which tax would otherwise be imposed under the relevant provision of the Internal Revenue Code of 1986, there is hereby imposed a tax equal to the excess of--

(i) the Federal excise tax which would be imposed under the Internal Revenue

Code of 1986 if such tax were imposed on such date, over

(ii) the amount of such tax if such tax were imposed on January 1 of the preceding calendar year.

(B) The person holding an article on which tax is imposed under subparagraph (A) shall be liable for payment of such tax, and such tax shall be due and payable on February 15 of the calendar year in which imposed in the same manner as the excise tax which would have been imposed under the relevant provision of the Internal Revenue Code of 1986 on a similar article.

(d) TRANSITION PERIOD FOR SECTION 936 CREDIT.—

(1) In the case of a taxable year in the transition period, the credit under section 936 of the Internal Revenue Code of 1986—

(A) shall be allowable to a taxpayer only if such taxpayer (or a predecessor) elected the application of such section for its taxable year which included the date of the certification of the referendum under section 101(c) of this Act, and

(B) shall be equal to the applicable percentage of the lesser of—

(i) the amount of such credit determined without regard to this subsection, or

(ii) 130 percent of the average amount of such credit of the taxpayer and its predecessors for the 3-taxable year period ending with the taxpayer's last taxable year ending before August 1, 1990 (not taking into account years in which the taxpayer or its predecessor was not in existence).

If neither the taxpayer nor any predecessor has a taxable year ending before August 1, 1990, the amount under clause (ii) shall be treated as being equal to the amount of such credit of the taxpayer for its 1st taxable year ending on or after August 1, 1990 (adjusted as provided by the Secretary in the case of a short taxable year).

(2)(A) For purposes of this subsection, the applicable percentage for any taxable year in the transition period shall be determined in accordance with the following table:

In the case of the following year in such period:	*The applicable percentage is:*
1st taxable year	*75 percent*
2nd taxable year	*50 percent*
3rd taxable year	*25 percent*
4th and following taxable year	*0 percent.*

(B) For purposes of this paragraph, a rule similar to the rule contained in subsection (b)(3)(B) shall apply.

(3) For purposes of this subsection, the term "transition period" has the meaning given such term by subsection (b)(4).

(e) COVER OVER OF TAXES.—

(1)(A) Except as provided in subparagraph (B), all income and excise taxes collected under the internal revenue laws of the United States by reason of subsections (b) and (c) allocable to each fiscal year (or portion thereof) proceeding the date of admission of Puerto Rico as a State shall be covered into the treasury of Puerto Rico.

(B) The provisions of section 7652 of the Internal Revenue Code of 1986 shall continue to apply before the date of admission of Puerto Rico as a State and shall cease to apply on and after such date.

(2)(A) Taxes collected under the internal revenue laws of the United States by reason of

subsection (d) allocable to each fiscal year (or the portion thereof) preceding the date of admission of Puerto Rico as a State shall be covered into the treasury of Puerto Rico to the extent that the amount of such taxes exceeds the applicable excess expenditures of the United States allocable to such portion of the fiscal year.

(B) For purposes of subparagraph (A), the term "applicable excess expenditures" means the excess (if any) of—

(i) the amount of expenditures by the United States—

(I) with respect to the operation in Puerto Rico (or for residents thereof) of the programs established by parts A and E of title IV, title XVI (as added by Public Law 92–603), title XVI (as in effect before the date of the enactment of Public Law 92–603), and title XIX of the Social Security Act, and

(II) with respect to credits under section 32 of such Code in excess of tax liability allowable to residents of Puerto Rico, over

(ii) the amount of the expenditures described in clause (i) which would have been made without regard to the provisions of this Act.

(f) RESERVATION; REGULATIONS.—

(1) Congress explicitly reserves authority to enact appropriate transitional rules to implement the provisions of this section.

(2) The Secretary of the Treasury is authorized to promulgate such rules and regulations as are necessary or appropriate to carry out the purposes of this section and to implement the transition to statehood.

SEC. 215. AMENDMENTS TO TRADE LAWS.

(a) ELIMINATION OF SEPARATE DUTIES.—

(1) Notwithstanding any other provision of law, no additional duties may be imposed by the Legislature of Puerto Rico after the date of the certification of the referendum under section 101(c) of this Act.

(2) Beginning on the first day of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, any duties imposed by the Legislature of Puerto Rico that are in effect on

the date of such certification shall be reduced by an amount equal to the applicable percentage of such duties in accordance with the following table:

In the case of the following calendar year after certification:	*The applicable percentage is:*
2nd	*25*
3rd	*50*
4th	*75*
5th and following	*100.*

(3) Section 319 of the Tariff Act of 1930 (19 U.S.C. 1319) is repealed effective January 1 of the 5th calendar year following the calendar year in which the date of the certification of the referendum under section 101(c) of this Act occurs.

(4) The Act of June 18, 1934 (48 Stat. 1017, chapter 604; 19 U.S.C. 1319a) is repealed effective January 1 of the 5th calendar year following the calendar year in which the date of the certification of the referendum under section 101(c) of this Act occurs.

(5) Any Act ratifying an Act of the Legislature of Puerto Rico which imposes tariffs or duties on articles imported into Puerto Rico is repealed effective January 1 of the 5th calendar year following the calendar year in which

the date of the certification of the referendum under section 101(c) of this Act occurs.

(b) CARIBBEAN BASIN INITIATIVE.—

(1) Section 213(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)) is amended—

(A) by striking "the Commonwealth of Puerto Rico" in the flush paragraph at the end of paragraph (1),

(B) by striking "(other than the Commonwealth of Puerto Rico)" in the flush paragraph at the end of paragraph (1), and

(C) by striking paragraphs (4) and (5).

(2) Section 214(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703 note) is amended—

(A) by striking "the treasuries of Puerto Rico or" and inserting "the treasury of", and

(B) by striking "produced in Puerto Rico or" and inserting "produced in".

(3) Section 214 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 1319 note) is amended by striking subsection (e) and by re-

designating subsections (f) and (g) as subsections (e) and (f), respectively.

(4) The amendments made by this subsection shall take effect on January 1 of the 5th calendar year following the calendar year in which the date of the certification of the referendum under section 101(c) of this Act occurs.

(c) CONFORMING AMENDMENTS.—

(1) Section 504 of the Trade Act of 1974 (19 U.S.C. 2464(e)) is amended by striking subsection (e) and redesignating subsection (f) as subsection (e).

(2) Section 4 of the Act of April 12, 1900 (commonly known as the "Foraker Act"; 31 Stat. 77, chapter 191; 48 U.S.C. 740) is repealed.

(3) The amendments made by this subsection shall take effect on January 1 of the 5th calendar year following the calendar year in which the date of the certification of the referendum under section 101(c) of this Act occurs.

TITLE III—INDEPENDENCE

SEC. 301. CONSTITUTIONAL CONVENTION.

(a) Should independence be certified, under section 101 of this Act, as having obtained a majority of the votes cast in the referendum, then the Legislative Assembly of the Com-

monwealth of Puerto Rico shall provide, within two months, for the election of delegates to a Constitutional Convention to serve until the proclamation of independence and to draft a Constitution for the Republic of Puerto Rico. The election of delegates must be held within six months after such referendum.

(b) Those qualified to vote in the election of delegates to the Constitutional Convention shall be (1) All persons born and residing in Puerto Rico; (2) all persons residing in Puerto Rico and one of whose parents was born in Puerto Rico; (3) all persons who at the time of the adoption of this Act shall have resided in Puerto Rico for a period of twenty years or more; (4) all persons who established their residence in Puerto Rico prior to attaining voting age and still reside in Puerto Rico; and (5) spouses of all persons included in (1), (2), (3), and (4) above.

(c) The laws of the Commonwealth of Puerto Rico relating to additional voter qualifications and the electoral process shall apply to this election.

(d) The Constitutional Convention shall meet within three months of the election of delegates at such time and place as the Legislative Assembly of the Commonwealth of Puerto Rico shall determine.

(e) The Constitutional Convention shall exercise jurisdiction over all of the territory of Puerto Rico ceded to the

United States by Spain by virtue of the Treaty of Paris the tenth day of December 1898.

SEC. 302. CHARACTER OF THE CONSTITUTION.

(a) The Constitutional Convention mandated under the previous section shall formulate and draft a constitution establishing a republican form of government which shall guarantee the protection of fundamental human rights.

(b) The fundamental human rights guaranteed by the aforementioned constitution shall include such rights as due process and equal protection under the law, freedom of speech, press, assembly, association, and religion, as well as the rights of the accused, and economic, social, and cultural rights such as the right to education, adequate nutrition, health services, adequate housing, and work or employment and the right to own private property and to just compensation for the taking thereof.

(c) The property rights of the United States and Puerto Rico shall be promptly adjusted and settled, and all existing property rights of citizens or corporations of the United States shall be acknowledged, respected, and safeguarded to the same extent as property rights of citizens of Puerto Rico.

SEC. 303. RATIFICATION OF THE CONSTITUTION.

(a) The Constitution adopted by the Constitutional Convention shall be submitted to the people of Puerto Rico for its ratification or rejection.

(b) The Legislative Assembly of the Commonwealth of Puerto Rico shall call for a special election for such ratification or rejection, to be held within three months of the adoption of the Constitution by the Constitutional Convention.

(c) The special election providing all qualified voters the opportunity to cast a vote for or against the proposed Constitution shall be held in the manner prescribed by the Legislative Assembly of the Commonwealth of Puerto Rico. In the event such Constitution is not approved in the election, it shall be resubmitted to the convention for further consideration and resubmission to the voters as provided in this section.

(d) Those qualified to vote in this election shall be those possessing the qualifications established in section 301 of this title.

SEC. 304. ELECTION OF OFFICERS OF THE REPUBLIC.

(a) Within thirty days of the ratification of the Constitution as provided for by section 303 of this title, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation calling for the election of such officers of the Republic of Puerto Rico as may be required by the ratified Constitution.

(b) The election of officers of the Republic shall be held not later than six months after the date of ratification of the Constitution.

(c) The aforesaid election shall be held in accordance with the procedures and requirements established in the Constitution of the Republic of Puerto Rico.

(d) The Governor of the Commonwealth of Puerto Rico shall certify the results of the election to the President of the United States.

SEC. 305. JOINT TRANSITION COMMISSION.

(a) A Joint Transition Commission shall be appointed in equal numbers by the President of the United States and the Presiding Officer of the Constitutional Convention of Puerto Rico.

(b) The Joint Transition Commission shall be responsible for expediting the orderly transfer of all functions currently exercised by the Government of the United States in Puerto Rico, or in relation to Puerto Rico; including the recommendation of appropriate legislation to the appropriate officials of each government.

(c) Any necessary task forces established by the Joint Transition Commission shall be constituted in the same manner as the Commission.

(d) The Government of the Commonwealth of Puerto Rico and the agencies of the Government of the United States shall cooperate with the Joint Transition Commission and subsequently with the new officers of the Republic of

Puerto Rico, to provide for the orderly transfer of the functions of government.

(e) The costs of the Transition Commission shall be evenly divided between the United States and Puerto Rico, and there is hereby authorized to be appropriated such sums as are necessary for the United States share of these costs. Agencies of the United States Government shall provide technical assistance to the Joint Transition Commission on a reimbursable basis.

SEC. 306. RESOLUTION OF CONTROVERSIES PRIOR TO INDEPENDENCE.

Except as provided in title I of this Act and beginning on the date of the certification provided for in title I of this Act, and until the date of proclamation of independence, any action arising from this title filed in courts of the United States shall be stayed and referred to the Joint Transition Commission for resolution within a reasonable period of time.

SEC. 307. PROCLAMATIONS BY THE PRESIDENT OF THE UNITED STATES AND THE HEAD OF STATE OF THE REPUBLIC OF PUERTO RICO.

(a) Not later than one month after the official certification of the elected officers of the Republic of Puerto Rico under section 304, and the approval, in accordance with the constitutional processes of Puerto Rico and the United

States, of the agreements set forth in sections 312 and 313, the President of the United States shall by proclamation withdraw and surrender all rights of possession, supervision, jurisdiction, control or sovereignty then existing and exercised by the United States over the territory and people of Puerto Rico, and shall furthermore recognize on behalf of the United States of America the independence of the Republic of Puerto Rico and the authority of the government instituted by the people of Puerto Rico under the Constitution of their own adoption. The proclamation shall state that the effective date of withdrawal of the sovereignty of the United States and the recognition of independence shall be the same as the date of the proclamation of independence, as provided in subsection (d).

(b) The President of the United States shall forward a copy of the proclamation issued by him to the presiding officer of the Constitutional Convention of Puerto Rico within a week after signature.

(c) Within one week after receiving the Presidential proclamation and with the advice of the officer elected as head of state of the Republic, the presiding officer of the Constitutional Convention shall determine the date in which the Government of the Republic shall take office, and shall so notify the Governor of the Commonwealth of Puerto Rico and the President of the United States.

(d) Upon taking office, the head of state of the Republic of Puerto Rico shall immediately issue a proclamation declaring (1) that Puerto Rico has become a sovereign, independent nation; (2) that the Constitution of the Republic is thenceforth in effect; (3) that the Commonwealth of Puerto Rico and its Government have ceased to exist; and (4) that the Government of the Republic will henceforth exercise its powers and duties under its Constitution.

SEC. 308. EFFECTS OF THE PROCLAMATION OF INDEPENDENCE ON LEGAL AND CONSTITUTIONAL PROVISIONS.

(a) Upon the proclamation of independence as provided in section 307, and except as otherwise provided in this title or in any separate agreements hereinafterwards concluded between the United States and the Republic of Puerto Rico—

(1) all property, rights, and interests which the United States may have acquired over Puerto Rico by virtue of the Treaty of Paris of 1898, and thereafter by cession, purchase, or eminent domain, with the exception of such land and other property, rights, or interests as may have been sold or otherwise legally disposed of prior to the enactment of this Act, shall vest in the Republic of Puerto Rico;

(2) all laws of the United States applicable to the Commonwealth of Puerto Rico immediately prior to

the proclamation of independence shall no longer apply in the Republic of Puerto Rico; and

(3) all laws and regulations of the Commonwealth of Puerto Rico in force immediately before the proclamation of independence shall continue in force and shall be read with such modifications, adaptions, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution of the Republic of Puerto Rico until such time as they shall be replaced with new legislation: Provided, That any provisions that may be incompatible with the sovereignty of the Republic of Puerto Rico shall be deemed invalid.

SEC. 309. EFFECTS OF THE PROCLAMATION OF INDEPENDENCE ON JUDICIAL PRONOUNCEMENTS.

Unless otherwise agreed by the Governments of the United States and Puerto Rico in accordance with their respective constitutional processes:

(a) The Republic of Puerto Rico shall recognize and give effect to all orders and judgments rendered by United States or Commonwealth courts prior to the proclamation of independence pursuant to the laws of the United States then applicable to the Commonwealth of Puerto Rico.

(b) All judicial proceedings pending in the courts of the Commonwealth of Puerto Rico prior to the proclamation of

independence shall be continued in the corresponding courts under the Constitution of the Republic of Puerto Rico.

(c) Upon the proclamation of independence, the judicial power of the United States shall no longer extend to Puerto Rico. All proceedings pending in the United States District Court for the District of Puerto Rico shall be transferred to the corresponding Puerto Rican courts of competence under the Constitution of the Republic of Puerto Rico for disposition in conformity with laws applicable at the time when the controversy in process arose. All proceedings pending in the United States Court of Appeals for the First Circuit, or in the Supreme Court of the United States, which may have initiated in the courts of the Commonwealth or in the United States District Court for the District of Puerto Rico shall continue until their final disposition and shall be submitted to the competent authority of the Republic of Puerto Rico for proper execution: Provided, That neither the United States nor any of its officers is a party, in which case any final judgment shall be properly executed by the competent authority of the United States.

SEC. 310. STATE SUCCESSION.

(a) The Government of the Republic of Puerto Rico shall be deemed successor to the Government of the Commonwealth of Puerto Rico and of all the rights and obligations thereof.

(b) Upon proclamation of independence the President of the United States shall notify the governments with which the United States is in diplomatic correspondence, to the United Nations Organization, and to the Organization of American States, that—

(1) the United States has recognized the independence of the Republic of Puerto Rico; and

(2) all obligations and responsibilities of the Government of the United States which arise from any valid bilateral or multilateral international instruments affecting Puerto Rico, insofar as said instruments may be held to have consequences for the United States because of their application to or in respect to Puerto Rico, shall cease: Provided, That such obligations and responsibilities may be assumed by the Government of the Republic of Puerto Rico in a manner to be determined and proclaimed by the appropriate officer of the Republic of Puerto Rico in accordance with its Constitution.

SEC. 311. CITIZENSHIP AND MIGRATION.

(a) All matters pertaining to Puerto Rican citizenship shall be regulated pursuant to the Constitution and laws of the Republic of Puerto Rico.

(b) Upon the certification of the referendum under section 101(c) of this Act, Puerto Rico shall no longer be deemed

to be a part of the United States for the purposes of acquiring citizenship of the United States by place of birth. Provisions of the Jones Act and Immigration and Nationality Act declaring Puerto Rico to be a part of the United States for the purpose of extending citizenship to persons born in Puerto Rico are repealed or modified, as appropriate, to delete any reference to Puerto Rico and Puerto Rico shall not be considered to be a part of the United States for such purposes: Provided, That nothing in this section shall affect the citizenship of any person born prior to the date of the certification of the referendum.

(c) Notwithstanding any other provision of law, no person born outside of the United States after the Proclamation of Independence shall be a citizen of the United States at birth if the parents of such person acquired citizenship in the United States solely by virtue of being born in Puerto Rico prior to the Proclamation of Independence pursuant to the provisions of the Jones Act and the Immigration and Nationality Act.

(d) Every person who is not a citizen of the United States and becomes a citizen of the Republic of Puerto Rico upon proclamation of Independence, or becomes a citizen of the Republic by birth after the proclamation of Independence, or is a naturalized citizen of the Republic who has been an actual resident of Puerto Rico for not less than five years,

may, after proclamation of Independence, enter into, lawfully engage in occupations, and establish residence as immigrants in the United States, as provided by law and regulations of the United States: Provided, That notwithstanding any other provision of law, persons identified under subsection (c) above may, for a period of twenty-five years after such proclamation, enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions, and such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States: Provided further, That this subsection does not confer on such citizens of Puerto Rico the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. This subsection, however, shall not prevent a citizen of Puerto Rico from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

SEC. 312. DEFENSE.

(a) Specific arrangements for the use of military areas by the United States in Puerto Rico, and to meet United States defense interests, shall be negotiated by a task force established by the Joint Transition Commission, and approved in accordance with the constitutional processes of the

United States and Puerto Rico, and shall come into effect simultaneously with the proclamation of independence. These specific arrangements shall include—

(1) detailed operating rights and status of forces agreements executed by the Government of Puerto Rico and the Government of the United States of America providing for continued use and unrestricted access, by the Government of the United States, to military installations and facilities, and Coast Guard facilities, to the same extent, and in the same manner, of use and access as existed during the period of time prior to the referendum provided for in section 101 of this Act;

(2) an agreement by the Government of Puerto Rico to deny to third countries any access to or use of the territory of Puerto Rico for military purposes, except as specifically authorized by the Government of the United States; and

(3) an agreement by the Government of Puerto Rico that the foregoing conditions will remain in full force and effect until terminated or otherwise amended by mutual consent of the Governments of Puerto Rico and of the United States: Provided, That either party may at any time request the initiation of renegotiations of such conditions.

(b) Mutual consent by the United States to any alteration, modification, amendment, limitation, termination, or other change in the agreement referred to in paragraph (2) shall occur only pursuant to a specific Act of Congress.

SEC. 313. FEDERAL PROGRAMS.

The following provisions of this title are enacted in recognition of the unique relationship between the United States and Puerto Rico, to affect a smooth and fair transition for the new Republic of Puerto Rico with a minimum of economic disruption, and to promote the development of a viable economy in the new Republic of Puerto Rico:

(a) All Federal programs shall continue to apply in Puerto Rico until the end of the fiscal year in which independence is proclaimed, at which time, a grant shall be paid to the Republic of Puerto Rico pursuant to subsection (3).

(b) Specific arrangements for the continuation or phase-out of Federal programs shall be negotiated by a Task Force on Economic Assistance established by the Joint Transition Commission and approved in accordance with the constitutional processes of Puerto Rico and the United States, and shall come into effect simultaneously with the proclamation of independence. In general, the specific arrangements shall provide that—

(1) all Federal pension programs, such as veterans and civil service benefits, shall continue as provided by United States law;

(2) prior to the end of the fiscal year in which independence is proclaimed, an estimate will be determined by the Comptroller General of the United States of the total number of grants, programs, and services, including Medicare, provided by the Federal Government in Puerto Rico in such fiscal year, except for those grants, programs, and services which will otherwise continue under this Act;

(3) a grant equal to the amount established under paragraph (2) shall be paid annually to the Republic of Puerto Rico beginning in the fiscal year following the year in which independence is proclaimed, through the ninth year following the certification of the referendum;

(4) the United States will fulfill any contractual obligations outstanding at the time of the proclamation of independence; and

(5) Puerto Rico may request that the United States renew or continue any existing contractual obligations: Provided, That Puerto Rico agrees that the cost of such renewal or continuation shall be deducted from the annual grant made under paragraph (3).

(c) There are authorized to be appropriated such sums as may be necessary to fulfill the purposes of this section.

[SEC. 314. SOCIAL SECURITY.]

SEC. 314. SOCIAL SECURITY AND UNEMPLOYMENT INSURANCE.

(a) The Joint Transition Commission established under section 305 of this Act shall establish a Task Force on Social Security [to protect the rights of workers who have permanently insured status under the Old Age, Survivors and Disability Insurance programs under title II of the Social Security Act, as of five years subsequent to the certification of the referendum, and to negotiate agreements necessary for the coordination of the Social Security System of the United States with a similar system to be established in the new Republic of Puerto Rico] ***to negotiate agreements necessary for the coordination of the social security system of the United States established by title II of the Social Security Act with a similar system to be established in the new Republic of Puerto Rico. Such agreements shall protect the benefit rights of all individuals who have attained benefit eligibility under such title as of 5 calendar years subsequent to the certification of the referendum and shall provide appropriate credit for others who have contributed to such system.*** *Any such agreement shall be approved in*

accordance with the constitutional processes of Puerto Rico and the United States.

(b) In order to provide adequate time for the negotiation and implementation of the agreements provided for in (a), the [*current*] *provisions of the Old Age, Survivors, and Disability Insurance programs under title II of the Social Security Act* ***and the related provisions of chapters 2 and 21 of the Internal Revenue Code of 1986*** *shall apply* [*for five years subsequent to the certification of the referendum under section 101 of this Act*] ***until the end of the 5th calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act.***

(c) Except as otherwise provided in this section, all programs operated under the Social Security Act shall cease to apply in Puerto Rico at the end of the fiscal year in which independence is proclaimed.

(d) Notwithstanding any other provision of law, on December 31 of the year in which a proclamation of independence is issued under section 307(d) of this Act—

(1) any amounts remaining in the Unemployment Trust Fund which are allocable to Puerto Rico shall be transferred to the Republic of Puerto Rico; and

(2) the Republic of Puerto Rico shall cease to be treated as a State for purposes of chapter 23 of the Internal Revenue Code of 1986, titles III, IX, and XII of the Social Security Act, the Federal-State Extended Unemployment Compensation Act of 1970, and any similar law of the United States relating to unemployment taxes or benefits.

(e) Any person who is a citizen of the United States (as described in section 316(c) of this Act, without regard to clauses (i) and (ii) of subparagraph (B)) shall not be treated as an employee for purposes of any law described in subsection (d)(2).

[***SEC. 315. MEDICARE.***

[*The Joint Transition Commission established under section 305 of this Act shall establish a Task Force on Medicare to negotiate agreements necessary for the coordination of the Medicare system of the United States with a similar system to be established in the new Republic of Puerto Rico. Any such agreement shall be approved in accordance with the constitutional processes of Puerto Rico and the United States.*

[*SEC. 316. TRADE RELATIONS.*

[*(a) Until the proclamation of independence trade relations between Puerto Rico and the United States shall be as currently provided by law.*

[*(b) The Joint Transition Commission shall establish a Task Force on Trade to consider and develop specific provisions governing trade between the United States and Puerto Rico following the Proclamation of Independence. Congress expresses its willingness to consider a mutual free trade arrangement if negotiated. In the absence of any such agreement, Puerto Rico shall be afforded most favored nation status and: Provided, That Puerto Rico meets all criteria and requirements under the Caribbean Basin Economic Recovery Act, designation as a beneficiary country under the Caribbean Basin Initiative.*

[*(c) In order to assist Puerto Rico subsequent to the Proclamation of Independence, the President is encouraged to seek to obtain favorable tariff treatment for exports from Puerto Rico from other nations and to encourage other countries to designate Puerto Rico as a beneficiary under their respective General Systems of Trade Preferences.*

[*SEC. 317. TAXATION.*

[*(a) Effective on the date of proclamation of independence, the tax credit allowed under section 936 of the United States Internal Revenue Code shall not be available with*

respect to income or investments from activity in Puerto Rico.

[*(b) The Joint Commission established under section 305 of this Act shall establish a Task Force on Taxation to negotiate appropriate Tax Treaties to govern relations between the United States and Puerto Rico. Such agreements shall be approved by the government of Puerto Rico and the United States in accordance with their respective constitutional processes.*]

SEC. 315. TRADE RELATIONS.

(a) It is the sense of the Congress that—

(1) the United States should continue to maintain an open trading relationship with the Republic of Puerto Rico after a proclamation of independence is issued under this title, and

(2) the President should—

(A) seek to obtain favorable treatment from other countries for exports from Puerto Rico, and

(B) encourage other countries to maintain open trading relationships with Puerto Rico and to designate Puerto Rico as a beneficiary under any preferential trade arrangements such other countries maintain.

(b) The Joint Transition Commission shall establish a Task Force on Trade to consider and develop the manner in which trade between the United States and the Republic of Puerto Rico will be governed following the Proclamation of Independence. The Task Force on Trade shall submit a report on its deliberations, along with its recommendations, to the President, the Committee on Finance of the United States Senate, and the Committee on Ways and Means of the House of Representatives.

(c) Beginning on the date of the issuance of the proclamation of independence under section 307(d) of this Act, the applicable rate of duty of the general subcolumn of column 1 of the Harmonized Tariff Schedule of the United States shall apply to products of the Republic of Puerto Rico entered or withdrawn from warehouse on or after such date.

(d)(1) Section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is amended by inserting in alphabetical sequence "Puerto Rico, the Republic of".

(2)(A) Section 213(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)) is amended—

(i) by striking "Commonwealth of Puerto Rico" in the flush paragraph at the end of paragraph (1),

(ii) by striking "(other than the Commonwealth of Puerto Rico)" in this flush paragraph at the end of paragraph (1), and

(iii) by striking paragraphs (4) and (5).

(B) Section 214(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703 note) is amended—

(i) by striking "the treasuries of Puerto Rico or" and inserting "the treasury of", and

(ii) by striking "produced in Puerto Rico or" and inserting "produced in".

(C) Section 214 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 1319 note) is amended by striking subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(3) The amendments made by this subsection shall take effect on the date the proclamation of independence is issued under section 307(d) of this Act.

(e)(1) During the 5-year period beginning on the date the proclamation of independence is issued

under section 307(d) of this Act, the President may enter into a trade agreement with the Republic of Puerto Rico that provides for the reduction or elimination of any duty imposed by the United States, the elimination of any other barriers, and the establishment of a free trade area between Puerto Rico and the United States.

(2) A trade agreement entered into under this subsection shall be reciprocal and shall provide for mutual reductions in trade barriers to promote trade, economic growth, and employment.

(3) Before the President enters into any trade agreement under this subsection, the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(4) The consultation under paragraph (4) shall include—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, and objectives of section 1101 of the Omnibus Trade and Competitiveness Act of 1988; and

(C) all matters relating to the implementation of the agreement under subsection (f).

(f)(1) Any agreement entered into under subsection (e) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which he enters into the trade agreement, notifies the House of Representatives and the Senate of his intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register,

(B) after entering into the agreement, the President submits a document to the House of Representatives and the Senate containing a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill,

(ii) a statement of any administrative action proposed to implement the trade agreement, and

(iii) the supporting information described in paragraph (2); and

(C) the implementing bill is enacted into law.

(2) The supporting information required under paragraph (1)(B)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, and objectives of section 1101 of the Omnibus Trade and Competitiveness Act of 1988, and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i), and why and to what extent the agreement does not achieve other applicable purposes, policies, and objectives,

(II) how the agreement serves the interests of United States commerce, and

(III) why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement.

(g) The provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) shall apply to any draft of a bill implementing a trade agreement entered into under subsection (e).

(h) Each period of time described in subsection (f) shall be computed without regard to—

(1) the days on which either House of the Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(2) any Saturday and Sunday, not excluded under paragraph (1), when either House of the Congress is not in session.

SEC. 316. TAXATION.

(a) Except as provided in this section, the Republic of Puerto Rico shall, on and after the date of proclamation of independence under section 307, be

treated for purposes of the internal revenue laws of the United States as a foreign country.

(b)(1) In the case of a taxable year in the transition period, the credit under section 936 of the Internal Revenue Code of 1986—

(A) shall be allowable to a taxpayer only if such taxpayer (or a predecessor) elected the application of such section for its taxable year which included the date of the certification of the referendum under section 101(c) of this Act, and

(B) shall be equal to the applicable percentage of the lesser of—

(i) the amount of such credit determined without regard to this subsection, or

(ii) 130 percent of the average amount of such credit of the taxpayer and its predecessors for the 3-taxable year period ending with the taxpayer's last taxable year ending before August 1, 1990 (not taking into account years in which the taxpayer or any predecessor was not in existence).

If neither the taxpayer nor any predecessor has a taxable year ending before August 1, 1990, the

amount under clause (ii) shall be treated as being equal to the amount of such credit of the taxpayer for its 1st taxable year ending on or after August 1, 1990 (adjusted as provided by the Secretary in the case of a short taxable year).

(2) For purposes of this subsection, the applicable percentage for any taxable year in the transition period shall be determined in accordance with the following table:

In the case of the following year in such period:	*The applicable percentage is:*
1st taxable year	*75 percent*
2nd taxable year	*50 percent*
3rd taxable year	*25 percent*
4th and following taxable year	*0 percent.*

(3) For purposes of this subsection, the term "transition period" means, with respect to any taxpayer, the period beginning with the taxpayer's 2nd taxable year beginning after the date of the certification of the referendum under section 101(c) of this Act.

(c)(1) In the case of taxable years ending on or after the date of proclamation of independence under section 307, section 933 of the Internal Revenue Code of 1986 shall continue to apply, but only with respect to bona fide residents of Puerto Rico—

(A) who are citizens of the United States under the provisions of the Puerto Rican Fed-

eral Relations Act (commonly known as the "Jones Act", 48 U.S.C. 731 et seq.) and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) solely by reason of—

(i) being born in Puerto Rico,

(ii) being a child of parents who are citizens of the United States under such Acts solely by reason of being born in Puerto Rico, or

(iii) being described in both clause (i) and clause (ii), and

(B) who, during such taxable year, have neither—

(i) earned income (as defined in section 911(d)(2) of such Code) in excess of the maximum amount of foreign earned income which may be excluded for such taxable year under section 911 of such Code, nor

(ii) income other than earned income (as so defined) in excess of the sum of such individual's standard deduction and the deductions for personal exemptions allowable under such Code to such individual for such taxable year.

(2) If an individual described in paragraph (1) of this subsection is married to an individual not described in such paragraph, paragraph (1) shall apply to the individual described in such paragraph only if such individuals file separate income tax returns.

(d)(1) In the case of calendar years beginning after the date of the certification of the referendum under section 101(c) of this Act, notwithstanding section 7652 of the Internal Revenue Code of 1986 and section 4 of the Act of April 12, 1900 (31 Stat. 78), the amount of taxes and customs duties covered into the treasury of Puerto Rico under such sections shall be equal to the applicable percentage of such taxes and customs duties.

(2) For purposes of paragraph (1), the applicable percentage shall be determined in accordance with the following table:

In the case of the—	*The applicable percentage is:*
1st year	*80 percent*
2nd year	*60 percent*
3rd year	*40 percent*
4th year	*20 percent*
5th and following years	*0 percent.*

(e)(1) Except as provided in paragraph (2), for any calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act—

(A) clause (i) of section 42(h)(3)(C) of the Internal Revenue Code of 1986 shall not apply with respect to Puerto Rico, and

(B) section 42(h)(4) of such Code shall not apply to any building placed in service in Puerto Rico after the calendar year in which such date occurs.

(2) For purposes of paragraph (1)(B), a building shall be treated as placed in service before the 1st calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act if—

(A) the bonds with respect to such building are issued before such 1st calendar year,

(B) the taxpayer's basis in the project (of which the building is a part), as of the close of the calendar year in which such date occurs, is more than 10 percent of the estimated project costs, and

(C) such building is placed in service before the beginning of the 3rd calendar year beginning after such date.

(f) Section 103(a) of the Internal Revenue Code of 1986 shall continue to apply to bonds issued by Puerto Rico or any political subdivision on or before

(but not after) the last day of the 5th calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act.

(g) In the case of any transfer of property after September 27, 1990, and before the date of proclamation of independence under section 307 by a donor to whom section 2501(c) of the Internal Revenue Code of 1986 applies by reason of being a resident of Puerto Rico—

(1) if such donor dies on or after such date of proclamation of independence, the value of such property shall be included in the donor's gross estate if the donor or the donor's spouse retains directly or indirectly any beneficial interest in such property as of the date of death or disposes of such interest within 3 years before such date of death, and

(2) for purposes of applying subtitle B of such Code to any transfer, or to the estate of any decedent dying, after such date of proclamation of independence, such transfer of property shall be taken into account in computing taxable gifts and adjusted taxable gifts.

SEC. [318.] 317. CURRENCY AND FINANCE.

(a) The Joint Transition Commission established under section 305 shall establish a Task Force on Currency and Finance to negotiate an agreement to assist the Republic of Puerto Rico in the design and establishment of a deposit insurance system, to determine the extent of financial support to be provided for the system by United States insurance organizations in which Puerto Rico's financial institutions currently participate, and to make the necessary arrangements with respect to the use of United States currency by the Republic of Puerto Rico if so requested by the Republic. Any such agreement shall be approved in accordance with the constitutional processes of Puerto Rico and the United States.

(b) The guarantees provided by the Government of the United States to investors in the secondary market for existing loans, particularly mortgage loans guaranteed by the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLM) and other United States Government instrumentalities, shall be maintained for Puerto Rico-originated loans existing on the date of the proclamation until maturity.

SEC. [319.] 318. PUBLIC DEBT.

The debts, liabilities, and obligations of the Commonwealth of Puerto Rico, its municipalities and instrumentalities, valid and outstanding upon the date of the proclamation of independence, shall be assumed by the Republic of Puerto Rico. [The tax treatment of any such obligations shall be unaffected by the proclamation of independence to the extent that similar obligations issued by states are so treated.]

TITLE IV—COMMONWEALTH

SEC. 401. PROVISIONS.

Should Commonwealth be certified, under section 101 of this Act, as having obtained a majority of the votes cast in the referendum, the provisions of this title shall go into effect on October 1, 1991.

SEC. 402. PRINCIPLES OF COMMONWEALTH.

(a) The Commonwealth of Puerto Rico is a self-governing body politic joined in political relationship with the United States and under the sovereignty of the United States. This relationship is permanent unless revoked by mutual consent.

(b) The policy of the United States shall be to enhance the Commonwealth relationship enjoyed by the Commonwealth of Puerto Rico and the United States to enable the people of Puerto Rico to accelerate their economic and social development, to attain maximum cultural autonomy, and in matters of government to take into account local conditions in Puerto Rico.

SEC. 403. APPLICATION OF FEDERAL LAW.

(a) Notwithstanding any other provision of law, the Governor of the Commonwealth of Puerto Rico may certify from time to time to the Speaker of the House of Representatives and the President of the Senate, that the Legislature of the Commonwealth of Puerto Rico has adopted a resolution that states that a Federal law or provision thereof should no longer apply to the Commonwealth of Puerto Rico because there is no overriding national interest in having such Federal law be applicable in the Commonwealth of Puerto Rico and such applicability does not serve the interests of the people of the Commonwealth of Puerto Rico. A Federal law or laws or provision thereof so certified shall no longer apply to the Commonwealth of Puerto Rico if a joint resolution approving the recommendation of the Government of the Commonwealth of Puerto Rico is enacted.

(b) EXPEDITED CONGRESSIONAL REVIEW.—

(1) CONGRESSIONAL RULEMAKING.—This subsection is enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but is applicable only with respect to the procedure to be followed in this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith.

(2) RESOLUTION.—For purposes of this subsection, the term "resolution" means only a joint resolution, the matter after the resolving clause of which is as follows: "That the House of Representatives and the Senate approve the recommendation of the Government of the Commonwealth of Puerto Rico in the certification submitted to the Congress on , 19 ". Such resolution shall also include the certification received from the Governor of the Commonwealth of Puerto Rico and a copy of the resolution adopted by the Legislature of the Commonwealth of Puerto Rico.

(3) REFERRAL.—A resolution once introduced with respect to such a certification by the Governor of the Commonwealth of Puerto Rico shall immediately be referred by the Speaker of the House of Representatives and the President of the Senate, as the case may be, to the House Committee on Interior and Insular Affairs and to the Senate Committee on Energy and Natural Resources and at the same time to such other committees as the Speaker of the House of Representatives or the President of the Senate, respectively, shall determine.

(4) DISCHARGE.—

(A) IN GENERAL.—If the committee or committees to which a resolution with respect to a cer-

tification by the Governor of the Commonwealth of Puerto Rico has been referred has not reported it at the end of forty-five calendar days after its referral, it shall be in order to move to discharge the committee from further consideration of such resolution.

(B) MOTIONS.—A motion of discharge may be made only by an individual favoring the resolution and shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same submittal), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) RENEWAL.—If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same submittal.

(5) FLOOR CONSIDERATION.—

(A) MOTION TO CONSIDER.—When the last committee has reported, or has been discharged from further consideration of a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) DEBATE AND CONSIDERATION.—Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion to further limit debate shall not be debatable. An amendment to or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6) DETERMINATION ON MOTIONS.—

(A) MOTIONS TO POSTPONE OR TO PROCEED TO OTHER BUSINESS.—Motions to post-

pone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) APPEALS FROM THE DECISION OF THE CHAIR.—Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) SUBSEQUENT ACTION.—Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a submittal, then it shall not be in order to consider in that House any other resolution with respect to the same such submittal.

(8) COMPUTATION OF PERIOD.—For the purpose of this subsection—

(A) continuity of session is broken only by an adjournment of the Congress sine die; and

(B) the days on which either House is not in session because of any adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(c) This section shall not apply to—

(1) any Federal statutory law, or provision thereof, establishing directly or indirectly grants and/or services to citizens of the United States as individuals;

(2) any Federal statutory law, or provision thereof, relating to legislative matters within the jurisdiction of the Committee on Finance of the Senate;

***[**(2)**]** (3) any Federal statutory law or provision thereof relating to citizenship; or*

***[**(3)**]** (4) any Federal statutory law or provision thereof pertaining to the foreign relations, defense, or national security.*

(d) The Governor of Puerto Rico may enter into international agreements to promote the international interests of Puerto Rico as authorized by the President of the United States and consistent with the laws and international obligations of the United States.

SEC. 404. REGULATORY REVIEW.

(a) For the purposes of this section, the definitions in title 5, United States Code, section 551, apply.

(b) All agencies shall be guided by the policy stated in section 402 when carrying out their duties under statutes and rules applicable in or affecting the Commonwealth of Puerto Rico. Any agency that engages in rulemaking pursuant to

title 5, United States Code, section 553, shall include in the concise general statement of the basis and purpose of any final rules adopted in response to any data, views, or arguments submitted to it that raise a question of the consistency of such rules with such policy.

(c) When an agency publishes in the Federal Register any final rule (other than a rule issued after notice and hearing required by statute), that does by its terms apply in the Commonwealth of Puerto Rico, the Governor of the Commonwealth of Puerto Rico may submit to the agency within thirty days (or such longer period as the agency may have prescribed as the period between publication of the rule and its effectiveness) the Governor's determination that such rule is inconsistent with such policy and, if appropriate, of how it could be made consistent. Thereupon, the agency shall reconsider the question of the consistency of its rule with such policy and shall, within forty-five days of its receipt of the Governor's determination, publish in the Federal Register its finding either—

(1) that—

(A) by the terms of the statute pursuant to which the rule is made the agency has no discretion to make the rule inapplicable in the Commonwealth of Puerto Rico or to vary the terms of

the rule in its application to the Commonwealth or,

(B) there is a national interest that the rule be applicable in Puerto Rico in the terms in which it was published, or

(2) that the rule is not consistent with such policy, in which case the rule, whether or not previously applicable in the Commonwealth of Puerto Rico in accordance with its terms as published, shall not be so applicable or shall be applicable only in accordance with the terms specified in the agency's finding.

(3) Within sixty days of the publication by an agency of the finding provided for in paragraph (1) the Governor of the Commonwealth of Puerto Rico, if aggrieved by such finding, may petition for review thereof in the United States Court of Appeals of the First Circuit or the District of Columbia Circuit. In any such review proceeding the scope of review shall be as prescribed in section 706 of title 5, United State Code. Federal courts shall have no jurisdiction to entertain any action brought by any other party challenging agency compliance with this subsection.

(d) This section shall not apply to any rule issued pursuant to any Federal law, or provision

thereof, relating to legislative matters within the jurisdiction of the Committee on Finance of the Senate, as described in paragraph 1(i) of Rule XXV of the Standing Rules of the Senate (as in effect on the date of the enactment of this Act).

SEC. 405. AVIATION.

The officials of the Department of State and the Department of Transportation shall seek the advice of appropriate officials of the Commonwealth of Puerto Rico when negotiating any air transportation agreements which would affect air traffic to or from the Commonwealth of Puerto Rico.

[SEC. 406. INTERNATIONAL TRADE.

[(a) Section 2 of the Act of April 12, 1900 (48 U.S.C. 739), is amended by inserting the following subsection:

["(1) As strictly limited by the international obligations of the United States, the Commonwealth of Puerto Rico is authorized to impose tariff duties on foreign origin products imported into Puerto Rico from outside the customs territory of the United States. Such tariff duties may be in addition to the general tariff duties imposed by the United States if such general tariff duties are not subject to United States international obligations, or in cases where the general duty is applied at a rate below that which is subject to United States international obligations. In the latter

case, the combined duties shall not exceed the level for which a United States international obligation exists.".

[(b) Section 1102 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902), is amended by adding a new subsection (e) as follows:

["(e)(1) During the negotiation of any trade agreement under subsections (a), (b), and (c), it is the sense of the Senate that the President should consider the effects of any proposed tariff rate or any proposed changes in nontariff measures on the economy of Puerto Rico and should consult with the Governor of the Commonwealth of Puerto Rico concerning such potential effects before concluding international trade negotiations.

[(2) It is the sense of the Senate that the President should seek to obtain favorable treatment from foreign countries for exports from the Commonwealth of Puerto Rico and should take steps to encourage other countries to consider Puerto Rico as a developing area for purposes of their respective Generalized Systems of Trade Preferences schemes, and any such regional systems of trade preferences.".]

SEC. 406. CARIBBEAN BASIN ECONOMIC RECOVERY ACT AMENDMENTS.

(a) Section 214(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703 note) is amended—

(1) by striking "the treasuries of Puerto Rico or" and inserting "the treasury of", and

(2) by striking "produced in Puerto Rico or" and inserting "produced in".

(b) The amendments made by subsection (a) shall take effect on the first day of the 5th calendar year following the calendar year in which the date of the certification of the referendum under section 101(c) of this Act occurs.

SEC. 407. FEDERAL PROGRAMS: CONSOLIDATION OF GRANT-IN-AID PROGRAMS.

[Section 501 of Public Law 95–134 (91 Stat. 1159, 1164) as amended, is further amended by deleting "Virgin Islands," and inserting in lieu thereof "Virgin Islands, Puerto Rico,".]

Section 501 of Public Law 95–134 (91 Stat. 1159, 1164) as amended, is further amended—

(1) by deleting "Virgin Islands," and inserting in lieu thereof "Virgin Islands, Puerto Rico,"; and

(2) by adding at the end of subsection (a) the following new sentence: "In the case of Puerto Rico, no consolidation of such grants may be made with respect to any programs established or operated under the Social Security Act.".

SEC. 408. CONSULTATION IN APPOINTEES AND NOMINATIONS.

(a) In considering the qualifications of persons who may be appointed to serve as: Supervisor, Caribbean National Forest; Superintendent, San Juan Historic Site; Manager, Department of Housing and Urban Development, San Juan; Director, Caribbean Field Office, Environmental Protection Agency; Director, Farmer's Home Administration, San Juan; District Director, United States Customs Service, San Juan; District Director, Small Business Administration; and District Director, Immigration and Naturalization Service; the head of such department or agency shall consult with the Governor or other appropriate official in Puerto Rico as to whether there are special circumstances or qualifications which should be considered in making the appointment.

(b) Prior to nominating any person to serve in Puerto Rico whose appointment requires the advice and consent of the Senate of the United States, the President shall consult with the Governor as to whether there are any special cir-

cumstances or qualifications which should be considered in deciding on a nomination. Nothing in this section requires or prohibits the disclosure of individuals under consideration for such position nor as a limitation on the ability of the heads of agencies to appoint, or the President to nominate any individual. This subsection shall not apply with respect to any position in the Armed Forces of the United States, the Coast Guard, and in agencies engaged in law enforcement.

SEC. 409. PUERTO RICO LIAISON OFFICE.

(a) There is hereby established the Office of Senate Liaison for the Commonwealth of Puerto Rico ("Office"). The Office shall be headed by an individual appointed by the Governor of Puerto Rico and who shall serve at the pleasure of the Governor and who shall be known as the Puerto Rico Liaison. The purposes of the Office shall be to facilitate the exchange of information between the Senate and the Government of Puerto Rico.

(b) The Committee on Rules and Administration shall determine what facilities and services shall be available to such Office. All personnel of such Office shall be issued such identification as will entitle them to the same privileges as are afforded to employees of the Congressional Research Service and no employee of the Office shall be permitted privilege of the Senate floor.

(c) There are authorized to be appropriated annually $600,000 for salaries and $56,000 for office expenses of the Office. The Liaison shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office, including the Liaison, while not employees of the Senate, shall, other than as provided in subsection (b), be treated as if they were employees of the Senate with respect to pay and employment benefits, rights, privileges, and restrictions and shall be subject to all requirements otherwise applicable to employees of the Senate.

(d) The Office shall be subject to the jurisdiction of the Committee on Rules and Administration.

SEC. 410. PASSPORTS.

(a) The following new section shall be added to title 22 as section 211b:

"SECTION 211b. UNITED STATES PASSPORT OFFICE IN PUERTO RICO.

"The Secretary of State shall establish a Passport Office for the Caribbean located in San Juan, Puerto Rico.

"(b) The Secretary of State and the Attorney General shall consult with the Governor of Puerto Rico to determine what administrative actions can be taken to expedite the processing of visas and also to provide an expedited consideration of visas where the Governor makes such a request to accom-

modate an individual or individuals who have been invited to Puerto Rico by the Governor and shall report to Congress on such consultations and administrative action by March 15, 1990.".

SEC. 411. COMMUNITY VALUES.

The actions specified in subsection (b) shall be exempt from the antitrust laws of the United States.

(a) Definitions.—

(1) "antitrust laws" has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12) and shall also include section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(2) "person in the television industry" means a television network, any entity which produces programming for television distribution, including theatrical motion pictures, the National Cable Television Association, the Association of Independent Television Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the networks' affiliate organizations, and television stations and cable television operators licensed to operate in Puerto Rico and shall include any individual acting on behalf of such person; and

(3) "telecast" means any program broadcast by a television broadcast station or transmitted by a cable television system.

(b) The antitrust laws shall not apply to any joint discussion, consideration, review, action or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to (1) alleviate the negative impact of violence in telecast material, (2) alleviate the negative impact of illegal drug use in telecast material, and (3) alleviate the negative impact of sexually explicit material in telecast material, and promote local programming in the Commonwealth of Puerto Rico.

(c)(1) The exemption provided in subsection (b) shall not apply to any joint discussion, consideration, review, action, or agreement which results in a boycott of any person.

(2) The exemption provided in section 2 shall apply only to activities conducted within thirty-six months after the date of enactment of this Act, but may be extended for other thirty-six-month periods upon declaration by the Governor of Puerto Rico.

SEC. 412. FEDERAL PROPERTIES.

(a)(1) The President shall report to Congress by March 15, 1990, on the eight Federal properties listed in paragraph (3) below. The report shall include an assessment of the Fed-

eral need for each property, the costs and/or benefits of disposal of each property, and the comments of the Government of the Commonwealth of Puerto Rico regarding each property.

(2) Unless the President finds that there is a national interest which requires continued Federal ownership of each property, then he shall provide for the transfer of such properties to the Commonwealth of Puerto Rico according to such terms as he determines to be appropriate with respect to each.

(3) Identified Properties:

(A) The Federal courthouse in Old San Juan;

(B) Former Stop 7½ Naval Residence;

(C) San Geronimo Quarters;

(D) Custom House in San Juan;

(E) Custom House in Mayaguez;

(F) Custom House in Ponce;

(G) Custom House in Fajardo; and

(H) Coast Guard facility at Puntilla.

SEC. 413. SAN JUAN NATIONAL HISTORIC SITE ADVISORY COMMISSION.

(a) There is hereby established a commission to be known as the San Juan National Historic Site Advisory Commission ("the commission") which shall regularly advise the Secretary of the Interior ("the Secretary") on the operation, management, and administration of the San Juan National Historic Site ("the site").

(b) The commission shall consist of the Governor of the Commonwealth of Puerto Rico (or the Governor's designee), the Director of the National Park Service (or the Director's designee), three members to be appointed by the Governor of the Commonwealth of Puerto Rico, and three members to be appointed by the Secretary. One of the members appointed by the Governor and one member appointed by the Secretary shall serve as cochairpersons of the commission.

(c)(1) Members appointed to the commission by the Governor and the Secretary shall be appointed for a term of four years. A member may serve after the expiration of his term until his successor has taken office.

(2) Any vacancy on the commission shall be filled in the manner the original appointment was made.

(3) Members of the commission shall receive no additional pay, allowances, or benefits as a result of their service on the commission, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this section on vouchers signed by the cochairpersons;

(4) A majority of the members of the commission shall constitute a quorum but a lesser number may hold hearings. Each member of the commission shall be entitled to one vote,

which shall be equal to the vote of every other member of the commission.

(5) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to the commission.

(d) The Secretary shall from time to time, but at least annually, meet with the commission on matters relating to the planning, management and administration of the site. Such meetings shall be open to the public and shall be held at such times and in such places as to encourage public participation. The commission shall provide the public with adequate notice of such meetings.

(e) The commission shall prepare annually and transmit to the Secretary, the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the United States House of Representatives, a report containing such information and recommendations regarding the operation, management, and administration of the site as the commission deems desirable, including but not limited to recommendations with respect to the revision of the general management plan for the site.

SEC. 414. TAXATION.

(a)(1) Section 936(a)(2)(B) of the Internal Revenue Code of 1986 shall be applied—

(A) in the case of a corporation's 4th taxable year beginning after the date of the certification of the referendum under section 101(c) of this Act, by substituting "80 percent" for "75 percent", and

(B) in the case of a corporation's subsequent taxable years, by substituting "85 percent" for "75 percent".

(2) For purposes of paragraph (1), a taxpayer whose 1st taxable year begins after the certification date shall be treated as if such taxpayer had such a taxable year (and subsequent taxable years) in effect on (and after) such date.

(b)(1) In the case of each fiscal year which begins in a calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, notwithstanding section 7652 of the Internal Revenue Code of 1986 and section 4 of the Act of April 12, 1990 (31 Stat. 78), the amount of taxes and customs duties covered into the treasury of Puerto Rico under such sections shall be reduced (but not below zero) by the greater of the basic reduction under paragraph (2) or the excess of—

(A) the amounts payable with respect to such year to Puerto Rico under parts A and E

of title IV, title XVI (as in effect before the date of the enactment of Public Law 92-603), and title XIX of the Social Security Act, over

(B) the sum of the amount determined under paragraph (3), plus $161,000,000.

(2) For purposes of paragraph (1), the basic reduction shall be determined in accordance with the following table:

"In the case of the following years to which this subsection applies:	The basic reduction is:
1st	$120,000,000
2nd	$250,000,000
3rd	$325,000,000
4th	$443,000,000
5th and subsequent	$422,000,000

(3) For purposes of paragraph (1)(B), the amount determined under this paragraph is determined in accordance with the following table:

"In the case of the following years to which this subsection applies:	The reduction is:
1st	$0
2nd	$0
3rd	$30,000,000
4th	$80,000,000
5th and subsequent	$101,000,000

(4)(A) In the case of the 5th and following fiscal years to which paragraph (1) applies, there shall be substituted for the $422,000,000 amount in the table under paragraph (2) and for the $101,000,000 amount in the table under paragraph

(3), respectively, an amount equal to such amount multiplied by the applicable ratio.

(B) The applicable ratio for any fiscal year is the percentage arrived at by dividing—

(i) the gross national product for the calendar year preceding the calendar year in which the fiscal year begins, by

(ii) the gross national product for the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act.

(C) GROSS NATIONAL PRODUCT.—The gross national product for any calendar year is the last determination of such gross national product published as of October 1 of the succeeding calendar year by the Bureau of Economic Analysis of the Department of Commerce.

SEC. 415. OPERATION OF AND TRANSITION FOR CERTAIN ENTITLEMENTS.

(a)(1) Except as otherwise provided in this subsection, if Commonwealth for Puerto Rico is certified under section 101 of this Act, as having obtained a majority of the votes cast in the referendum, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secre-

tary") shall provide, beginning on January 1 of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, and subject to paragraph (2), that no payments be made to the Commonwealth of Puerto Rico under title XVI of the Social Security Act (as in effect before the date of the enactment of Public Law 92-603), or under titles I, X, or XIV of the Social Security Act, or under title XIX of the Social Security Act unless the Secretary determines that assistance levels applicable to aged, blind, or disabled in Puerto Rico under titles I, X, XIV, or XVI are set at levels consistent with the levels provided under section 1611(a)(1)(A) and 1611(b)(1) of the Social Security Act adjusted so as not to exceed 50 percent of the per capita income of Puerto Rico (as determined on the basis of the most recent reliable data available from the Secretary of Commerce), and under section 1611(a)(2)(A) and 1611(b)(2) of the Social Security Act adjusted so as not to exceed 75 percent of the per capita income of Puerto Rico (as determined on the basis of the most recent reliable data available from the Secretary of Commerce). The Secretary shall promulgate the amounts determined under this paragraph for Puerto Rico at

the same time and in the same manner as amounts are promulgated for cost of living adjustments in benefits under section 1617 of the Social Security Act.

(2) Beginning on January 1 of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, the provisions described in paragraph (1), shall be implemented on a modified basis providing that benefit levels under any of the programs described in paragraph (1) shall after any reduction under the per capita limitation described in paragraph (1) be set at—

(A) 25 percent of the otherwise applicable level in such 2nd calendar year;

(B) 50 percent of such level in the calendar year immediately following such 2nd calendar year; and

(C) 75 percent of such level in the 2nd calendar year following such 2nd calendar year.

(b)(1) Beginning on January 1 of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, Federal funding of the Aid to Families with Dependent Children program provided under part A of title

IV of the Social Security Act shall be set at 50 percent of the total cost of providing benefits under such program.

(2) Beginning on January 1 of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, the limitation on expenditures provided for under section 1108 of the Social Security Act shall not apply with respect to expenditures under the Aid to Families with Dependent Children program operated in Puerto Rico.

(c)(1) The Medicaid program provided for under title XIX of the Social Security Act shall continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act, except as may be provided for through agreement of the Government of Puerto Rico and the Secretary.

(2) Beginning on January 1 of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, the limitation on expenditures provided for under section 1108 of the Social Security Act shall not apply with respect to expenditures under the Medicaid program operated in Puerto Rico, except that for the 1st 3 fiscal years beginning after the end of the calen-

dar year in which the date of the certification of the referendum under section 101(c) of this Act occurs Federal payments to Puerto Rico with respect to title XIX of the Social Security Act shall not exceed an amount equal to $79,000,000, increased by the applicable percentage of the excess of the amount payable without regard to such section 1108 over $79,000,000. The applicable percentage is 25 percent for the 1st such fiscal year, 50 percent for the 2nd such fiscal year, and 75 percent for the 3rd such fiscal year.

(d) The Secretary shall reduce the amounts otherwise payable to Puerto Rico under parts A and E of title IV, title XVI (as in effect before the date of the enactment of Public Law 92–603), and title XIX of the Social Security Act with respect to expenditures under such titles for any fiscal year beginning after the end of the calendar year in which the date of the certification of the referendum under section 101(c) of this Act occurs to the extent that the sum of such amounts exceeds the sum of—

(1) $161,000,000, plus

(2) the amount which, but for the provisions of section 414(b) of this Act, would have been covered over to Puerto Rico for excise

taxes and custom duties under the laws in effect as of January 1, 1990, plus

(3) the amount determined under section 414(b)(3) of this Act.

The Secretary of the Treasury shall make an annual determination of such amount and provide for appropriate adjustments in such amount as determined for prior years.

(e) The Medicare Hospital Insurance Benefits for the Aged and Disabled program provided for under part A of title XVIII of the Social Security Act shall continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act, except that, the Prospective Payment Assessment Commission shall examine current levels of reimbursement under such part and advise the Secretary within 6 months of the date of the enactment of this Act as to whether the system in place on the date of the enactment of this Act accurately and appropriately reflects cost differentials between Puerto Rico and the States. The Secretary shall, if such study finds that the system in effect on the date of the enactment of this Act does not accurately reflect such cost differentials, submit to the appropriate committees of Congress within 6 months of the date

of completion of such study a legislative proposal to correct any deficiencies in the reimbursement system.

(f)(1) Except as provided in paragraph (2), in the case of any fiscal year, beginning with the 5th fiscal year beginning after the date of the certification of the referendum under section 101(c) of this Act, Puerto Rico shall be treated as a State for purposes of determining the amount of its allocation of funds under title XX of the Social Security Act.

(2) Notwithstanding section 2003(b) of the Social Security Act, Puerto Rico shall be responsible for 50 percent of the cost of the allocation of funds described in paragraph (1).

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101ST CONGRESS
2d Session

SENATE

REPORT
101–481

PUERTO RICO STATUS REFERENDUM ACT

SEPTEMBER 30 (legislative day, SEPTEMBER 10), 1990.—Ordered to be printed

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Mr. BENTSEN, from the Committee on Finance, submitted the following

REPORT

[To accompany the Committee amendments to S. 712]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, to which was referred the bill (S. 712) to provide for a referendum on the political status of Puerto Rico, as reported by the Committee on Energy and Natural Resources (Report 101–120), having considered the same, reports favorably amendments thereto. The Committee makes no recommendation on whether the bill as amended by the Committee do pass.

I. LEGISLATIVE BACKGROUND

S. 712 was introduced in the Senate on April 5, 1989, and referred to the Committee on Energy and Natural Resources. S. 712 was reported by that Committee on September 6, 1989 (S. Rept. No. 101–120). S. 712 was jointly referred to the Senate Committees on Finance and on Agriculture, Nutrition, and Forestry. The Committee on Finance held hearings on the bill on November 14–15, 1989 and April 26, 1990. On August 1, 1990, the Committee on Finance marked up its amendment to S. 712 as previously reported by the Committee on Energy and Natural Resources.

The purpose of S. 712 is to provide for the exercise of self-determination by the people of Puerto Rico through a referendum on the future political status of the island. Title I sets forth the legal framework and timing of the referendum. Titles II, III, and IV set forth detailed definitions of the three respective status options: statehood, independence, and commonwealth. The option which receives a majority vote in the referendum would be implemented in accordance with the appropriate title of S. 712.

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The bill reported by the Committee on Energy and Natural Resources is self-implementing; that is, once the results of the referendum are certified as being in favor of one of the three options, no further action by Congress is necessary to permit that option to be implemented. Moreover, many of the U.S. laws now affecting Puerto Rico would be amended under the bill as referred to the Committee on Finance, upon certification of the referendum results, to take account of the option chosen. The laws that would be amended by the bill as so referred include laws the amendment of which is within the jurisdiction of the Committee on Finance (e.g., tax, trade, and social security laws).

The Committee on Finance amendment reflected in this report replaces those provisions of the bill referred to the Finance Committee that are within the jurisdiction of the Finance Committee. In addition, where a bill provision relates to matters both within and without the Finance Committee's jurisdiction, the amendment reported herein provides modifications with respect to matters within the Finance Committee's jurisdiction.

The Committee on Finance recommends that if the Senate passes S. 712, the Finance Committee amendment should be adopted. However, the Finance Committee takes no position on whether the provisions of S. 712 as amended herein should or should not be passed. For example, while the Finance Committee endorses the principle of self-determination for the people of Puerto Rico, the Finance Committee takes no position on whether a law providing for a Puerto Rico status referendum should be self-executing, as S. 712 currently would provide.

II. Explanation of the Committee Amendment

A. PRESENT LAW

1. Tax Rules [1]

Taxation of individuals

U.S. residents and citizens in general

The United States generally imposes income tax on the worldwide income of U.S. citizens and residents. All U.S. citizens and residents whose gross income for a taxable year is not less than the sum of the personal exemption amount and the basic standard deduction are required to file an annual U.S. individual income tax return.

Nonresident alien individuals are subject to U.S. tax, at ordinary rates, on their net income effectively connected with the conduct of a trade or business in the United States. Such individuals are also subject to a tax (at different rates computed on the basis of gross income) on certain other types of U.S. source income. Generally, Puerto Rico is not included within the United States for purposes of the Internal Revenue Code.

[1] For a more detailed description of present-law tax rules, S. 712 as reported by the Senate Committee on Energy and Natural Resources, and related issues, see Joint Committee on Taxation, "Tax Rules Relating to Puerto Rico Under Present Law and Under Statehood, Independence, and Enhanced Commonwealth Status" (S. 712, Puerto Rico Status Referendum Act) (JCS-19-89), November 14, 1989.

Treatment of foreign source income

In general, U.S. persons (e.g., U.S. residents and U.S. citizens no matter where they reside) are taxed on all their income whether from U.S. or foreign sources. A credit, with limitations, may be claimed under Code sections 901–907 for foreign income taxes paid or accrued, or alternatively foreign taxes may be treated as a deduction. For purposes of the Code, Puerto Rico generally is treated as a foreign country, with significant exceptions discussed below.

Code section 911 provides that a U.S. citizen or resident with a tax home abroad may under certain circumstances elect to exclude an amount of foreign earned income from gross income. The maximum exclusion generally is limited to $70,000 per year plus certain housing costs. No deductions, exclusions, or credits are allowed for amounts allocable to this excluded income.

Taxation of U.S. persons residing in Puerto Rico

Under the Jones Act, Puerto Rico is deemed to be a part of the United States for purposes of acquiring U.S. citizenship by place of birth. Thus, a person born in Puerto Rico is typically a U.S. person for U.S. tax purposes. However, section 933 of the Code provides that income derived from sources within Puerto Rico by an individual who is a resident of Puerto Rico generally will be excluded from gross income and exempt from U.S. taxation, even if such resident is a U.S. citizen. Such income generally will be subject to taxation by Puerto Rico. Items of income earned from sources outside of Puerto Rico by U.S. persons who reside in Puerto Rico generally are subject to U.S. taxation.

Estate and gift tax

Under a special rule, a U.S. citizen residing in a possession is treated as a nonresident alien for estate and gift tax purposes only if citizenship was acquired solely by reason of citizenship of, or birth or residence within, the possession. This rule generally exempts all transfers by such citizens of property situated outside the United States from U.S. estate and gift taxation. Estates of decedents qualifying under this rule are allowed a credit against the estate tax equal to the greater of $13,000 or that proportion of $46,800 which the value of that part of the decedent's gross estate which at the time of death was situated in the United States bears to the value of the entire gross estate wherever situated. Estate and gift transfers by residents of Puerto Rico of property located in Puerto Rico generally are not subject to estate and gift taxation in Puerto Rico.

Taxation of corporations

Puerto Rico corporations

A corporation organized under the laws of Puerto Rico is a foreign corporation and is subject only to those U.S. taxes imposed on foreign corporations in general. However, Puerto Rico corporations generally are subject to income taxes in Puerto Rico. Currently, the minimum rate is 22 percent, and the highest marginal rate for 1990 is 39 percent, for 1991 is 37 percent, and for 1992 and beyond is 35 percent.

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U.S. corporations—in general

U.S. corporations are subject to U.S. income tax on their worldwide income. Foreign income taxes paid or accrued are creditable, with limitations, against U.S. tax liability or alternatively may be deducted in calculating taxable income. Special rules apply to income derived in U.S. possessions by certain domestic corporations.

Possession tax credit (sec. 936)

Under present law, certain domestic corporations with business operations in U.S. possessions (including, for this purpose, Puerto Rico and the U.S. Virgin Islands) may elect under Code section 936 to generally eliminate the U.S. tax (including the alternative minimum tax) on certain foreign source income which is related to their operations in the possessions. Currently, a majority of corporations that benefit from the possession tax credit have established operations in Puerto Rico. Income that is not subject to U.S. tax under this provision includes income that is derived either from the active conduct of a trade or business within a U.S. possession or from certain investments in the possessions or in certain Caribbean Basin countries, which investments generate qualified possession source investment income ("QPSII"). The section 936 credit spares the electing corporation U.S. tax whether or not it pays income tax to the possession.

In order to qualify for the section 936 credit, a domestic corporation must derive at least 75 percent of its gross income from the active conduct of a trade or business within a U.S. possession over a three-year period, and at least 80 percent of the corporation's gross income must be derived from sources within a possession during that same period.

Three alternative methods are provided for allocating income from intangible property between a corporation electing section 936 treatment and its U.S. shareholders. These methods include (1) a general rule that prohibits an electing corporation from earning any return on intangible property, (2) a cost sharing method which requires an electing corporation to reimburse other members of its affiliated group of corporations for a portion of the current research and development expenses incurred by the group, and (3) a profit split approach which generally permits no more than 50 percent of an affiliated group of U.S. corporations' combined taxable income derived from sales of products which are manufactured in a U.S. possession to be allocated to the electing corporation. For purposes of computing the cost sharing amount under the cost sharing method, an electing corporation's current share of the affiliated group's research and development expenses is the greater of the total amount of such expenses in the electing corporation's product area multiplied by 110 percent of the proportion of its sales as compared to total product area sales of the group, or the amount of the royalty payment or inclusion that would be required under sections 367(d) and 482 with respect to intangible assets which the electing corporation is treated as owning under the cost sharing method, were the electing corporation a foreign corporation.

Dividends paid by a corporation that has elected section 936 treatment to its U.S. shareholder may qualify for the deduction for dividends received from a domestic corporation (sec. 243). In cases where at least 80 percent of the stock of the electing corporation is owned by a single domestic corporation, the electing corporation's possession source income generally can be distributed without incurring any regular U.S. income tax. However, such a dividend constitutes adjusted current earnings of the shareholder for purposes of computing the alternative minimum tax.

U.S. taxation of Puerto Rico obligations

Section 103 of the Code provides that the interest on a bond issued by the Commonwealth of Puerto Rico or its municipalities generally is exempt from U.S. income tax in the same manner as interest on a bond issued by a State. The exemption does not apply to any bond that is a non-qualified private activity bond (within the meaning of sec. 141).

Low-income housing credit

A low-income housing credit is allowed against U.S. income tax liability. The credit is allowed in annual installments over 10 years to the owners of qualified low-income rental housing, including housing located in a U.S. possession. In addition to maintaining prescribed percentages of low-income units and satisfying other requirements, the building owners must receive a credit allocation from the appropriate credit authority (such as a State or Puerto Rico), except in the case of housing projects financed with tax-exempt bonds. In general, the authority of housing credit agencies to allocate low-income housing credits expires December 31, 1990.

Excise taxes

U.S. excise taxes on Puerto Rican goods imported into the United States

U.S. excise taxes generally do not apply within Puerto Rico. However, U.S. excise taxes equal to the taxes on domestically produced articles are imposed on articles brought into the United States from Puerto Rico.

Cover overs of excise taxes on Puerto Rican products

Revenues collected from the excise taxes on certain articles coming into the United States from Puerto Rico generally are "covered over" (i.e., paid) to the Puerto Rican Treasury. With respect to otherwise eligible excise taxes imposed on articles not containing distilled spirits, revenues are covered over to Puerto Rico only if the cost or value of materials produced in Puerto Rico plus the direct costs of processing operations performed in Puerto Rico equal at least 50 percent of the value of the article at the time it is brought into the United States (sec. 7652(d)(1)). Moreover, no cover over is permitted on such articles if Puerto Rico provides a direct or indirect subsidy with respect to the article which is unlike the subsidies which Puerto Rico generally offers to industries producing articles not subject to Federal excise tax (sec. 7652(d)(2)).

With respect to Federal excise taxes imposed on articles containing distilled spirits that are manufactured in Puerto Rico and shipped into the United States, revenues are covered over to the Puerto Rican Treasury only if at least 92 percent of the alcoholic content of such articles is attributable to rum (sec. 7652(c)). The amount of excise taxes covered over to Puerto Rico from such articles cannot exceed $10.50 per proof gallon (sec. 7652(f)).[2]

A special excise tax rule also applies when articles manufactured in the United States are shipped to Puerto Rico (sec. 7653). In such cases, the articles are exempt from Federal excise taxes and, upon being entered in Puerto Rico, are subject to a tax equal in rate and amount to the excise tax imposed in Puerto Rico upon similar articles of Puerto Rican manufacture.

Cover overs of excise taxes on rum imported from other countries

A provision of the Code added by the Caribbean Basin Economic Recovery Act (Caribbean Basin Initiative) provides a special rule for excise taxes collected on rum imported into the United States from any country. Such excise taxes are covered over to the treasuries of Puerto Rico and the Virgin Islands, under a formula prescribed by the U.S. Treasury Department for the division of such tax collections between Puerto Rico and the Virgin Islands (sec. 7652(e)). This formula currently results in approximately 88 percent of revenues from excise taxes on imported rum being covered over to Puerto Rico and the remainder of such revenues being covered over to the Virgin Islands.

Tax treaties

There are no bilateral tax treaties between Puerto Rico and any foreign country. In addition, U.S. treaties typically do not include Puerto Rico in the definition of "United States" for treaty purposes. Moreover, although Puerto Rican individuals are typically U.S. citizens, U.S. treaties often do not extend to them the same reductions of foreign source country tax to which a resident of one of the 50 States or the District of Columbia would be entitled under a U.S. tax treaty.

Uniformity clause

The U.S. Constitution grants to the Congress the power to lay and collect "Taxes, Duties, Imposts and Excises, . . . but all Duties, Imposts and Excises shall be uniform throughout the United States." [3] As indicated by the absence of the word "taxes" from the clause setting forth the rule of uniformity (the "uniformity clause"), the rule applies only to the subset of taxes encompassed by the terms "duties, imposts and excises." In the Committee's view, it may be fairly argued that the Federal income tax is subject to the requirements of the uniformity clause.[4]

Puerto Rico is not considered to be part of the United States for purposes of the scope of the uniformity clause.[5] Accordingly, under the present status of Puerto Rico, Congress is free to adopt tax measures (such as Code section 936) that are not uniform as between Puerto Rico, on the one hand, and the 50 States and the District of Columbia, on the other. Through the exercise of its power to admit Puerto Rico as a new State, however, Congress may voluntarily bring Puerto Rico within the scope of the uniformity requirement.

According to Justice Story, the purpose of the uniformity clause

> * * * was to cut off all undue preferences of one State over another in the regulation of subjects affecting their common interests. Unless duties, imposts, and excises were uniform, the grossest and most oppressive inequalities, vitally affecting the pursuits and employments of the people of different States, might exist. The agriculture, commerce, or manufactures of one State might be built up on the ruins of those of another; and a combination of a few States in Congress might secure a monopoly of certain branches of trade and business to themselves, to the injury, if not to the destruction, of their less favored neighbors.[6]

Other experts, scholars and judges have concurred.

The uniformity clause does not require that all affected taxes fall equally or proportionately on each State or region. The clause requires only that a tax operate "with the same force and effect in every place where the subject of it is found." [7] Similarly, in the case of the uniformity requirement of the bankruptcy clause,[8] "[t]he uniformity provision does not deny Congress power to take into account differences that exist between different parts of the country, and to fashion legislation to resolve geographically isolated problems." [9]

Most recently, in *United States* v. *Ptasynski*,[10] the Supreme Court held that an exception for certain Alaskan crude oil from the Crude Oil Windfall Profit Tax Act of 1980 did not violate the tax uniformity clause. That Act was "designed to impose relatively high tax rates where production cannot be expected to respond

[2] The current Federal distilled spirits excise tax rate is $12.50 per proof gallon.

[3] U.S. Const., art. I, sec. 8, cl. 1. There is no equivalent limitation on the spending power of Congress. *See, e.g., Helvering* v. *Davis*, 301 U.S. 619 (1937) (Congress has discretion to determine that the general welfare is served by an expenditure program that addresses local problems).

[4] *Compare Pollock* v. *Farmers' Trust and Loan Co.*, 157 U.S. 429 (1895) (classified a tax on income from real property or invested personal property by reference to the source of the income and characterized such a tax as equivalent to a tax on real property, which is outside the scope of the uniformity clause), *with Flint v. Stone Tracy Co.*, 220 U.S. 107 (1911), (a tax on corporations measured by income is an excise on the privilege of doing business in the corporate form, and is thus subject to the requirement of uniformity), *and Brushaber v. Union Pacific Railroad Co.*, 240 U.S. 1, 19 (1916) (the sixteenth amendment prevents the classification of an income tax by reference to the source of the income, which could "take an income tax out of the class of excises, duties, and imposts").

[5] *Downes v. Bidwell*, 182 U.S. 245 (1901); *see also Balzac v. Porto Rico*, 258 U.S. 298 (1922).

[6] 1 J. Story, "Commentaries on the Constitution of the United States" sec. 957 (T. Cooley ed. 1873), cited in United States v. Ptasynski, 462 U.S. 74, 81 (1983).

[7] "Head Money Cases," 112 U.S. 580, 594 (1884) (upholding as uniform a tax on immigrants through seaports but not on immigrants through inland cities).

[8] U.S. Const., art. I, sec. 8, cl. 4.

[9] *Regional Rail Reorganization Act Cases*, 419 U.S. 102, 159 (1974).

[10] 462 U.S. 74 (1983).

very much to further increases in price and relatively low tax rates on oil whose production is likely to be responsive to price." [11] To that end, Congress exempted certain classes of oil from the tax, including a relatively limited subset of the oil produced in Alaska, denoted "exempt Alaskan oil." Exempt Alaskan oil was defined geographically, by reference to the Arctic Circle and the Alaska-Aleutian Range.

The exemption reflected the considered judgment of Congress that unique climatic and geographic conditions required that oil produced from a specified area be treated as a separate class of oil.[12] The Supreme Court found that Congress had before it ample evidence of the disproportionate costs and difficulties associated with extracting oil from this region. The Court stated that it could not fault the determination of Congress, based on neutral factors, that this oil required separate treatment.[13] Nor was there any evidence that Congress sought to benefit Alaska for reasons that would offend the purposes of the uniformity clause (for example, by intending to grant Alaska an undue preference at the expense of other oil-producing States), especially in view of the fact that the tax generally fell heavily on Alaskan oil.[14] Accordingly, the exemption was held not to violate the uniformity clause.

The Supreme Court in *Ptasynski*, following the analysis of the *Regional Rail Reorganization Act Cases* decision, opined that the uniformity clause gives Congress wide latitude in deciding what to tax, and does not prevent Congress from considering geographically isolated problems. Identifying the subject of a tax in terms of its geographic boundaries does not render the tax invalid, but rather triggers a close examination of the classification to see if there is prohibited discrimination in light of the purposes of the uniformity clause.[15]

The Committee is not aware of any authority under the uniformity clause that directly considers whether a temporary nonuniformity would violate the clause. However, in *Coyle v. Smith*,[16] the Supreme Court did invalidate a transition provision in the 1906 enabling act under which Oklahoma was admitted as a State, which provision would have prevented Oklahoma from removing its capital from the city of Guthrie, Oklahoma, until 1913. The Court noted that the power to locate its own seat of government and to determine when and how it shall be changed from one place to another are "essentially and peculiarly state powers" of which the original 13 states could not later have been deprived by an act of Congress.[17] The Court then held that the authority to admit new States did not permit Congress to impose a condition on the admission of a new State that would deprive the new State of such a power possessed by the pre-existing States. The Court invalidated the statutory limitation on removal of the state capital from Guthrie despite its temporary nature. The Court's opinion contains no

[11] H.R. Rep. No. 96-304, 96th Cong., 2d Sess. 7 (1980), cited in *Ptasynski*, 462 U.S. at 77.
[12] H.R. Rep. No. 96-817, 96th Cong., 2d Sess. 103 (1980).
[13] 462 U.S. at 85.
[14] *Id.* at 77 n.5.
[15] *Id.* at 85.
[16] 221 U.S. 559 (1911).
[17] *Id.* at 565.

discussion of the temporary nature of that limitation, or of the constitutional significance (or insignificance) of that fact.

2. Trade Law Rules

Under present law, Puerto Rico is part of the customs territory of the United States. Thus, trade between Puerto Rico and the 50 states is domestic in nature, and is not subject to tariffs or any restrictions or requirements applicable to trade with foreign countries. Likewise, trade between Puerto Rico and foreign countries is generally governed, with limited exceptions, by the same U.S. trade laws applicable to U.S. trade with foreign countries. Imports into Puerto Rico are subject to U.S. duties and trade restrictions, and all obligations of the United States under bilateral and multilateral trade agreements, including the GATT, apply to Puerto Rico's trade.

In three respects, however, U.S. trade laws provide special treatment for Puerto Rico. First, all import duties collected in Puerto Rico, less the cost to the U.S. Customs Service of collecting the duties, are paid to Puerto Rico, rather than retained by the Federal Treasury. Second, Puerto Rico is authorized by statute to impose its own duty on coffee, whether imported directly into Puerto Rico or through the United States. Third, although Puerto Rico is not an eligible country under the Caribbean Basin Economic Recovery Act (CBERA), the CBERA includes specific provisions relating to the treatment of Puerto Rico content in determining whether a product qualifies for duty-free treatment under CBERA. Thus, Puerto Rico benefits indirectly from trade preferences accorded to eligible Caribbean countries.

3. Social Security Act Spending Program Rules

Old Age, Survivors, and Disability Insurance (OASDI)

This basic social security program operates in Puerto Rico under essentially the same rules and conditions as apply elsewhere in the United States.

Medicare

Medicare eligibility and benefits are the same for social security beneficiaries in Puerto Rico as in the States. However, hospitals are reimbursed under a separate prospective payment schedule which results in a generally lower reimbursement than would apply to a hospital in the States for the same procedure. A substantial proportion (35 percent) of the Medicare eligible population has not elected coverage under Part B of medicare.

Unemployment compensation

Puerto Rico is treated as a State for purposes of the Federal-State program of unemployment compensation. As in the States, benefit levels are set by the "State" government and regular benefits are funded by "State" payroll taxes on employers. Because of chronic high unemployment, Puerto Rico (unlike nearly all States) is frequently triggered onto the extended benefits program which provides an additional 13 weeks of benefits funded half from Com-

monwealth payroll taxes and half from the Federal unemployment tax.

Aid to the aged, blind, and disabled

In the States, needy aged, blind, and disabled individuals receive Federal payments under the Supplemental Security Income (SSI) program sufficient to maintain their income at a level of $386 per month for an individual and $579 for a couple. (These are the 1990 rates; these amounts are increased annually for inflation.) In a number of States, higher levels are provided through supplementary State-funded payments. The SSI program does not apply to residents of Puerto Rico. Instead, a program of aid to the aged, blind, and disabled is operated with Commonwealth and Federal funds. A combined Federal funding limit of $82 million annually applies to this program and to the Aid to Families with Dependent Children program. Assistance levels are determined by the Government of Puerto Rico. For an aged, blind, or disabled individual with average shelter costs and no other income, the monthly assistance payment would be about $42. In addition, such an individual would typically receive a monthly payment from the Nutrition Assistance Program—which operates in place of the Food Stamp Program—of roughly $75.

Aid to Families with Dependent Children (AFDC)

In the States and in Puerto Rico, assistance is provided under a program of Aid to Families with Dependent Children (AFDC) pursuant to title IV of the Social Security Act. Assistance levels are set by each State, and funding is shared between the State and the Federal Government. In the States, funding is available on an open-ended basis with Federal matching rates ranging from 50 to 83 percent depending on State per capita income. In Puerto Rico, there is a maximum Federal matching rate of 75 percent but Federal funding is actually controlled by the $82 million Federal funding cap which jointly covers this program and the program of Aid to the Aged, Blind, and Disabled. The 1990 maximum AFDC payment for a 3-person family in Puerto Rico is $90. Such a family would typically also receive a payment of roughly $200 under the Nutrition Assistance Program.

Medicaid

In the States, recipients of assistance under the SSI and AFDC programs along with certain other eligible individuals are entitled to have their medical costs paid by medicaid programs established under State plans in accord with the requirements of title XIX of the Social Security Act. Federal funding is provided on an open-ended basis at rates generally ranging from 50 to 83 percent depending on State per capita income. Recipients generally are free to select any medical provider of their choice. In Puerto Rico, the medicaid program as it is understood in the States does not exist. Instead, Puerto Rico operates a system of public health facilities which are available to the population generally. The Federal Government reimburses Puerto Rico under the medicaid program at a theoretical 50 percent matching rate. In practice, Federal matching

is controlled by an overall cap on annual Federal funding which is set at $79 million.

Title XX social services program

Under title XX of the Social Security Act, a block grant is made to States to help them provide a wide variety of social services. Great flexibility is left to the States to determine what services will be funded with these grants. The national funding level for this program is $2.8 billion per year and each State receives a share of that total on the basis of its relative population. Puerto Rico receives title XX funds under a separate formula. Under the population formula Puerto Rico would qualify for about $35 million rather than the approximately $15 million it receives under the current formula.

Other programs

The Child Welfare Services and Child Support enforcement programs operate in Puerto Rico generally as in the States. The Foster Care and Adoption Assistance program is not implemented in Puerto Rico. Puerto Rico is eligible to participate in this program but would receive no additional Federal funding since the $82 million cap on Federal funding for AFDC and aid to the aged, blind, and disabled also covers this program. Present law appears to mandate Puerto Rico participation in this program, but this mandate has never been enforced.

B. REASONS FOR CHANGE

In general

The Finance Committee amendments are intended to be consistent with five broad principles.

First, the Committee believes that, to the extent possible, each individual's choice among the three political status options should not be colored by differing personal financial consequences of the three options. Rather, the Committee believes that each voter's choice should be, to the extent possible, an expression of his or her preference concerning the nature of Puerto Rico's fundamental relationship to the United States. Second, the Committee believes that the changes provided for under the amendment should be accomplished gradually in order to avoid disruption and to allow for a period of transition without which abrupt and undesirable economic, social, and political consequences might result. Third, the Committee seeks to avoid a negative U.S. Federal budgetary impact from the amendment provisions.

Two other general criteria to which the Committee has sought to adhere relate specifically to the provisions that would apply if the people of Puerto Rico choose to change Puerto Rico's status to statehood or independence. First, the Committee has designed the amendment so that, if statehood is chosen, Puerto Rico will be treated in all respects, after the date of admission to statehood, on an equal footing with the other States with respect to all matters within the jurisdiction of the Finance Committee. Second, the Finance Committee intends that, if independence is chosen, careful consideration be given to the nature of the future relationship be-

tween the United States and an independent Puerto Rico. For example, the Committee believes that the United States should continue to maintain an open trading relationship with an independent Puerto Rico, and that, at a minimum, Puerto Rico should receive most-favored-nation trade treatment. Furthermore, the Committee believes that, if Puerto Rico becomes an independent nation, consideration should be given to designation of Puerto Rico as a beneficiary country under the Caribbean Basin Economic Recovery Act and the negotiation of a free trade agreement between the United States and Puerto Rico.

Even playing field

Under present law, Federal social welfare programs under the Social Security Act such as AFDC, Medicaid, Aid to the Aged, Blind, and Disabled, Foster Care and Adoption Assistance, and Social Services block grant operate differently in Puerto Rico than they do in the States. Under statehood, both the amount of the welfare benefits and the percentage of the population receiving them would substantially increase. The Committee is concerned that the prospect of increased benefits under statehood should not be a substantial factor in determining how Puerto Rican individuals vote in the referendum.

The Committee believes that in order to achieve the Committee's goal of providing an even playing field in the people's choice between the two options that retain Puerto Rican participation in these Federal spending programs (statehood and commonwealth), it is necessary to enhance certain social spending programs in Puerto Rico if continued commonwealth status is chosen. Thus with respect to the social welfare programs under Finance Committee jurisdiction, the Committee has designed enhancements with the intention of achieving a high degree of parity between the benefits available under commonwealth and the benefits that would be available under statehood both during the transition period and upon full implementation.

In connection with this bill, the Committee reexamined the parameters of the SSI and aid to the aged, blind, and disabled programs applicable generally under current law. The Committee believes that it is appropriate to limit the amount of benefits for the aged, blind, and disabled under the Supplemental Security Income program of the Social Security Act to no more than 50 percent of per capita income in the beneficiary's state of residence. To permit such benefits to exceed that amount could create adverse economic incentives, and generally would be unreasonable in light of wage levels and other public expenditure patterns. Under current law SSI benefits do not exceed 50 percent of per capita income in any state. However, current law as applied to a State of Puerto Rico would result in a benefit level for an individual under SSI approximately equal to 90 percent of the per capita income of Puerto Rico. Such a standard would greatly expand the number of individuals dependent upon assistance payments in Puerto Rico, and produce the undesirable results described above. Thus, the Committee believes that it is more appropriate to limit the amount of benefits available in any State to no more than a fixed fraction of per capita State income.

Gradual transition

On the basis of the record before it, the Committee understands that the tax incentives provided under section 936 have a major impact on the economy of Puerto Rico.[18] In 1987, total employment in Puerto Rico was approximately 834,000 and gross domestic product totalled $23.7 billion.[19] Nearly $2.7 billion of tax benefits were utilized under section 936 in 1987.[20] The large majority of section 936 corporations were engaged in manufacturing.[21] These manufacturing corporations employed almost 89,000 workers in 1983, approximately 68 percent of total manufacturing employment in Puerto Rico in that year.[22] In testimony before the Committee, the Treasury Department reported that section 936 corporations accounted for 12 percent of total employment and 16 percent of total labor income in Puerto Rico.[23] As of November 27, 1989, $10.2 billion of funds were deposited in financial institutions in Puerto Rico by section 936 corporations.[24] Given the importance of section 936 tax benefits to the manufacturing and financial sectors of Puerto Rico, and given the size of economic activity by section 936 corporations relative to the overall economy of Puerto Rico, the Committee believes that significant economic disruption could occur if the benefits of section 936 were precipitously withdrawn from U.S. companies with Puerto Rico operations.

The Committee also believes that U.S. taxpayers may have relied on section 936 benefits in deciding to locate activities in Puerto Rico. The Committee believes that it is fair to provide a transition period for those companies to adjust to the elimination of that tax benefit.

For these reasons, the Committee believes that it is appropriate and necessary to provide a gradual phase-out of the section 936 benefit over a 5-year period following a vote for either statehood or independence. The Committee intends that section 936 credits be made available to a U.S. corporation under these rules during the transition period only if the taxpayer was previously operating under the credit and then only in an amount based on the taxpayer's prior utilization of the credit.

The Committee also understands that if statehood is chosen the people and the Government of Puerto Rico, the U.S. Internal Revenue Service, and the U.S. Department of Health and Human Services, may be required to make substantial adjustments upon application of the U.S. income tax system to Puerto Rico, increases in

[18] See generally Joint Committee on Taxation, "Tax Rules Relating to Puerto Rico Under Present Law and Under Statehood, Independence, and Enhanced Commonwealth Status" (S. 712, Puerto Rico Status Referendum Act) (JCS-19-89), November 14, 1989, at 32-33, in "Puerto Rico's Political Status: Hearings on S. 712 Before the Senate Comm. on Finance," 101st Cong., 1st Sess. 75, 106-07 (1990).

[19] Puerto Rico Planning Board, "Economic Report to the Governor", 1989, Tables 1 and 29.

[20] Source Book, Statistics of Income 1987, Corporation Income Tax Returns, Department of the Treasury, Internal Revenue Service, Publication 1053 (Rev. 6-90).

[21] Of a total of $22.2 billion of section 936 corporation assets, $17.2 billion of assets were held by section 936 manufacturing corporations. See "The Operation and Effect of the Possessions Corporations System of Taxation," Sixth Report, U.S. Treasury Department, March 1989, Table 4-1.

[22] Ibid, Table 4-6, and op. cit., Puerto Rico Planning Board, Table 30.

[23] Testimony of Philip D. Morrison, International Tax Counsel, Department of the Treasury, Before the Committee on Finance of the United States Senate, Washington, D.C., April 26, 1990, p. 12.

[24] Report of Commissioner of Financial Institutions in Puerto Rico, November 27, 1989.

Puerto Rico social welfare program benefit levels, and increases in Federal grants to Puerto Rico under those programs. Therefore, the Committee believes it appropriate to phase up the tax payments owed by Puerto Rico residents to the United States in stages, in order to permit the Government of Puerto Rico to gradually adjust its own tax laws as it sees fit. Further, the Committee believes it appropriate to delay the start of the phase-in of U.S. tax treatment of Puerto Rico, and the phase-in of benefit program enhancements, for one year after certification of the referendum results for statehood.

Other provisions of the bill are intended to ease the transition to statehood or independence. For example, if statehood is chosen, the Committee believes it appropriate to phase out the import duty on coffee over four years beginning with the second year after certification of the referendum.

Budgetary effect

Under present law, U.S. companies doing business in Puerto Rico annually receive over $2 billion in tax benefits under the section 936 possession tax credit. Further, under present law hundreds of millions of dollars in amounts collected as taxes and customs duties by the United States are annually covered over to the Government of the Commonwealth of Puerto Rico.

The enhanced costs to the Federal Government resulting from the spending changes under the statehood option would be offset, in the Committee's view, by increased U.S. tax receipts and decreased U.S. tax cover over to Puerto Rico. Under the independence option, the Committee understands that while block grants will continue after Puerto Rico becomes a separate country, there will be no Federal budgetary loss due to the phase-out of the section 936 credit.

Under the commonwealth option, the Committee believes it is appropriate to offset the costs of increased Federal spending (dictated by the reasons described above in the section entitled "Even playing field") by modification of the tax benefits afforded under section 936, and reducing, as necessary, the cover over of U.S. taxes and customs duties to Puerto Rico. Thus, the costs of any increased benefits under the commonwealth option are entirely funded by the Puerto Rico Government and U.S. companies operating in Puerto Rico.

Uniformity clause

The Finance Committee believes that the statehood option must ultimately entail Federal tax treatment of Puerto Rico and its residents that is uniform with the Federal tax treatment of U.S. residents and the United States as a whole. As described above, however, the Finance Committee believes that the transition to tax treatment as a State should be reasonably gradual. Were the Finance Committee's desire for a gradual tax transition accompanied by immediate statehood, as provided under the bill as reported by the Energy and Natural Resources Committee, Federal taxes in Puerto Rico after statehood would temporarily differ from Federal taxes in the other States, and these differences would be subject to scrutiny under the tax uniformity clause of the U.S. Constitution.

During its hearings, the Finance Committee heard testimony suggesting that such a disparity in tax treatment would be inconsistent with the uniformity clause as the clause has been interpreted under existing case law. It was argued the temporary nature of such tax differences would not alter the conclusion. Other testimony argued that special tax treatment of Puerto Rico would not violate the uniformity clause. Moreover, the Chairman of the Senate Judiciary Committee has advised the Finance Committee that he believes there are serious questions about the constitutionality of the bill, under the uniformity clause, as reported by the Energy and Natural Resources Committee.[25]

It is likely that the issue as to whether or not the bill would violate the Constitution would not be resolved by the courts until after the referendum takes place. The Committee believes that an orderly transition would be undermined during the pendency of the dispute. The Committee would consider its purposes frustrated if a judicial disapproval following admission to statehood resulted, for example, in the immediate and retroactive termination of the gradual phase-in period. In addition, the Committee does not wish to place in doubt the consequences that Puerto Rican voters can anticipate should statehood be chosen.

The Finance Committee has not concluded that the tax differences in the transitional period would or would not be ruled unconstitutional by the courts were Puerto Rico to be a State during that period. However, the Committee believes that the constitutional concerns that have been raised are significant. Because the Committee believes that a gradual transition period is essential in order to integrate Puerto Rico into the United States without excessive economic dislocation and administrative disruption, and because the Committee believes that the best way reliably to provide for such a gradual period is to delay the incorporation of Puerto Rico into the United States until the transition measures are completed, the Committee believes it necessary to delay the date of actual admission of Puerto Rico as a State (and delay incorporating Puerto Rico into the United States for uniformity clause purposes) until the conclusion of any necessary period of transition, rather than delay the uniform application of Federal income taxation to Puerto Rico for any period after admission.

C. DESCRIPTION OF S. 712 AND EXPLANATION OF AMENDMENT

1. In General

The bill (S. 712), as reported by the Senate Committee on Energy and Natural Resources, provides for a referendum to be held on June 4, 1991 (and if necessary for a runoff referendum to be held on August 6, 1991), or on a date (or dates) during the summer of 1991 as may be mutually agreed by the three principal political parties of Puerto Rico. The purpose of the referendum will be to determine whether Puerto Rico is to become a U.S. State, become an independent country, or remain in a commonwealth relationship with the United States. The procedures for implementing

[25] Letter from Joseph R. Biden, Jr., Chairman of the Committee on the Judiciary, to Lloyd Bentsen, Chairman of the Committee on Finance, November 13, 1989.

whichever status option receives a majority (as certified to the President and the Congress of the United States by the Governor of Puerto Rico) are detailed in title II (which applies if statehood is chosen), title III (independence), and title IV (commonwealth) of the bill.

The proposed Committee amendment ("the amendment") replaces those provisions of the bill that are within the jurisdiction of the Finance Committee. In addition, where a bill provision relates to matters both within and without the Finance Committee's jurisdiction, the amendment provides modifications with respect to matters within the Finance Committee's jurisdiction. This explanation describes those bill provisions that are modified but not deleted, and describes all provisions of the Finance Committee amendment.

The Committee expects that the Chairman of the Finance Committee will offer an amendment to the bill on the Senate floor to accommodate action by the Senate Committee on Agriculture, Nutrition, and Forestry with respect to the Food Stamps Program, to the extent consistent with the approach adopted by the Finance Committee.

2. Title II (Statehood)

Description of the Bill

Should statehood be certified as having obtained a majority of the votes cast in the referendum, the Commonwealth of Puerto Rico would be admitted as a State on an equal footing with the other States (bill sec. 201). Upon admission of Puerto Rico into the Union, all of the local laws then in force in Puerto Rico would continue in force and effect (except as modified or changed by the bill) subject to repeal or amendment by the Puerto Rican legislature (bill sec. 208(a)).

Explanation of Amendment

In general

Under the amendment, if statehood is certified as having obtained a majority of the votes cast in the referendum, the President is directed to issue a proclamation announcing the election results. Upon the issuance of the proclamation, the Commonwealth of Puerto Rico will be admitted as a State as of the first day of January of the fifth calendar year beginning after the certification of the referendum in favor of statehood. Thus, for example, if certification of the referendum in favor of statehood were to occur during 1991, Puerto Rico would become a State as of January 1, 1996.

Election of members of Congress

The amendment further provides that not later than the first day of the fourth calendar year following the calendar year in which the certification in favor of statehood occurs, the Governor of Puerto Rico will issue a proclamation for the elections of Puerto Rico's U.S. Senators and members of the House of Representatives. Such elections would occur either on the first Tuesday in November of the fourth calendar year following the calendar year in which the certification of the referendum occurs, or on such other

date during autumn of that year as may be mandated by legislation enacted by the Government of Puerto Rico. Under the amendment, the date on which the persons elected to represent Puerto Rico as U.S. Senators and members of the U.S. House of Representatives would be entitled to seats in Congress and to all the rights and privileges of Senators and Representatives of the other States in Congress will be on the date on which Puerto Rico's admission as a State becomes effective.

Application of U.S. tax laws to Puerto Rico

The amendment adds new section 214 to the bill, which section includes rules relating to the imposition of the U.S. internal revenue laws to Puerto Rico and to certain transfers of revenue between the governments of the United States and Puerto Rico. As a general rule, the provisions of the Internal Revenue Code would become fully applicable to the State of Puerto Rico and its residents in the same manner as those rules apply to all other States and the residents thereof as of the date on which Puerto Rico enters into statehood. In addition, subject to transition rules, provisions of the Internal Revenue Code that presently apply to Puerto Rico (as they may be amended from time to time) will continue to apply until the date that statehood takes effect.

Transition period for income taxes

In general

As a general rule, application to Puerto Rico of the Federal income tax laws would be phased in ratably over a four-year transition period. The transition period for income taxes commences with a taxpayer's second taxable year beginning after the certification of the referendum, and generally ends with the taxable year that includes the date of admission of Puerto Rico as a State. For example, if the certification of the referendum were to occur on October 15, 1991, the transition period with respect to a calendar year taxpayer would begin with 1993 and end with 1996. For a taxpayer with a taxable year that ends September 30, the transition period would commence with the taxpayer's taxable year beginning October 1, 1993, and would end with the taxable year beginning October 1, 1996. However, as discussed in more detail below, a taxpayer in the latter situation would be subject to special phase-in rules since a portion of its third taxable year during the transition period occurs after Puerto Rico becomes a State.

The Committee believes that this transition period is essential in order to integrate Puerto Rico into the United States without excessive economic dislocation and administrative disruption. The amendment provides for the transition period to take place prior to the admission of Puerto Rico as a State, rather than subsequent thereto, for the specific purpose of delaying the incorporation of Puerto Rico into the United States for uniformity clause purposes until the transition measures are completed.

During the transition period, the Federal income tax laws will be applied to all persons in the same manner as if Puerto Rico were a State and without regard to Code section 933. The difference, however, between actual U.S. tax liability for any year in the transi-

tion period, and what would have been U.S. tax liability for that year under current possession treatment (i.e., treatment of Puerto Rico as a possession of the United States and application of Code section 933), will be limited to the applicable phase-in percentage. That is, the phase-in percentage will only apply to the difference between two hypothetical tax liabilities: the liability that would exist if Puerto Rico were a State on equal tax law footing with the other States, and the liability that would exist if Puerto Rico and its residents remained subject to possession treatment as under present law. Generally, the applicable phase-in percentage is 25 percent in the first year of the transition period, 50 percent in the second year, 75 percent in the third year, and 100 percent in the fourth year (if any).

During the first year of the transition period Puerto Rico and its residents would be treated no differently than the United States and its residents to the extent of 25 percent of the difference between current law U.S. tax liability and hypothetical full U.S. tax liability. For example, assume a U.S. resident earning $100 of taxable income during a taxable year would pay $28 of U.S. tax. Under the amendment, a Puerto Rico resident with the same amount of taxable income earned in Puerto Rico, and no U.S. tax liability on that income under current law, would pay $7 of U.S. tax under the amendment. Generally, the percentage referred to above is increased to 50 percent for the second year of the transition period, to 75 percent for the third year of the transition period, and to 100 percent for the fourth year of the transition period and thereafter. Thus, assuming the facts provided in the preceding example applied to each year of the transition period, the Puerto Rico resident would pay $14 of U.S. tax in the second year of the transition period, $21 of U.S. tax in the third year, and the full amount of U.S. tax (i.e., $28) in the fourth year.

As another example, assume that during a taxable year in the transition period a taxpayer would have a hypothetical U.S. tax liability of $100 computed under present-law rules, and a hypothetical U.S. tax liability of $150 computed as if Puerto Rico were a State on an equal footing for tax purposes with the other States. Under the amendment, the actual tax liability would be $100 plus a percentage of $50 (the excess of $150 over $100). During the first year of the transition period, the taxpayer's actual liability under the amendment would be $112.50, or $12.50 (25 percent of $50) plus $100 (the amount of U.S. tax that the taxpayer would have been liable for notwithstanding the amendment).

As a third example, assume that for a taxable year in the transition period a taxpayer would have a hypothetical U.S. tax liability of $150 as computed under present-law rules, and a hypothetical U.S. tax liability of $100 computed as if Puerto Rico were a State on an equal footing for tax purposes with the other States. To determine the taxpayer's U.S. tax liability in this case, the taxpayer's tax liability computed under present-law rules of $150 would be reduced by the product of $50 multiplied by the applicable phase-in percentage for that year. Assuming the year in question is the taxpayer's second taxable year in the transition period, total U.S. tax liability for that year would be $125.

If under the Internal Revenue Code a taxpayer has a net operating loss for a taxable year during the transition period, the Committee intends that the full amount of the net operating loss would be available to be carried back or carried forward, as appropriate, based on present-law rules applicable to the utilization of net operating losses; that is, the amount of the net operating loss would not be reduced by the phase-in percentage applicable for the year of the transition period in which the loss was incurred. For example, if in the second taxable year of the transition period a Puerto Rico corporation incurred a net operating loss of $1,000 attributable to its operations in Puerto Rico, it is intended that the full amount of the loss could be carried forward to the third year of the transition period (or carried back to the first year of the transition period, if appropriate). If in the third year of the transition period the corporation had zero hypothetical U.S. tax liability computed under present-law rules, and generated pre-NOL taxable income of $5,000 from its operations in Puerto Rico, then its taxable income for the year would be $4,000 ($5,000 reduced by the $1,000 net operating loss carryforward). The taxpayer's resulting tax liability as computed under Code section 11 on taxable income of $4,000 would be subject to the applicable phase-in percentage for year three of the transition period (i.e., 75 percent).

Under the amendment's transition period for income tax, a special rule applies if the January 1 on which Puerto Rico is admitted to statehood falls within a taxpayer's third taxable year of the transition period. Under this special rule, the 75-percent limitation, which otherwise applies to the entire year-three difference between hypothetical U.S. tax liability computed under present-law rules and hypothetical U.S. tax liability computed as if Puerto Rico were a State treated for tax purposes like any other State, applies only to a pro-rata portion of that difference. The portion of the difference to which the limitation applies is based on the ratio which the number of months in the taxable year falling before statehood becomes effective bears to the total number of months in that taxable year. This special rule only affects taxpayers whose taxable years end between January 1 and the day of the year on which certification of the referendum results occurs.

As an illustration of the foregoing special rule, assume a fiscal year taxpayer has a taxable year ending June 30 and that the certification of the referendum in favor of statehood occurs on October 15, 1991. Thus, Puerto Rico would become a state as of January 1, 1996. The taxpayer's third taxable year of the transition period would be the taxable year beginning July 1, 1995 and ending June 30, 1996. One-half of the taxpayer's third taxable year of the transition period would fall prior to the effective date of statehood and the other half would fall after such date. Assume that the taxpayer has zero hypothetical U.S. tax liability computed under present-law rules, but has $100 of hypothetical U.S. tax liability computed as if Puerto Rico were a State. Under the amendment, one-half of the difference in these two amounts (one-half of $100, or $50) would be eligible for reduction at the regular year-three applicable percentage (i.e., 75 percent), to $37.50. The other $50 of that difference is not eligible for any reduction. Actual U.S. tax liability for the entire year is thus $87.50 (i.e., zero (present-law tax liability) plus

87.5 percent of the difference between present-law and full statehood tax liability).

Similar phase-in rules apply during the transition period to refundable tax credits, such as the earned income tax credit. For example, if under full application of U.S. law a Puerto Rican individual would qualify for a refund as a result of the earned income tax credit in the amount of $100 in each of the four years of the transition period, and in each of those years the taxpayer would have a hypothetical U.S. tax liability of zero computed under present law rules, then that individual would receive a $25 refund in year 1 of the transition period, a $50 refund in year 2, a $75 refund in year 3, and a full $100 refund in year 4.

Under the amendment, a taxpayer whose first taxable year begins after the date of certification of the referendum will be treated for purposes of administering the phase-in rules during the transition period as if the taxpayer had a taxable year in effect on the certification date and at all times thereafter. To illustrate, assume that the certification in favor of statehood occurs on October 15, 1991. Further assume that a taxpayer's first taxable year is the fiscal year ending June 30, 1995. For purposes of the application of the amendment's transition rules, the taxpayer is deemed to have been in existence during the fiscal years ending June 30, 1992, 1993, and 1994. As a result, the fiscal year ended June 30, 1994 will be deemed to be the taxpayer's first taxable year during the transition period, and its first actual taxable year (the fiscal year ended June 30, 1995) will be treated as its second taxable year of the transition period. Additionally for this purpose, the taxpayer's first actual taxable year will be deemed to include a full twelve months, even though in fact it may have been a short year.

Treatment of Puerto Rico as a State for tax purposes

The amendment provides that beginning in the first year of the transition period, Puerto Rico generally would be considered a State under the Internal Revenue Code for purposes of application of the phase-in rules for the U.S. income tax. Thus, for example, a corporation incorporated under the laws of Puerto Rico would be considered a U.S. corporation and would be subject to U.S. tax (at the appropriate phase-in level) on its worldwide income.

If, however, the stock of a Puerto Rico corporation were owned by a U.S. person or persons, the portion of the foreign source income of the corporation not subject to U.S. tax because of the phase-in rules would continue to be subject to the various anti-deferral statutes of the Code such as the rules applicable to subpart F income, passive foreign investment companies, personal holding companies, foreign personal holding companies, and the accumulated earnings tax.

Under the amendment, the phase-in of the U.S. income tax laws during the transition period to persons resident in Puerto Rico does not apply to foreign sales corporations (FSCs) created or organized under the laws of Puerto Rico. Thus, a Puerto Rican FSC will continue to be treated as a foreign corporation, and will continue to qualify for regular FSC treatment (such as full treatment of its exempt foreign trade income as foreign source non-effectively connected income) until the date that Puerto Rico is admitted as a State.

Sourcing of income

Income earned from sources within Puerto Rico generally is considered U.S. source income for purposes of the U.S. tax liability being phased in (except where necessary to properly implement the phase-out of the possession tax credit as discussed below). This rule, for example, causes income earned from sources within Puerto Rico by non-U.S. residents generally to become subject to U.S. taxing jurisdiction (although the overall U.S. tax liability on such income would be limited by the phase-in rules).

Treatment of taxes paid to Puerto Rico

The Committee intends that taxes paid to Puerto Rico during the transition period are to be treated as taxes paid to a State for purposes of the U.S. tax liability being phased in. Thus, no foreign tax credit is allowed for such taxes in determining U.S. tax liability under the phase-in percentage. However, a deduction for the amount of such taxes generally is permitted for that purpose to the extent provided under Code section 164.

Transition period for section 936

The amendment provides a specific set of transition rules, covering the same transition period and using comparable phase-in percentages to the general income tax transition rules, applicable to the income tax credit against U.S. tax on Puerto Rico income provided under section 936. The transition to full Federal income taxation as described above precludes the use of section 936 credits by corporations created or organized under the laws of Puerto Rico for years beginning in or after the transition period. Corporations created or organized under U.S. laws (or those of the current States or the District of Columbia), however, are in some cases permitted to use section 936 income tax credits to the extent permitted under the limitations provided under the special section 936 transition rules.

Under this provision of the amendment, the section 936 credit generally is phased out ratably over a four-year period commencing in the section 936 corporation's second taxable year that begins after the certification of the referendum. That is, the amount of the section 936 credit available with respect to income or investments from activity in Puerto Rico is reduced to 75 percent of the amount of the credit that would be available absent the phase-out rules for a section 936 company's second taxable year beginning after such certification. The applicable percentage is 50 percent for the third taxable year, and generally is 25 percent for the fourth taxable year beginning after such date. Commencing with the fifth taxable year beginning after certification of the referendum, the section 936 credit no longer is available with respect to such income or investments.

As in the case of the general income tax transition rule, the amendment contains a special rule which applies if the January 1 on which Puerto Rico is admitted to statehood falls within a taxpayer's third taxable year of the transition period. Under this spe-

cial rule, a pro-rata portion of the section 936 credit otherwise available for that year is not available at all for operations in Puerto Rico. Thus, for a fiscal year taxpayer with a taxable year ending June 30, only 25 percent of one-half of the credit otherwise available (absent the phase-out) for the third year of the transition period would be available, assuming that year ended after statehood became effective. This special rule only affects taxpayers whose taxable years end between January 1 and the day of the year on which the referendum results are certified.

The Committee intends that section 936 credits be made available to a U.S. corporation under these rules during the transition period only if the taxpayer was previously operating under the credit and then only in an amount based on the taxpayer's prior utilization of the credit. Thus, during the transition period, the section 936 credit is available only to corporations that have elected under section 936 for the taxable year that includes the date of certification of the referendum. Moreover, the amount of section 936 credits allowable to a qualified corporation in any year during the transition period (before reduction by the applicable phase-out percentage) is limited to 130 percent of the average amount of section 936 credits taken by the taxpayer (or its predecessors) in the three most recent taxable years ending prior to August 1, 1990 (not taking into account years in which neither the taxpayer nor any predecessor was in existence).

If neither the corporation nor its predecessors (if any) had a taxable year ending before August 1, 1990, the limitation on the amount of credits that may be taken by the corporation in any year during the transition period (before reduction by the applicable phase-out percentage) is equal to the amount of section 936 credits taken by the corporation (or its predecessor, if any) for its first taxable year ending on or after August 1, 1990. The Committee intends that if such a corporation's first taxable year is a year consisting of less than twelve months, then the Secretary may permit the corporation (by regulations or otherwise) to annualize the amount of its first-year credits for purposes of determining its limitation.

Transition period for employment and excise taxes

A transition period for employment taxes covered under Chapter 24 of the Internal Revenue Code and for excise taxes imposed under the Code is provided under the amendment, during which Puerto Rico will be treated as a State for purposes of these taxes. In general, the transition period for these taxes commences with the second calendar year beginning after the certification of the referendum. Thus, for example, if the certification of the referendum in favor of statehood were to occur on October 15, 1991, the employment and excise tax transition period would commence with the 1993 calendar year. Under this example, beginning on the first day of 1993, U.S. excise taxes would be imposed in Puerto Rico in the same manner as they are within the United States (subject to certain transition rules).

During the transition period, the amount of employment and excise taxes that would be payable as a result of treating Puerto Rico as a State under the amendment will be phased in ratably

over a four-year period. The phase-in percentage is 25 percent in the first year of the transition period, 50 percent in the second year, and 75 percent in the third year. For the fourth year of the transition period and thereafter, full U.S. employment and excise tax will be collected.

The transition rules for excise taxes do not apply with respect to the excise taxes on employers that are currently applicable to Puerto Rico (i.e., the tax on old-age, survivors, and disability insurance (sec. 3111) and the Federal unemployment tax (sec. 3301)). Employers in Puerto Rico will continue to be required to pay these taxes at the full statutory level during the transition period.

A special rule applies with respect to the imposition of U.S. excise taxes on goods which are held for sale in Puerto Rico on the first day of the second, third, fourth, or fifth calendar year beginning after certification of the referendum, and which are held on any such date beyond the point at which tax otherwise would be imposed under the relevant provision of the Code. The amendment imposes a tax on such goods equal to the excess of the amount of tax that would be imposed on those goods under the applicable phase-in rate for the year in question over the amount of tax that would have been paid on those goods under the applicable phase-in rate (if any) for the immediately preceding year. Because the phase-in rates annually increase by 25 percent under the amendment, taxable goods held for sale on January 1 of any year during the transition period beyond the point at which the relevant tax generally would be imposed would be subject to tax equal to 25 percent of the full amount of tax otherwise prescribed for such goods under the Code. In such a case, the person holding the goods is liable for payment of the tax, which is due and payable on February 15 of the calendar year in which imposed in the same manner as the excise tax that would have been imposed under the Code during that year on similar goods.

As an illustration of the foregoing rule, assume that the certification of the referendum in favor of statehood occurs on October 15, 1991, so that the excise tax transition period would begin in 1993. If on January 1, 1993 a resident of Puerto Rico holds goods for sale that would be subject to U.S. excise tax during the transition period, but holds those goods beyond the point at which such tax generally would be imposed under the Code, then that person would be liable for the excise tax on those goods in 1993 at the year-one phase-in rate (i.e., 25 percent of full tax liability). The tax would be payable on February 15, 1993. If on January 1, 1994, the person held similar goods for sale, then the taxpayer would be liable for U.S. excise tax with respect to those goods on February 15, 1994. The amount of tax would be equal to the full amount of tax as prescribed under the Code on similar goods, multiplied by 25 percent (i.e., the difference between the year-two phase-in rate of 50 percent and the year-one phase-in rate of 25 percent).

Excise taxes on goods shipped from Puerto Rico to the United States

Under the amendment, the phase-in of tax pursuant to the transition period rules does not apply to goods shipped to the United States from Puerto Rico which are currently subject to U.S. excise

tax under section 7652(a) of the Code. These goods will be subject to full U.S. excise tax during the transition period. The amendment also terminates, effective at the beginning of the transition period, application to Puerto Rico of the special rules of section 5314 (exempting from U.S. tax Puerto Rico distilled spirits brought into the United States for certain nonbeverage purposes).

Excise taxes on goods shipped to Puerto Rico from the United States

The amendment also terminates application to Puerto Rico of the special rules of section 7653 of the Code pertaining to the excise taxation of goods shipped from the United States to Puerto Rico. This provision of the amendment is effective as of the beginning of the excise tax transition period. Thus, for example, goods manufactured in the United States and shipped to Puerto Rico after commencement of the transition period would not be eligible for the exemption from U.S. excise tax that is presently provided in section 7653(b) of the Code.

Estate and gift taxes

In the application of U.S. estate and gift taxes to persons resident in Puerto Rico, there is no transition period under the amendment. Thus, estate and gift taxes would be imposed with respect to decedents dying on or after, or for gifts made on or after, the first day of January of the fifth calendar year beginning after the certification of the referendum. If, for example, the certification of the referendum in favor of statehood occurs on October 15, 1991, the U.S. estate and gift taxes would first apply to residents of Puerto Rico with respect to decedents dying, or for gifts made, on or after January 1, 1996.

The amendment also provides rules intended to prevent avoidance of the U.S. estate and gift taxes through transfers made between the date of the filing of the amendment and the effective date of statehood. Under the anti-avoidance rules, all gifts made during this period are taken into account in determining the appropriate marginal rates and unified credit applicable to taxable transfers after the effective date of statehood. In addition, the gross estate of a decedent dying on or after the effective date of statehood would include any property transferred by the decedent during this period if the decedent or decedent's spouse, directly or indirectly, retains any degree of ownership or control of a beneficial interest (including a life estate) in the property as of the date of death, or disposes of or relinquishes such ownership or control within three years of death.

Cover over of taxes to Puerto Rico

The amendment provides that the cover over of excise taxes and customs duties by the United States Treasury to Puerto Rico mandated under present law will continue during years prior to Puerto Rico's admittance as a State. The amendment further provides that during the transition periods for imposition of the U.S. income, employment and excise taxes, any such taxes newly imposed as a result of the phase-in during the transition periods allocable to years (or portions thereof) preceding the date of Puerto Rico's admittance as a State will be covered over to Puerto Rico. Moreover, a portion of the revenues to the U.S. Treasury generated during the section 936 transition period from the phase out of section 936 will be covered over to Puerto Rico to the extent necessary to make the provisions of the bill related to statehood revenue neutral to the U.S. Treasury for that year.

Authority to develop other transitional rules

In addition to the special rules specified above, the amendment explicitly recognizes Congress' authority to enact any appropriate transitional rules that would be necessary to properly implement the phase-in of the U.S. tax system in Puerto Rico and the phase-out of the section 936 tax credit. The Committee understands that additional legislation to perfect the bill might be required for this purpose. Moreover, the amendment authorizes Treasury to promulgate such regulations as are necessary or appropriate to carry out the purposes of the transition provisions and to implement the transition to statehood.

Amendments to trade laws

Under the statehood option, Puerto Rico's special trade arrangements would be eliminated; that is, Puerto Rico would be treated like any other State. The amendment repeals the authority granted to the Legislature of Puerto Rico to impose a tariff on imported coffee (bill sec. 215(a)). Consistent with the bill's policy of providing a transition period prior to the effective date of statehood, the amendment requires the import duty on coffee to be phased out over four years beginning with the second year after certification of the referendum.

The amendment provides that the Legislature of Puerto Rico would be precluded from imposing any additional duties following the date of certification of the referendum. The amendment also makes a number of necessary conforming amendments to other statutes.

The amendment eliminates the special treatment provided to Puerto Rico under the CBERA (bill sec. 215(b)). Beginning on the effective date of statehood, neither the cost nor value of materials produced in Puerto Rico, nor the cost of processing operations performed in Puerto Rico, will be included for purposes of determining whether an imported article qualifies for duty-free treatment under the CBERA.

Spending program amendments under statehood

Transition period—in general

Under the amendment, there would be a five-year transition period for social welfare benefit programs, which entails the removal of the current caps on those programs as they apply to Puerto Rico and leads to full social welfare benefits in Puerto Rico commensurate with statehood status upon the admission of Puerto Rico as a State. In order to allow time for planning and development of the necessary administrative capacity, no changes in social welfare benefit programs would be made during the first calendar year following certification of the referendum results for statehood. In the

second year following certification, benefit enhancements would begin at levels which represent 25 percent of the full increase in benefits that will take place after the transition. In the third year following certification, 50 percent of the increased benefits will be implemented; in the fourth year, 75 percent. On January 1 of the fifth calendar year following the year of certification, the benefits commensurate with statehood status will be fully implemented as described below. During the transition period, the added Federal costs of enhancing the programs described below would be offset by limiting, as described above, the amount of increased Federal tax revenues collected during the transition period that are covered over to Puerto Rico. In addition, as discussed below, the amendment places a new cap on certain Federal spending programs during a period prior to Puerto Rico's admission into statehood.

Supplemental Security Income and Aid to the Aged, Blind, and Disabled

The Federally administered program of Supplemental Security Income (SSI) would be implemented in Puerto Rico starting on a partial basis in the second calendar year following certification of the referendum results for statehood. Thus, if statehood is chosen and the results are certified in 1991, the Federally administered SSI program would first be implemented, on a partial basis, in 1993. The rules of the SSI program would apply in Puerto Rico exactly as they apply in other States. The amendment would modify the general rules of the SSI program as applicable in all States to provide that benefit levels will be limited in such a way that the amount payable to an individual with no other income may not exceed 50 percent of the per capita income (based on the most recent available data) in the State of residence. Benefits for a couple would, as under present law, be 150 percent of the benefit for an individual. Under this rule, the monthly benefit rate in Puerto Rico would be approximately $215 at current benefit levels (i.e., ignoring the impact of future COLAs) and current per capita income levels. During the transition period, SSI benefit levels would be set at 25 percent of the full Statehood level in the second calendar year following certification of the referendum, 50 percent in the third such year, and 75 percent in the fourth such year.

In order to assure adequate lead time to prepare for proper administration of the program, the amendment would allow the Government of Puerto Rico to enter into an agreement with the Secretary of Health and Human Services to delay implementation of the SSI program to a date later than the beginning of second year after certification of the referendum—but not later than the date of admission to statehood. Under any such agreement, Puerto Rico would continue to operate the program of aid to the aged, blind, and disabled, but with benefits set at the levels that would have prevailed had the SSI program been implemented as described above.

Both during the transition period and after statehood takes effect, the program would be fully Federally funded (with Puerto Rico assuming the cost of any supplemental benefits it might elect to provide above the Federal levels). The present law cap on Federal funding would no longer apply.

Aid to Families with Dependent Children (AFDC)

As under present law, the level of benefits for the AFDC program would be set by the Government of Puerto Rico. The matching rate would be increased to the full medicaid match. At current per capita income levels, this would result in 83 percent Federal and 17-percent Puerto Rico matching. The present-law funding cap would be eliminated.

Medicaid

Once Puerto Rico becomes a State, the medicaid program would operate under the rules and requirements applicable to the regular medicaid program in other States. Matching under the statehood alternative would follow the regular medicaid rules which will result in an 83-percent Federal matching rate under existing per capita income levels.

During the transition period, under the amendment, the Government of Puerto Rico could continue to operate the current medicaid program with such modifications as might be appropriate to phase into the regular medicaid program upon full implementation. Federal matching starting in the second year following certification of the referendum would be at the 83-percent medicaid matching rate subject to a cap which would constrain new Federal costs to $79 million plus 25 percent of what would otherwise be payable under the regular medicaid matching provision. For the following two years, the percentage would be increased to 50 and 75 percent respectively.

Medicare

Under the amendment the Prospective Payment Assessment Commission would be directed to examine the current levels of reimbursement under the Hospital Insurance program and to advise the Secretary of Health and Human Services whether the current system appropriately reflects cost differentials between Puerto Rico and the States. The Secretary would be directed to propose appropriate legislative changes to the Congress if this study determines that the current system is not designed to achieve that objective. Pending such legislation, the current system would be kept in place.

Title XX social services program

Effective upon admission to statehood, Puerto Rico would be on the same footing as other States in the allocation of funds under the social services block grants program. This would not result in additional costs since this is a capped entitlement program with a fixed overall cost level. The net effect for Puerto Rico would be to approximately double its allocation. As with other States, the program would operate on a 100-percent Federal funding basis. This program would not be modified during the transition period.

Deficit neutrality

As explained above, choice of statehood by the people of Puerto Rico entails treatment of Puerto Rico as a State for purposes of application of the Federal internal revenue laws. Statehood further

entails removal of the application of the possession tax credit to operations located in Puerto Rico.

The amendment provides for increases in Federal spending for grants to Puerto Rico or to Puerto Rico residents under various Social Security Act programs. These programs currently are subject to caps that in the aggregate limit Federal spending under these programs to $161 million.

The amendment further provides that the excise taxes and customs duties which the U.S. Government is presently required to cover over to Puerto Rico will continue to be so covered over until Puerto Rico becomes a State. In addition, the amendment calls for all Federal revenues resulting from the imposition of Federal income, employment, and excise taxes to Puerto Rico and its residents during the respective transition periods allocable to years (or portions thereof) preceding the date of Puerto Rico's admittance as a State to be covered over to Puerto Rico. In order to assure deficit neutrality prior to statehood, the amendment provides that a portion of the Federal revenues attributable to the phaseout of the application of section 936 to Puerto Rico will also be covered over to Puerto Rico. Under the amendment, the amount to be so covered over is equal to the amount of such revenues that are allocable to a fiscal year (or portion of a fiscal year) prior to statehood which exceeds the sum of the increases in Federal spending programs (medicaid, SSI, and AFDC) and the amount of earned income tax credits claimed by Puerto Rican residents and refunded by the Federal Government that are allocable to that year (or portion of that year).

The Committee believes that anticipated Federal revenues from the phase-out of section 936 will be more than sufficient to pay for any expanded benefits under the statehood option, but to provide for the unlikely event that those revenues are not sufficient and to assure deficit neutrality, the amendment places a limitation on certain Federal spending programs during the period which includes any fiscal year ending after the end of the first calendar year beginning after the date of certification of the referendum and before the date of admission of Puerto Rico as a State. During this period, the United States will reduce the amounts otherwise payable to Puerto Rico under AFDC (and other programs under Title IV of the Social Security Act), aid to the aged, blind, and disabled, and medicaid to the extent that the sum of those amounts and any expenditures under the SSI program to residents of Puerto Rico exceeds the sum of $161,000,000 and any increase in Federal revenues as a result of the phase-out of the application of section 936 to Puerto Rico.

For purposes of computations under the above formula, the amounts of Federal revenues generated from the phase-out of section 936 are to be determined annually by the Secretary of the Treasury. The amounts so determined are to be appropriately adjusted for actual data in subsequent years.

3. Title III (Independence)

Description of the Bill

Should independence be certified as having obtained a majority of the votes cast in the referendum, Puerto Rico would convene a constitutional convention for the purpose of drafting a constitution for post-independence Puerto Rico (to be known as the "Republic of Puerto Rico") (bill sec. 301). Subsequent to the ratification of the resulting constitution by the people of Puerto Rico, and the election of such officers as may be provided for in such constitution, the President of the United States would by proclamation withdraw U.S. sovereignty over the territory and people of Puerto Rico, effective upon the issuance of a Proclamation of Independence by the Republic of Puerto Rico (bill sec. 307). Upon the issuance of this Proclamation of Independence, the Republic of Puerto Rico would become a sovereign country.

Upon the certification of the referendum results in favor of independence. Puerto Rico would no longer be treated as part of the United States for purposes of acquiring U.S. citizenship by place of birth under the Jones Act and the Immigration and Nationality Act (bill sec. 311(b)). In addition, an individual born outside the United States would not acquire U.S. citizenship at birth if the parents of that individual acquired U.S. citizenship solely by virtue of being born in Puerto Rico prior to the Proclamation of Independence pursuant to the provisions of the Jones Act and the Immigration and Nationality Act (bill sec. 311(c)).

Explanation of Amendment

General tax treatment

The amendment generally treats the Republic of Puerto Rico as a foreign country and not as a part of the United States for all tax purposes, effective upon Proclamation of Independence, except as specifically provided. The Committee intends that Puerto Rico geneally would be excluded from tax treatment in the Code that currently pertains specifically to Puerto Rico or other U.S. possessions. The Commttee anticipates that additional technical legislation will be required to fully carry out this general effect.

Phaseout of section 936

Under the amendment, the section 936 credit for income from Puerto Rico operations and investments is phase out over a four-year transition period. The transition period commences with the taxpayer's second taxable year that begins after the certification of the referendum results in favor of independence. For example, if a result for independence is certified during calendar year 1991, the amount of the tax credit allowed to a calendar-year taxpayer under section 936 would be reduced by 25 percent during 1993, by 50 percent during 1994, by 75 percent during 1995, and would be eliminated entirely beginning in 1996. Under the amendment, the section 936 credit, as so reduced, is available for these years in the transition period even if the Proclamation of Independence predates the end of the transition period.

The Committee intends that section 936 credits be made available to a U.S. corporation under these rules during the transition period only if the taxpayer was previously operating under the credit and then only in an amount based on the taxpayer's prior utilization of the credit. Therefore, during the transition period, section 936 credits are available only to corporations that are entitled to section 936 benefits for the taxable year that includes the date of certification of the referendum results. Moreover, the amount of allowable section 936 credits (before reduction by the applicable phaseout percentage) is limited to 130 percent of the average amount of section 936 credits taken by the taxpayer (or its predecessors) in the three most recent taxable years ending prior to August 1, 1990 (not taking into account years in which neither the taxpayer nor any predecessor was in existence). If neither the corporation nor its predecessors (if any) had a taxable year ending on or after August 1, 1990, the amount of allowable section 936 credits (before reduction by the applicable phaseout percentage) would be limited to the amount of section 936 credits taken by the corporation (or its predecessor, if any) for its first taxable year ending on or after August 1, 1990. The Committee intends that if such a corporation's first taxable year is a year consisting of less than twelve months, then the Secretary (by regulations or otherwise) may permit the corporation to annualize the amount of its first-year credits for purposes of determining its limitation.

The Committee recognizes that the creditability of Puerto Rico tax under the Code's foreign tax credit provisions may take on heightened importance after independence and the resulting termination of section 936 credits for Puerto Rico operations of U.S. corporations. U.S. corporations that continue operations in Puerto Rico after independence would be eligible for foreign tax credits for taxes paid to the Republic of Puerto Rico so long as those taxes qualify as creditable under the Code. The Committee understands that Puerto Rico taxes imposed in the past have, at least in some cases, been considered by the IRS to be creditable (see, e.g., Rev. Rul. 59-101, 1959-1 C.B. 189). The Committee takes no position on whether the taxes currently imposed by Puerto Rico, or taxes that Puerto Rico may impose in the future, are or are not creditable under applicable foreign tax credit rules. However, the Committee understands that such taxes as may be imposed by Puerto Rico in the future may well be designed to be eligible for U.S. foreign tax credits. The Committee wishes to emphasize that, in order for a foreign tax to be eligible for the foreign tax credit under section 901, the tax must satisfy the U.S. rules as they may be in effect, which rules are currently embodied in Code sections 901-907, regulations thereunder, and applicable rulings and judicial decisions. Under these rules, for example, the tax must not be refunded or otherwise used to provide a subsidy to the taxpayer or any related person, or any other party to the transaction or to a related transaction.

Treatment of certain U.S. citizens resident in Puerto Rico

Under the amendment, an individual who is a bona fide resident of the Republic of Puerto Rico after independence will continue to be eligible, under certain circumstances, for the exclusion currently provided under Code section 933 for income from sources within

Puerto Rico. The benefits of section 933 are available for a taxable year only for such a resident of the Republic of Puerto Rico who meets two tests. First, the individual must be a citizen of the United States solely by virtue of either being born in Puerto Rico pursuant to the provisions of the Jones Act and the Immigration and Nationality Act, or being born to parents who themselves are citizens of the United States solely by virtue of being born in Puerto Rico pursuant to the provisions of the Jones Act and the Immigration and Nationality Act, or both. Second, for that year the individual must have neither earned income in an amount exceeding the limitation on the foreign earned income exclusion applicable for that year, nor unearned income in an amount exceeding the sum of the applicable standard deduction and the applicable personal exemption or exemptions. A resident of Puerto Rico is ineligible for treatment under section 933 for any taxable year after the date of the Proclamation of Independence in which either test is not met. Moreover, in the case of an individual who would be so eligible for treatment under section 933, but whose spouse is ineligible, the former individual would be eligible only if the two spouses file separate income tax returns. Under the bill as reported by the Energy and Natural Resources Committee, individuals born in Puerto Rico after the date of the Proclamation of Independence generally are not U.S. citizens, and thus generally are not affected either by section 933 or by the Finance Committee amendment to section 933.

For estate and gift tax purposes, all U.S. citizens resident in the Republic of Puerto Rico are treated the same as U.S. citizens resident in any other foreign country.

The amendment also provides rules intended to prevent avoidance of the U.S. estate and gift taxes through transfers made between the date of the filing of the amendment and the effective date of independence. Under the anti-avoidance rules, all gifts made during this interim period are taken into account in determining the appropriate marginal rates and unified credit applicable to taxable transfers after the effective date of independence. In addition, the gross estate of a decedent dying on or after the effective date of independence would include any property transferred by the decedent during this period if the decedent or decedent's spouse, directly or indirectly, retains any degree of ownership or control of a beneficial interest (including a life estate) in the property as of the date of death, or disposes of or relinquishes such ownership or control within three years prior to death.

Application of U.S. excise taxation

Under the amendment, the cover over to the Treasury of Puerto Rico of excise taxes and customs duties collected by the United States on articles coming into the United States from Puerto Rico and on rum imported into the United States is phased out over five years (the first five calendar years beginning after the certification of the referendum results). For example, if the referendum results are certified in favor of independence during 1991, the amount of excise tax and customs duty covered over to Puerto Rico would be 80 percent of the amount otherwise due during 1992, 60 percent

during 1993, 40 percent during 1994, 20 percent during 1995, and none beginning in 1996.

Application of low-income housing credit

Generally the amendment terminates the low-income housing credit for years after the year in which the certification of referendum results occurs. The amendment does not affect the low-income housing credit for buildings, located in Puerto Rico, that receive a credit allocation from the State housing credit ceiling applicable to Puerto Rico prior to the end of the calendar year during which the referendum results are certified. Similarly the amendment does not affect the low-income housing credit for buildings, located in Puerto Rico, that would have received a credit allocation but for their use of qualified tax-exempt bond financing prior to the end of the calendar year during which the referendum results are certified. Because the amendment also leaves the credit rules in place, qualified buildings which have not yet been placed in service as of the end of the calendar year during which certification occurs may be placed in service and qualify for the credit within the two calendar years beginning after certification.

Notwithstanding any future extension of the low-income housing credit, no low-income credit dollar amount for buildings located in Puerto Rico, other than qualified carryover credits, is available for calendar years beginning after the date on which the referendum results are certified.

Treatment of tax-exempt bonds issued by Puerto Rico

The amendment provides that interest on originally tax-exempt bonds issued by Puerto Rico and its political subdivisions prior to the date of certification of the referendum results and outstanding on the date of certification of the referendum results remains tax-exempt in the same manner as if Puerto Rico were a State or a commonwealth.

In addition, the amendment permits Puerto Rico and its political subdivisions to continue to issue tax-exempt bonds (both governmental and qualified private activity) as provided under present law, through the last day of the fifth calendar year that begins after the date of certification of the referendum results. For example, if the referendum results are certified in favor of independence during calendar year 1991, Puerto Rico would be permitted to issue tax-exempt bonds through December 31, 1996.

International trade issues

As an independent country, Puerto Rico will no longer be part of the U.S. customs territory, and all special U.S. trade and tariff laws relating to Puerto Rico are specifically repealed by section 308(a)(2) of the bill. The amendment provides for future consideration of the trade relationship between the United States and an independent Puerto Rico (bill sec. 315). The amendment expresses the sense of the Congress that the United States should continue to maintain an open trade relationship with Puerto Rico both until and after independence, and that the President should encourage other countries to maintain open trading relationships with Puerto Rico and give favorable consideration to including Puerto Rico

under any preferential trade arrangements they maintain (bill sec. 315(a)). To assist in the consideration of the trading relationship between the United States and an independent Puerto Rico, the amendment requires that the Joint Transition Commission establish a Task Force on Trade to consider the manner in which trade between the United States and Puerto Rico will be governed after independence, and submit recommendations to the President and the Senate Finance and House Ways and Means Committees regarding the future trade relationship (bill sec. 315(b)).

The amendment modifies the Harmonized Tariff Schedule of the United States to provide unconditional most-favored-nation treatment for an independent Puerto Rico (bill sec. 315(c)). The amendment also provides authority for the President to designate an independent Puerto Rico as a beneficiary under the CBERA (bill sec. 315(d)). Finally, the amendment provides the President with specific authority to negotiate a free trade agreement with an independent Puerto Rico, and to have any implementing legislation for such an agreement considered through fast track legislative procedures during the five-year period after independence takes effect (bill sec. 315(e)-(h)).

Federal spending programs

General approach.—If Puerto Rico should choose independence in the referendum, social welfare programs within the jurisdiction of the Finance Committee would continue under existing terms and conditions through the end of the fiscal year in which independence is proclaimed and would cease thereafter. (The amendment does not modify the provisions of the Energy and Natural Resources Committee bill relating to transition grants to be made to Puerto Rico for a period of time after the termination of Federal programs.)

Unemployment compensation.—Amounts in the Puerto Rico "state" account in the unemployment trust fund would be transferred to the treasury of Puerto Rico and Puerto Rico would no longer be treated as a State for purposes of the Unemployment Program. U.S. companies operating in Puerto Rico would not be required to pay Federal unemployment (FUTA) taxes with respect to bona fide residents of Puerto Rico who are not U.S. citizens or who are U.S. citizens solely by reason of the Jones Act on the basis of birth in Puerto Rico and/or Puerto Rican parentage.

Social security.—By way of exception, the social security program of old age, survivors, and disability insurance, including the social security taxes applicable to that program, would continue in effect until the end of the fifth calendar year beginning after the date of certification, or until a time mutually agreed upon by the Puerto Rico and U.S. Governments. Individuals who had already applied for and met the eligibility requirements for benefits as of that date would continue to receive benefits under the terms and conditions applicable to all U.S. social security beneficiaries. Such individuals would also retain their eligibility for Medicare benefits when they are within the United States. The Governments of Puerto Rico and the United States would establish a Joint Task Force to seek to reach agreement on a coordination of the U.S. and Puerto Rico social security systems. The exact details of the agreement would

be worked out by the task force. The U.S. has similar agreements with several other countries under which each country pays a proportionate benefit under its program to individuals who have worked under both systems.

4. Title IV (Commonwealth)

Description of the Bill

The bill generally would amend the rules of both the House and the Senate to expedite review of certain recommendations of the Puerto Rican Government (where such recommendations are adopted by the Puerto Rican legislature and that fact is certified by the Governor to the Speaker of the U.S. House of Representatives and the President of the Senate) that particular Federal laws should not apply to Puerto Rico (bill sec. 403 (a) and (b)).

These provisions would not apply, however, to any Federal statutory law (1) establishing grants or services to individual U.S. citizens, (2) relating to citizenship, or (3) pertaining to foreign relations, defense, or national security (bill sec. 403(c)).

The bill also sets forth a mechanism under which the Governor of Puerto Rico could require agency review and judicial review of Federal regulations which apply to Puerto Rico but which the Governor determines are inconsistent with the policy, set forth in the bill, of enhancing the Commonwealth relationship to enable the people of Puerto Rico to accelerate their economic and social development, to attain maximum cultural autonomy, and in matters of government to take into account local conditions in Puerto Rico (bill secs. 402(b) and 404).

The bill provides that the Governor of Puerto Rico may enter into international agreements to promote the international interests of Puerto Rico as authorized by the President of the United States and consistent with the laws and international obligations of the United States (bill sec. 403(d)).

The bill also provides that Federal agencies may consolidate grants made to Puerto Rico under the same consolidation provisions applicable to the Virgin Islands and other U.S. possessions (bill sec. 407).

Explanation of Amendment

In general

The amendment provides that the provisions regarding expedited Congressional review (bill sec. 403 (a) and (b)) and the provision regarding Puerto Rican international agreements (bill sec. 403(d)), would not apply to any Federal law or provision thereof relating to matters within the jurisdiction of the Senate Finance Committee. The Committee intends that the process of negotiation and entry into international agreements relating to such matters (e.g., tax treaties) would be unaffected by the bill as amended by the Finance Committee. Under the amendment, the bill provisions regarding regulatory review (bill sec. 404) would not apply to any agency action relating to matters that would be within the jurisdiction of the Senate Finance Committee (as those matters are defined under the Senate Rules as of the date of enactment of the bill) if

they were the subject of legislation. Under the amendment the bill provision permitting grant consolidation (bill sec. 407) would not apply to grants to Puerto Rico with respect to programs established or operated under the Social Security Act.

Tax-related provisions and cover overs

The amendment changes the requirement that, in order to qualify for the section 936 credit, a domestic corporation must derive at least 75 percent of its gross income from the active conduct of a trade or business within a U.S. possession over a three-year period (Code sec. 936(a)(2)(B)). Effective for a corporation's fourth taxable year beginning after certification of the referendum in favor of commonwealth, the applicable percentage under the amendment is 80 percent. Effective for subsequent taxable years, the applicable percentage under the amendment is 85 percent. In the case of a taxpayer whose first taxable year begins after the certification date, the foregoing rules apply as if the taxpayer also had a taxable year, ending in the same month, in effect on (and after) the certification date.

The amendment also provides that cover overs from the United States to Puerto Rico of excise taxes collected by the United States on articles coming into the United States from Puerto Rico, and on rum imported into the United States, as provided under current law, and cover overs from the United States to Puerto Rico of customs duties, would be phased down over a period beginning after certification of the referendum. As described below, the amount of the reduction is tied to the increases in social spending programs covered by the amendment, less amounts related to projected increases in Federal tax revenues due to the change in the active business requirement in section 936 as described above. In addition, the amendment provides that any reduction in cover over must be no less than a fixed dollar amount (or fixed dollar amount as modified by a formul[illegible]. These rules are described below, following the description of the changes in Federal spending programs under the amendment.

International trade issues

Under the commonwealth option, the amendment generally maintains present law with respect to Puerto Rico's special trade arrangements relating to coffee and treatment under the Caribbean Basin Initiative. The amendment modifies cover overs of customs duties, however, as described below.

Spending program amendments under commonwealth alternative

In general

Under the amendment, there would be enhancements to certain social welfare benefit programs, phased in over a transition period leading to full implementation generally as of the beginning of the fifth calendar year following certification of the results of the referendum for commonwealth. The amendment generally would require increased benefit levels under programs for the aged, blind, and disabled, and would increase the available Federal grants to Puerto Rico under those programs and the medicaid and aid to

families with dependent children (AFDC) programs. As described below, these changes tend to increase the parity between the benefits available under commonwealth and the benefits that would be available under statehood both during the transition period and upon full implementation. The financing of these benefits, however, would be differently shared under commonwealth than under statehood, in recognition of the different fiscal relationship between the Federal Government and the Government and residents of Puerto Rico under the two status options. Under commonwealth, the financing of the social welfare programs will generally be on a 50 percent Federal and 50 percent commonwealth basis.

Finally, the amendment replaces the present law fixed statutory cap on Federal funding of Social Security Act programs with a new structure which allows for growth in that funding subject only to a requirement relating to deficit neutrality concerns. This new mechanism provides for a new cap on Federal grants to Puerto Rico, which is related to the changes described above in the tax credits available under section 936 of the Internal Revenue Code, and to changes in the cover over of Federal excise tax and customs duty collections. The Committee expects, based on cost estimates available to it, that the statutory cap will not be reached, and that the revenues from the section 936 modification and the reduction in cover overs will be adequate to provide for the increased Federal social spending.

Transition period

In order to allow time for planning and development, no changes would be made in social welfare benefit programs during the first year following certification of the referendum results for commonwealth. In the second year following certification, changes would begin at levels that generally represent 25 percent of the full change that would take place after the transition. In the third year following certification, generally 50 percent of the full change will be implemented; in the fourth year, generally 75 percent. By the fifth calendar year following the year of certification, the changes will generally be fully implemented as described below.

Aid to the aged, blind, and disabled

The existing program of aid to the aged, blind, and disabled is retained but minimum benefit levels are established starting in the second calendar year beginning after certification of the referendum results for statehood. Thus, if commonwealth is retained and the results are certified in 1991, mandatory minimum benefit levels would first take effect in 1993. These minimum benefit levels would be the same as the benefit levels applicable under the SSI program as it would apply under the statehood option described in Part II above. As under statehood, benefit levels under commonwealth would assure that the basic benefit for an individual does not exceed 50 percent of per capita income. During the transition period, benefit levels would be set at 25 percent of the fully phased in level in the second calendar year following certification of the referendum results, 50 percent in the third such year, and 75 percent in the fourth such year. The costs of this program would be shared on a 50 percent Federal, 50 percent commonwealth basis

starting in the second calendar year following certification of the referendum results. The present-law dollar cap on Federal funding would no longer apply. However, the overall limitation explained below under the heading "Deficit neutrality" would apply.

Aid to families with dependent children

As under present law, the level of benefits for the AFDC program would continue to be set by the Government of Puerto Rico under commonwealth status (as would also be the case under statehood). Beginning on January 1 of the second calendar year beginning after certification of the referendum for commonwealth, the matching rate would be set at 50 percent Federal and 50 percent commonwealth. Also beginning on that date, the present-law dollar cap on Federal funding would no longer apply. However, the overall limitation explained below under the heading "Deficit neutrality" would apply.

Medicaid

Under the commonwealth alternative, the present $79 million cap on Federal funding for the medicaid program would be eliminated as of the fourth fiscal year beginning after the end of the calendar year in which the referendum results are certified. Federal matching would be provided on a 50 percent Federal, 50 percent commonwealth basis. During the transition period, funding would be capped at $79 million plus a percentage of the full Federal funding that would be available under an open-ended 50 percent matching rate. That percentage would be 25 percent in the first fiscal year beginning after the end of the calendar year in which the referendum results are certified, 50 percent in the following fiscal year, and 75 percent in the following fiscal year.

The Committee anticipates that the Commonwealth would continue to operate a medicaid program generally along the model of the medicaid system currently in operation in that jurisdiction. However, the additional funding would allow Puerto Rico to provide services through that system that are comparable to what would otherwise be available under the statehood option. The deficit neutrality provisions described below would include funding for the medicaid program.

Medicare

The Prospective Payment Assessment Commission would be directed to examine the current levels of reimbursement under the Hospital Insurance program and to advise the Secretary of Health and Human Services whether the current system appropriately reflects cost differentials between Puerto Rico and the States. The Secretary would be directed to propose appropriate legislative changes to the Congress if this study determines that the current system is not designed to achieve that objective. Pending such legislation, the current system would be kept in place.

Title XX

Effective in the fifth fiscal year beginning after the date of certification of the referendum results, the Commonwealth would be treated as a State for purposes of determining the amount of its

allocation of funds under title XX of the Social Security Act. However, the Commonwealth would be responsible for meeting 50 percent of the cost of this allocation. Since this change is not expected to increase the Federal cost of the program, the deficit neutrality calculations would not include this program.

Deficit neutrality

As explained above, choice of commonwealth by the people of Puerto Rico entails increases in Federal spending for grants to Puerto Rico under various Social Security Act programs. These programs currently are subject to caps that in the aggregate limit Federal spending under these programs to $161 million. The amendment would also increase Federal revenues by a modification of section 936 of the Code which is also described above.

Finally, the provisions of present law that require the United States Treasury to cover into the Puerto Rican treasury certain excise tax and customs duties receipts would be modified to reduce those cover overs. To the extent that excise tax and customs duty receipts permit, the amount of the reduction in the cover over must at least equal the excess of (1) Federal payments to Puerto Rico under the AFDC, foster care and adoption assistance, non-SSI aid to aged, blind, and disabled, and medicaid programs over (2) $161 million plus an additional dollar amount. As stated above, the additional dollar amount relates to the Federal revenue gains that may result from the amendment to the active business requirement under Code section 936.

For purposes of computations under the above formula, the amounts of the Federal payments to Puerto Rico under the programs listed above are to be determined on the basis of preliminary estimates of the Secretary of the Treasury in consultation with the Secretary of Health and Human Services during the fiscal year in question. These preliminary estimates are to be appropriately adjusted for actual data prior to the end of the subsequent fiscal year. The additional dollar amount to be added to the $161 million figure is zero for the first two fiscal years beginning in a calendar year beginning after the date of certification of the referendum results, $30 million for the third such fiscal year, and $80 million for the fourth such fiscal year. For fiscal years thereafter, the additional dollar amount is $101 million times the applicable ratio. The applicable ratio for any fiscal year is the ratio of gross national product for the last calendar year ending before the beginning of that year to the gross national product for the second calendar year beginning after certification of the referendum results.

Notwithstanding the foregoing rules, in every fiscal year the amount of the reduction in the cover overs (to the extent that excise tax and customs duty receipts permit) must be no less than the projected growth in Federal benefit costs less the section 936-related additional dollar amount. These minimum reduction amounts will be determined on the basis of a formula specified in the bill.

The Committee fully expects that the sum of the amounts associated with the section 936 modification and the excise tax and customs duty receipts subject to reduced cover over will be sufficient to finance the full increase in the Federal matching share of the

affected social welfare programs, assuming a 50 percent Federal matching share with no dollar ceiling. However, as a backup measure to assure that the bill maintains deficit neutrality, a provision has been included that places an overall limit on Federal funding of the AFDC, foster care and adoption assistance, aid to aged, blind, and disabled, and medicaid programs. This limit is equal to the present Federal funding level ($161 million), plus the additional dollar amount described above, plus the excise tax and customs duty receipts that would be subject to cover over under present law. While the Committee does not expect this limit to be reached either in the next few years or thereafter, the Committee would be prepared to reexamine the issue of appropriate financing for these programs if that should occur.

III. Budget Effects of Committee Amendment

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the estimated budget effects of S. 712 as amended and reported by the Committee on Finance.

The estimated budget effects of S. 712, as amended, for fiscal years 1992–1995 is provided in the statement of the Congressional Budget Office (CBO). The CBO statement, included in Part IV.B. of this report, includes estimates of the revenue and outlay effects under statehood, independence, and commonwealth options provided under the bill as amended. The estimated revenue effects in the CBO statement are provided by the Joint Committee on Taxation.

IV. Regulatory Impact and Other Matters To Be Discussed Under Senate Rules

A. Regulatory Impact

Pursuant to paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the bill (S. 712) as amended and reported by the Committee on Finance.

Impact on individuals and businesses, personal privacy, and paperwork

The purpose of S. 712 is to provide for the exercise of self-determination by the people of Puerto Rico through a referendum (to be held on June 4, 1991) on the future political status of the island. Title I sets forth the legal framework and timing of the referendum. Titles II, III, and IV set forth detailed definitions of the three respective status options; statehood (title II), independence (title III), and commonwealth (title IV). The option which receives a majority vote in the referendum would be implemented in accordance with the appropriate title of S. 712 as amended by the Committee on Finance. Thus, U.S. laws now affecting Puerto Rico would be amended under the bill as reported by the Committee on Finance, depending upon the option chosen in the referendum. The laws that would be amended by the bill include those within the jurisdiction

of the Committee on Finance (i.e., tax, trade, and social security laws).

The Committee on Finance amendments to titles II, III, and IV of the bill provide for a phase-in of the effects of applicable U.S. tax, trade, and social security laws on individuals and businesses in Puerto Rico under the three referendum options. (See Part II.C. of this report.)

B. OTHER MATTERS

Vote of the Committee

In compliance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the vote of the Committee on Finance on the motion to report the bill. The bill (S. 712), as amended, was ordered reported by voice vote. The Committee on Finance makes no recommendation on whether the bill as amended do pass.

Consultation with Congressional Budget Office

In accordance with Section 403 of the Budget Act, the Committee on Finance advises that the Congressional Budget Office submitted the following statement:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 14, 1990.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate of S. 712, the Puerto Rico Status Referendum Act, as ordered reported by the Committee on Finance on August 1, 1990. Because legislative language has been unavailable, the estimates are based on descriptions of the bill provided by the Senate Finance Committee staff. Therefore, these estimates are subject to change.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT F. HALE
(For Robert D. Reischauer, Director).

Attachment.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 712.
2. Bill title: The Puerto Rico Status Referendum Act.
3. Bill status: As ordered reported by the Senate Committee on Finance on August 1, 1990.
4. Bill purpose: To establish guidelines and provide resources for an island-wide referendum during the summer of 1991 in Puerto Rico. The referendum would allow Puerto Ricans to choose among statehood, independence, and enhanced commonwealth status. In addition, the bill specifies permanent changes and transition provisions for entitlement, trade, and tax issues for each of the options.

5. Estimated cost to the Federal Government: The estimated federal budget effects would be very different depending upon which status option—statehood, independence, or enhanced commonwealth—is chosen. The table below shows the estimated federal budget changes under each alternative. Because legislative language has been unavailable, the estimates are based on descriptions of the bill provided by the Senate Finance Committee staff. Therefore, these estimates may be changed after the legislative language is available.

The Committee on Energy and Natural Resources reported S. 712 in a form that would have altered programs under the jurisdiction of two other Senate Committees. Accordingly, the bill was rereferred concurrently to the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry so that those committees might make adjustments to laws within their respective jurisdictions. This estimate combines the costs of S. 712 as ordered reported by the Senate Energy and Natural Resources Committee, except for Food Stamp program costs, with the cost of the bill as ordered reported by the Senate Finance Committee. Food stamp costs are not included here because the Energy and Natural Resources Committee provisions for that program are not consistent with the deficit neutrality criterion in the Finance Committee bill.

ESTIMATED BUDGET EFFECTS UNDER ALTERNATIVE STATUS OPTIONS

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
STATEHOOD					
Direct spending:					
Entitlement Programs—Finance:					
Budget authority		0	405	985	1,520
Estimated outlays		0	405	985	1,520
Other programs—Food Stamps:					
Budget authority		(1)	(1)	(1)	(1)
Estimated outlays		(1)	(1)	(1)	(1)
Tax sharing ("cover-over") payments to Puerto Rico:					
Estimated outlays [2]		0	465	1,275	1,841
Total direct spending:					
Budget authority		0	870	2,260	3,361
Estimated outlays		0	870	2,260	3,361
Total revenues		0	870	2,260	3,361
Total revenue and direct spending		0	0	0	0
Amounts subject to appropriation action:					
Estimated authorization level	5	(3)	(3)	(3)	(3)
Estimated outlays	5	(3)	(3)	(3)	(3)
Net impact on the deficit	5	(3)	(3)	(3)	(3)
INDEPENDENCE					
Direct spending:					
Federal benefit programs:					
Budget authority	0	0	0	750	−460
Estimated outlays	0	0	0	750	−460
Excise tax sharing ("cover-over") payments:					
Estimated outlays		−54	−109	−163	−218
Total Direct Spending					
Budget authority	0	−54	−109	587	−678
Estimated outlays	0	−54	−109	587	−678
Total revenues		3	458	989	1,670
Total Revenue and Direct Spending	0	57	−567	−402	−2,348

ESTIMATED BUDGET EFFECTS UNDER ALTERNATIVE STATUS OPTIONS—Continued

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Amounts subject to appropriation action:					
Estimated authorization level	5	(3)	(3)	(3)	(3)
Estimated outlays	5	(3)	(3)	(3)	(3)
Net impact on the deficit	5	−57	−567	−402	−2,348
ENHANCED COMMONWEALTH STATUS					
Direct spending:					
Federal benefit programs:					
Budget authority		0	120	250	355
Estimated outlays		0	120	250	355
Tax sharing ("cover-over") payments for excise taxes and customs duties:					
Estimated outlays [2]		0	−120	−250	−325
Total Direct Spending:					
Budget authority		0	0	0	30
Estimated outlays		0	0	0	30
Total revenues		0	0	0	30
Total revenue and direct spending		0	0	0	0
Amounts subject to appropriation action:					
Estimated authorization level	5	(3)	(3)	(3)	(3)
Estimated outlays	5	(3)	(3)	(3)	(3)
Net impact on the deficit	5	(3)	(3)	(3)	(3)

[1] CBO prepared a cost estimate of the Food Stamp program as described in S. 712 as ordered reported by the Committee on Energy and Natural Resources. The estimates were increased food stamp outlays of $.7 billion annually beginning in 1992. An estimate of the Food Stamp program is not included in this estimate because the food stamp changes included in the Energy and Natural Resources reported bill are inconsistent with the deficit neutral criterion discussed in footnote 2.

[2] Under the commonwealth and statehood options, provisions of S. 712 as acmended by the Senate Finance Committee are explicitly structured to be deficit neutral through 1995. The bill specifies that certain current law payments to the Puerto Rican Treasury be reduced to offset any increased costs to the federal government due to changes in entitlement programs under the jurisdiction of the Senate Finance Committee. These payments are known as "cover-over" payments and are classified as federal outlays. In essence, they transfer to Puerto Rico excise tax and customs duty amounts collected on products produced in Puerto Rico. The bill would also create a new tax sharing "cover-over" payment to return to Puerto Rico certain tax receipts in excess of certain outlays (statehood option).

[3] Less than $5 million.

Basis of estimate: Based on a report by the Bureau of Census—Federal Expenditures by State for Fiscal Year 1989—, federal expenditures in Puerto Rico were $6.7 billion in 1989. This amount has been growing approximately 6 percent to 7 percent a year. Assuming a continuation of these growth rates, we estimate federal expenditures in Puerto Rico of $9.8 billion in 1995. Spending estimates of this bill are incremental estimates to this base amount.

For purposes of the estimate, CBO has assumed that the referendum would occur and the results would be certified in the summer of 1991. Further, the estimates assume that procedures for implementing the certified status option would go into effect in fiscal year 1992. The bill has three status options that are discussed below.

The cost of the referendum would be independent of the option chosen. Although the bill does not provide a specific authorization, CBO estimates the cost of the referendum would be between $2.5 million and $4 million in fiscal year 1991. The cost of the referendum is included in the costs of each status option.

S. 712 would require the Attorney General to provide for adequate monitoring of the referendum by U.S. Marshals. Based on information from the Department of Justice, CBO estimates that these monitoring activities would cost between one-half million and two million dollars in 1991, depending on how the Marshals Service implements this provision.

If the Marshals service provides a minimal presence of on-call deputy marshals able to respond to disruptions at polling places, then costs would be toward the lower end of the range. If on the other hand, it creates a greater presence by providing more marshals to travel to and monitor all 1,602 polling places during the election, then costs would be closer to the higher end of the range. For purposes of this estimate, we assumed that the primary function of the U.S. Marshals would be to insure law and order at polling places and not to insure against election fraud. We therefore did not estimate the costs that would be incurred to provide oversight and security of ballot and machines.

S. 712 also would require the President to appoint a Referendum Information officer to distribute education information on the referendum. The bill authorizes the appropriation of funds to cover the expenses of the Information Officer. CBO assumed that the Information Officer would be appointed by November 1990 and would work through August of 1991. The estimate covers costs for salaries, overhead, printing, and postage. CBO estimates the cost of these activities would be $2 million in fiscal year 1991.

S. 712 results in interdependent revenue and outlay effects, mainly because of the deficit-neutral criterion discussed in footnote b., page 3, of this estimate. The Joint Committee on Taxation has provided the estimates of the income and excise tax provisions of S. 712 for all three options. Using these, CBO has computed adjustments to specific outlay and revenue line items to maintain the deficit neutrality totals for the bill.

Statehood: Under the Finance Committee version of S. 712, if statehood is chosen in the referendum, Puerto Rico would become a state January 1, 1996. In addition, the bill provides a transition period for some entitlement programs beginning January 1993. These programs would be phased in at 25 percent of full implementation costs in 1993, 50 percent in 1994, 75 percent in 1995 and 100 percent in 1996. Also, during the transition period, the bill would require the U.S. Treasury to pay to the Puerto Rican Treasury all federal collections from newly-imposed income and excise taxes, except to the extent needed to meet the additional federal costs of expanding certain entitlement programs. Finally, the bill would increase federal revenues because it repeals the possessions tax credit—Section 936 of the Internal Revenue Code—and because Puerto Rican residents would become subject to U.S. income and excise taxes if Puerto Rico were a state. The "cover-over" payments transferring U.S. income and excise tax receipts to Puerto Rico would be increased or decreased accordingly by the U.S. Treasury to assure that the Finance Committee Amendment would be deficit neutral during the transition period.

Entitlement programs: While Puerto Rico now is considered a state for many federal programs, it is not always treated identically to the rest of the 50 states. For example, federal funds available for AFDC, Foster Care, Aid to the Aged, Blind and Disabled (AABD) and Medicaid are capped in Puerto Rico. Currently, the SSI program is not available in Puerto Rico, but the AABD program is. Also, because Puerto Ricans do not pay income taxes, the Earned Income Tax Credit (EITC), the refundable portion of which is classified as a federal outlay, is not available in Puerto Rico.

This bill would provide the means for Puerto Rico to be treated identically to other states for the following programs: Medicaid, Medicare, SSI, AFDC, Foster Care and the EITC. Some of the programs like Medicaid and SSI would be phased-in over the 1993–1996 period, while others would be fully effective in 1993. The largest increase in federal costs would occur in the Medicaid and SSI programs.

The estimates for the entitlement programs are complex and uncertain in a number of respects. The uncertainties include the benefit levels for each program, the number of participants in each program, the actual amount of time the transition to statehood would take, and the comparability of the program and population in Puerto Rico to the U.S. Recent detailed data-bases that display the characteristics of current program participants and that permit estimates of potential participants are not available for Puerto Rico. This lack of data complicates the estimating process and increases the uncertainty of the estimates. Finally, some of the federal programs, in particular AFDC, are sensitive to the condition of the economy, particularly the unemployment rate. If the Puerto Rican economy should change under statehood, the costs to the federal government for these programs could change significantly. For example, participation in the AFDC and unemployment insurance programs would be higher, if unemployment increased significantly.

Medicaid.—Currently, Puerto Rico operates a limited Medicaid program. The federal government reimburses Puerto Rico for 50 percent of its Medicaid expenditures up to a federal cap of $79 million per year. S. 712 would raise the federal matching rate to 83 percent and by 1996 would eliminate the cap on federal funding. Based on conversations with island Medicaid staff, the Health Care Financing Administration (HCFA) regional office, and previous published work on Puerto Rico's public health care system, CBO has assumed that Puerto Rico would cover approximately 1.35 million participants annually under the more generous federal reimbursement rules. This estimate also assumes that Puerto Rico would increase the supply of services offered under Medicaid by 1996. The changes would be fully implemented as of January 1, 1996. Partial implementation of the program would begin on January 1, 1993 with the increase in federal costs set at 25 percent of the added costs of a fully implemented program. The increase would be set at 50 percent in 1994 and 75 percent in 1995.

We estimate that as a result of these changes Puerto Rico would receive from the federal government an additional $200 million in 1993 growing to $1.3 billion in 1996 (See table on page 9).

Medicare.—Under current law, Medicare reimbursements to hospitals in Puerto Rico are determined according to provisions applicable only to such institutions located there. In general, the current level of hospital reimbursement is based on a blend of Puerto Rico's discharge-weighted average costs per case (75 percent) and the U.S. national average costs per case (25 percent). These reimbursements are otherwise similar to those received by U.S. hospitals under the prospective payment system. The per-case payments to particular hospitals are adjusted for case mix, for local wages relative to Puerto Rican wages, and for geographic location (large

urban, other urban, and rural) in the same manner as in the U.S. Payments are also updated annually in a fashion similar to provisions applicable to U.S. hospitals.

Under the Senate Finance Committee's amendments, the Medicare program would continue as under current law until the Prospective Payment Assessment Commission has completed a report required by the bill. The Commission would be directed to examine the current levels of reimbursement under the Hospital Insurance program and to advise the Secretary of Health and Human Services whether the current system appropriately reflects the cost differential between Puerto Rico and the U.S. Therefore, CBO does not estimate a change in current federal Medicare spending in Puerto Rico because we cannot predict what changes, if any, would be recommended by the Commission.

SSI.—The Supplemental Security Income (SSI) program is not currently in effect in Puerto Rico. Federal expenditures for the island's program of Aid to the Aged, Blind, or Disabled (AABD) amount to about $16 million per year. Under the statehood option, the bill would modify the SSI program as it applies in all states such that the maximum benefit may not exceed 50 percent of the state's per capita income, based on the most recent available income data. The SSI program would be fully implemented in Puerto Rico under this provision as of January 1, 1996. Partial implementation of the program would begin on January 1, 1996. Partial implementation of the program would begin on January 1, 1993 with the increase in benefits set at 25 percent of that which would be provided under full implementation. The increase would be set at 50 percent in 1994 and 75 percent in 1995.

The estimated increase in federal expenditures from replacing the existing AABD program with SSI would be $160 million in fiscal year 1993, $290 million in fiscal year 1994, $400 million in fiscal year 1995, and $610 million in fiscal year 1996 (See table on page 9). The estimated cost for fiscal year 1993 is for the nine months beginning January 1, 1993. The estimate includes administrative expenses of $85 million in fiscal year 1993, $30 million in both 1994 and 1995, and $40 million in 1996. Administrative expenses will be relatively high in the first year of the program due to the cost of processing initial claims. The estimates assume participation of 104,000 aged and 247,000 blind or disabled persons in 1993, increasing to 107,000 aged and 262,000 blind or disabled persons in 1995.

The estimate of the number of aged persons participating in the program is based on data from the 1980 census. In a 1987 report on extending taxes and benefits to the U.S. territories, the General Accounting Office (GAO) used these data to estimate the number of aged persons who would be eligible for SSI. Participation of eligible persons is based on recent estimates of participation in the United States—55 percent. Because disabled persons are difficult to identify on the Census data, GAO estimated only the number of eligible aged persons. To estimate the number of disabled participants, we assumed that the ratio of disabled recipients to aged recipients would be the same in Puerto Rico as in the rest of the United States. The estimated number of Puerto Rican SSI participants from the 1980 Census data was then adjusted by the actual growth

rate in the U.S. SSI aged and disabled caseloads between 1979 and 1989. The estimated number of participants was then adjusted by CBO's baseline growth for the aged and disabled from 1990 through 1996.

If the SSI program is fully implemented under statehood, the maximum benefit payable in any year would be 50 percent of the per capita income of the state in the most recent year for which data are available. According to the Puerto Rican Planning Board, per capita personal income in Puerto Rico in the fiscal year ending June 30, 1989 was $5,266. The estimate assumes nominal per capita personal income in Puerto Rico in 1992 of $6,096 on an annual basis, or $508 per month. If the SSI program were fully in place in 1993, the maximum benefit would be 50 percent of this amount. However, under the phase-in of the SSI program in the statehood proposal, SSI benefits would be limited in 1993 to one quarter of the fully phased-in benefit, i.e., 12.5 percent of per capita income. The maximum SSI benefit would increase to 25 percent of per capita income in 1994, 37.5 percent in 1995, and 50 percent in 1996 when the program would be fully phased in. This estimate assumes a nominal annual growth rate in per capita personal income of 5 percent throughout the period covered by the estimate.

AFDC.—Statehood for Puerto Rico would have a relatively small effect on federal spending in the AFDC progam, as long as Puerto Rico did not raise its payment standards. CBO estimates that federal outlays would rise by $40 million in 1993 and $70 million a year during 1994–1996, as a result of a higher federal matching rate and a lifting of the current spending cap (See table on page 9). The federal matching rate would rise from 75 percent, where it is fixed for Puerto Rico under current law, to 83 percent, the rate Puerto Rico would have as a state, given its low per capita income. The federal matching rate in AFDC rises with a state's per capita income. By law, the federal share can be no less than 50 percent and no more than 83 percent. This rise in the federal matching rate would increase federal outlays by an estimated $10 million a year. Federal spending in Puerto Rico is also subject to an $82 million cap under current law (including spending on AABD and on foster care and adoption assistance). Lifting the cap would add $30 million to federal outlays in 1993 and an estimated $60 million in 1994–1996.

Current law AFDC outlays will rise significantly from 1993 to later years because Puerto Rico will have to implement an AFDC-Unemployed Parent (UP) program October 1, 1992, as required by the Family Support Act of 1988 (Public Law 100–485). Based on CBO estimates, about 35,000 AFDC–UP families will participate and federal costs will amount to about $60 million a year, when the program is fully effective in fiscal year 1994 and later. Without the lifting of the spending cap, Puerto Rico would have to absorb these additional costs. This accounts for the estimated increase in the costs of statehood between 1993 and 1994–1996.

If Puerto Rico increased its AFDC payment standards, costs of statehood for the AFDC program would be significantly higher than what CBO is estimating. For example, if Puerto Rico were to put one-half of its savings from the increased federal matching rate back into AFDC, federal outlays would rise by another $30 million a year in 1994 to 1996. In its 1987 study, GAO estimated that federal outlays, as a result of statehood, would increase by $72 million a year, primarily from a doubling of AFDC payment standards. Whether Puerto Rico would raise its payment standards is uncertain. On the one hand, its standards are low and its sizable savings from expanded Medicaid coverage, along with the smaller savings in AFDC, could be used to pay for increased payment standards. On the other hand, uncertainties surrounding costs of the AFDC-UP program, possible increased benefits under the Nutrition Assistance Program with statehood, and concern over revenue losses under statehood would argue for caution in raising standards.

Foster Care.—Extending the IV–E foster care program to Puerto Rico would cost an estimated $3 million in 1993 growing to $5 million in 1996. This estimate assumes that foster care caseload in Puerto Rico grows at the same rate as in other states, that 60 percent of the Puerto Rican children in foster care would qualify for federal reimbursements under Title IV–E of the Social Security Act, that the current $100 monthly payment rate would be increased for inflation, and that the ratio of administrative to benefit costs would be the same as in the rest of the United States.

Earned Income Tax Credit (EITC).—Starting in 1993 Puerto Rican residents would become subject to U.S. income tax laws and as a result some residents would become eligible for the Earned Income Tax Credit. The estimated cost of the refundable portion of the EITC in Puerto Rico would be $5 million in 1993, $75 million in 1994 and $150 million in 1995 (See table on page 10).

The Census Bureau has published tables showing families with children under age 18 by 1979 income level for Puerto Rico and the United States. Under current law, families with children are eligible for EITC if their earnings and other income total $19,850 or less in 1989. After making adjustments for income and population growth between 1979 and 1989, there would be approximately 334,000 eligible families in Puerto Rico in 1989. This is approximately 5 percent of the U.S. families eligible in 1989. CBO assumed that the average benefit for Puerto Rican families would equal the average benefit for mainland families. Therefore, the estimated increase in federal outlays are 5 percent above current baseline estimates.

Tax Sharing ("Cover-over") Payments.—Some of the increased federal tax receipts from the repeal of the section 936 tax credit described in the next section would be returned to Puerto Rico as a so-called cover-over payment. If the increased federal receipts from repeal of the section 936 tax credit exceed the increased federal outlays from the expanded benefit programs discussed above, as CBO estimates, then all of the excess receipts in each year through 1995 would be transferred to the Treasury of Puerto Rico. We estimate these "cover-over" payments, classified as outlays in the federal budget, to total $48 million in 1993, $246 million in 1994 and $393 million in 1995. (See table on page 10).

Two other changes under the statehood alternative have completely offsetting effects on the federal deficit through 1995. Residents of Puerto Rico would become subject to U.S. income and excise taxes, phased in by 25% per year over the 1993–1996 period. The resulting increase in federal taxes would be returned completely to Puerto Rico's Treasury each year through 1995.

ESTIMATED FEDERAL OUTLAYS FOR DIRECT SPENDING UNDER THE STATEHOOD OPTION

[By fiscal year in millions of dollars]

	1993	1994	1995
Medicaid: Estimated outlays	200	550	900
SSI: Estimated outlays	160	290	400
AFDC: Estimated outlays	40	70	70
Foster Care: Estimated outlays	(1)	(1)	(1)
Earned income tax credit: Estimated outlays	5	75	150
Total Entitlement programs: Estimated outlays	405	985	1,520
Partial tax sharing ("cover-over") payment for section 936 tax credit: Estimated outlays	48	246	393
Tax sharing ("cover-over") payments for income and excise taxes: Estimated outlays	417	1,029	1,448
Total tax sharing ("cover-over") payments: Estimated outlays	465	1,275	1,841
Total direct spending: Estimated outlays	870	2,260	3,361

[1] Less than $5 million.

Revenues: The possessions tax credit, section 936 of the Internal Revenue Code, is available to U.S. corporations operating in Puerto Rico. Under the statehood alternative S. 712 would repeal the credit over a transition period of four years. The value of the credit would be reduce by 25 percent in 1993, 50 percent in 1994, 75 percent in 1995, and then the credit would be entirely repealed in 1996. According to estimates provided by the Joint Committee on Taxation, federal tax receipts would increase as a result by an estimated $453 million in 1993, over $1.2 billion in 1994, and over $1.9 billion in 1995.

ESTIMATED FEDERAL REVENUES UNDER THE STATEHOOD OPTION

[By fiscal year in millions of dollars]

	1993	1994	1995
Repeal of section 936 tax credit: Estimated revenues	453	1,231	1,913
New coverage of income and excise taxes: Estimated revenues	417	1,029	1,448
Total revenues	870	2,260	3,361

Senators and Representatives: Beginning January 1996, Puerto Rico would be represented in Congress by two senators and six representatives. At the same time, the office of Puerto Rico's current delegate to the Congress—the Resident Commissioner—would no longer be necessary. The costs of the additional members would be similar to the costs associated with members of Congress from the states with population size similar to Puerto Rico and of similar distance from Washington, D.C. Such costs would total about $7 to $10 million annually. The estimate for 1996 assumes the new members would be sworn in during January 1996.

Commission on Federal Laws in Puerto Rico: S. 712 would require the creation of a seven-person commission to examine the applicability of federal laws in Puerto Rico. The commission would be created within 60 days of confirmation of the election results (beginning November 1991 at the latest) and would have to submit its report by January 1, 1995. CBO estimates the cost of these activities would be $1 million anually in fiscal years 1992–1994.

Independence: If Puerto Ricans choose independence, Puerto Rico would become an independent republic upon proclamation. This option would provide for a Joint Transition Commission to facilitate a smooth and equitable transfer of power. Also, under independence the bill would provide for the continuation of current federal programs for a period of time. In addition the bill would phase-out the current tax sharing ("cover-over") payments of excise taxes to Puerto Rico. Finally, the bill would increase federal revenues by repealing the possessions tax credit and by collecting U.S. income taxes from Puerto Rican residents who remain U.S. citizens after independence is proclaimed.

Transition Commission: S. 712 would establish a Joint Transition Commission which would oversee the transfer of power from the United States government to the newly established Puerto Rican government. It is anticipated that the Commission would need to establish a number of task forces to handle various aspects of the transition. The costs of this Commission would be borne evenly between the U.S. and Puerto Rican governments. CBO estimates the cost to the federal government would be between $2 million and $3 million annually beginning in fiscal year 1992.

Current Federal Spending Programs: S. 712 would provide for the continuation of all federal programs until the end of the fiscal year in which independence is proclaimed. Beginning in the next year, a grant would be paid annually to the Republic of Puerto Rico in an amount equal to the total amount of grants, programs, and services provided by the federal government in such fiscal year. Payments of the grant would continue through the ninth year following certification of the referendum. Programs operating in Puerto Rico within the jurisdiction of the Senate Finance Committee would cease to exist in their current form, but would be included in the block grant. Also, the balance in the Puerto Rico "state" account in the federally administered unemployment trust fund would be transferred to the treasury of Puerto Rico at such time.

In addition, the bill would allow Puerto Rico to request renewal or continuation of any existing contractual obligations, provided that Puerto Rico agrees that the cost of such renewal or continuation shall be deducted from the annual grant. Also, all federal pension programs and Social Security benefits shall continue as provided by U.S. law. The accrual of additional coverage under the U.S. Social Security program, however, would not continue in Puerto Rico beyond December 31, 1996.

The bill does not address the date of proclamation, but it does state that the procedures for implementing the status option certified shall go into effect in October 1, 1991. The bill then outlines the procedures for implementing independence. The procedures are: (1) election of delegates to a constitutional convention, (2) development and adoption of the constitution, (3) ratification of the constitution, (4) election of officers of the Republic, and then (5) proclamation. The length of time any one of these events would take is uncertain. While most of these procedures have a time limit specified in the bill, the most significant one—the development and adoption of the constitution—does not. The time required to adopt a constitution could range from six months to several years. Based

upon discussions with people in Puerto Rico and the knowledge that the current constitution is found to be republican in form and in conformity with the constitution of the United States and has many of the qualifications specified in S. 712, CBO has estimated that a constitution could be adopted within one year. Based upon this assumption and other information in the bill, CBO assumes independence would be proclaimed in fiscal year 1993 if Puerto Ricans choose that option.

CBO estimates the total amount of grants, programs and services for Puerto Rico in fiscal year 1993 would be $3.8 billion. This estmate was developed by excluding Social Security, other Federal pension programs, salaries and wages, and procurement from the 1989 federal expenditures in Puerto Rico and adjusting for inflation.

The bill specifies that Social Security and other Federal pension programs would continue and therefore, would not be included in the block grant. The bill also specifies—subject to negotiation—the continued U.S. operation and use of military installations; therefore, no defense expenditures in Puerto Rico would be included in the block grant.

The savings to the federal government for fiscal years 1994 and 1995 would be the difference between the 1993 base amount and the 1993 grant adjusted for inflation through 1995. The estimated savings would be $0.2 and $0.3 billion in fiscal years 1994 and 1995 respectively. The cost to the federal government of transferring the balance of the Puerto Rican state account in the unemployment trust fund would be $1.1 billion in fiscal year 1994. In addition, employees in Puerto Rico would no longer collect unemployment benefits from the unemployment trust fund under this option. The savings to the federal government for unemployment benefits would be $150 million in 1994 and $160 million in 1995.

Tax Sharing ("Cover-over") Payments.—The tax sharing ("cover-over") payment for excise taxes that Puerto Rico currently receives would be phased out over the 1993–1996 period, resulting in reduced federal outlays. Under current law, federal excise taxes paid on Puerto Rican produced products are returned to the Treasury of Puerto Rico as a "cover-over" payment. Under independence, this so-called cover-over payment would be reduced by 20% in 1992, 40% in 1993, 60% in 1994, and 80% in 1995, and would be completely repealed in 1996. CBO estimates that this would result in reduced "cover-over" payments of $109 million in 1993, $163 million and $218 million in 1995.

ESTIMATED FEDERAL OUTLAYS FOR DIRECT SPENDING PROGRAMS UNDER THE INDEPENDENCE OPTION

[By fiscal year in millions of dollars]

	1992	1993	1994	1995
Block Grant: Estimated outlays	0	0	−200	−300
Unemployment trust fund balance: Estimated outlays	0	0	1,100	0
Unemployment compensation benefits: Estimated outlays	0	0	−150	−160
Total Federal benefit programs: Estimated outlays	0	0	750	−460

ESTIMATED FEDERAL OUTLAYS FOR DIRECT SPENDING PROGRAMS UNDER THE INDEPENDENCE OPTION—Continued

[By fiscal year in millions of dollars]

	1992	1993	1994	1995
Tax sharing ("cover-over") payment for excise taxes: Estimated outlays	−54	−109	−163	−218
Total direct spending: Estimated outlays	−54	−109	587	−678

Revenues: Under the independence option, S. 712 would repeal the section 936 tax credit according to the same transition schedule as under the statehood alternative. The value of the credit would be reduced by 25% in 1993, 50% in 1994, 75% in 1995, and then the credit would be fully repealed beyond 1995. The Joint Committee on Taxation estimates that this change would increase federal receipts by $453 million in 1993, over $1.2 billion in 1994 and over $1.9 billion in 1995, the same amounts as under the statehood alternative.

While Puerto Rican residents who remain U.S. citizens and continue to live in an independent Puerto Rico would become subject to U.S. income taxation, a relatively small amount of increased federal revenue is expected from this source for two reasons. First, in practice only high income earners would have positive tax liability, because of the exclusions for foreign-earned income allowed under current tax law. Second, Puerto Ricans with U.S. citizenship could give up their U.S. citizenship and thereby avoid the U.S. tax. The Joint Committee on Taxation estimates that the bill would raise $5 million in additional federal revenues in 1993, $7 million in 1994, and $8 million in 1995 from this source.

Under the independence option of S. 712, employers in Puerto Rico would no longer pay unemployment insurance taxes to the federal government. This would reduce federal revenues by an estimated $249 million in 1994 and $251 million in 1995.

ESTIMATED FEDERAL REVENUES UNDER THE INDEPENDENCE OPTION

[By fiscal year in millions of dollars]

	1992	1993	1994	1995
Repeal of Section 936 tax credit: Estimated revenues	0	453	1,231	1,913
Taxes on U.S. citizens in Puerto Rico: Estimated revenues	3	5	7	8
Unemployment taxes: Estimated revenues	0	0	−249	−251
Total revenues	3	458	989	−1,670

Enhanced Commonwealth status: Under the Finance Committee amendments, if Puerto Ricans choose an enhanced commonwealth, Puerto Rico would be treated similarly to U.S. states for certain entitlement programs. Nevertheless, these programs would be funded with 50 percent federal funds and 50 percent Puerto Rico funds. These programs also would be subject to similar phase-in requirements—25, 50 and 75 percent of full implementation costs—as under statehood. In addition, the bill would adjust "cover-over"

payments of excise taxes and customs duties to offset the additional federal costs of expanding the entitlement programs under the jurisdiction of the Senate Finance Committee. Finally, the bill would increase federal revenues by tightening the requirements for claiming section 936 tax credits. The "cover-over" payments would be increased or decreased by the U.S. Treasury accordingly to assure that the Finance Committee Amendment would be deficit neutral.

Under this option, the bill would establish a Caribbean Basin passport office and a Senate Liaison office. The bill also would provide for the consolidation of federal grant-in-aid programs except for programs under the jurisdiction of the Senate Finance Committee. Programs under the jurisdiction of the Senate Finance Committee would be established as discussed below.

Passport Office: S. 712 would require the federal government to establish a passport office in Puerto Rico for the Caribbean Basin. The State Department estimates the passport office will receive 50,000 applications per year. The cost estimate includes a one time $2.5 million cost to set-up, equip, and train office staff for the office. The annual operating expenses would be about $1 million annually. This estimate assumes 17 full-time federal employees.

Liaison Office: S. 712 would establish an Office of Senate Liaison for the Commonwealth of Puerto Rico to facilitate communications between the U.S. Senate and the Commonwealth. The bill would authorize an annual appropriation of $600,000 for salaries and $56,000 for office expenses. This estimate assumes that the Senate Liaison would be appointed by January 1992. CBO assumes that the entire appropriation will be spent in each year.

Current Federal Programs

Consolidated Grant.—If Puerto Ricans elect enhanced commonwealth status, section 501 of Public Law 95-134—Authorization, Appropriation-U.S. Territories—would apply to Puerto Rico. Section 501 allows a government agency to consolidate grants-in-aid other than direct payments to individuals for any fiscal year(s). The grant is not to be less than the sum of all grants which Puerto Rico is otherwise entitled. The grant is to be expended for purposes authorized, but Puerto Rico would be allowed to determine the proportion of the funds granted to be allocated to such programs and purposes. Each government agency must publish the method by which Puerto Rico may submit an application or a consolidated grant in the federal register. The agency may waive the requirement for an application with respect to a consolidated grant. CBO estimates there will be no additional costs for these programs with enactment of this bill.

Medicaid.—Under the commonwealth option, the current federal spending cap of $79 million per year would be eliminated and the Medicaid program would be funded with 50 percent federal funds and 50 percent commonwealth funds beginning in 1993. CBO assumed that Puerto Rico would not significantly alter the existing Medicaid program. Further, this estimate assumes 1.35 million participants. Under this option, the program would be phased-in as under the statehood option beginning in 1993 and would be fully implemented in 1996. In 1993, federal costs would be allowed to increase by 25 percent of the difference between current law costs

and the costs of an uncapped Medicaid program. The 25 percent would increase to 50 percent in 1994, to 75 percent in 1995, and to 100 percent in 1996. Under the commonwealth option, increased federal expenditures are estimated at $40 million in fiscal year 1993, $80 million in fiscal year 1994, $135 million in fiscal year 1995 and $195 million in fiscal year 1996.

Medicare.—The Medicare program would be treated the same under both the statehood option and the commonwealth option. As mentioned above in the statehood section, the Medicare program would continue as under current law until the Prospective Payment Assessment Commission has completed their assessment of the current Medicare system.

AABD.—Under the commonwealth option, Puerto Rico's Aid to the Aged, Blind and Disabled (AABD) program would be retained but minimum benefit levels would be established starting in 1993. The minimum benefit levels would be the same as the benefit levels applicable under the SSI program as it would be implemented under the statehood option. Under the commonwealth option, however, the AABD program would be funded with 50 percent federal funds and 50 percent commonwealth funds starting in 1993. Because benefit levels would be the same under either statehood or enhanced commonwealth status, we assumed the same number of participants under AABD as under SSI. Under the commonwealth option, federal expenditures for the AABD program would be approximately $80 million in fiscal year 1993, $150 million in fiscal year 1994, $200 million in fiscal year 1995, and $305 million in fiscal year 1996.

AFDC.—The federal matching rate for AFDC under the commonwealth option would be lower than under the statehood option—50 percent rather than 83 percent. Moreover, the 50 percent federal matching rate would be lower than the current-law matching rate of 75 percent, saving the federal government an estimated $30 million in 1993 and $40 million a year thereafter. As under statehood, the cap on federal spending would be removed, which would increase federal AFDC costs. As a result of changes in both the matching rate and the spending cap, federal costs would be essentially unchanged in 1993 and would rise by an estimated $20 million a year during 1994-1996.

Foster Care.—Federal foster care costs under the commonwealth option are estimated to be $2 million in 1993, rising to $3 million in 1996. Costs are $1 million lower than under the statehood option because the matching rate for maintenance payments would be 50 percent rather than 83 percent.

Tax Sharing ("Cover-over") Payments.—Existing tax sharing ("cover-over") payments for excise taxes and customs duties would be reduced by an amount necessary to offset the excess of increased outlays from the expended benefit programs above the increased revenue from the tighter section 936 credit requirement. CBO estimates that these tax sharing payments under current law would total $428 million in 1995, which would have to be reduced by $325 million under the commonwealth alternative to offset the increased outlays.

ESTIMATED FEDERAL OUTLAYS FOR DIRECT SPENDING PROGRAMS UNDER THE COMMONWEALTH OPTION

[By fiscal year in millions of dollars]

	1993	1994	1995
Medicaid: Estimated outlays	40	80	135
AABD: Estimated outlays	80	150	200
AFDC: Estimated outlays	(1)	20	20
Foster Care	(2)	(2)	(2)
Total Federal Benefit programs: Estimated outlays	120	250	355
Tax sharing ("cover-over") payments for excise taxes and customs duties: Estimated outlays	−120	−250	−325
Total direct spending: Estimated outlays	0	0	30

[1] Less than $500,000.
[2] Less than $5 million.

Revenues: Under the commonwealth option, the requirements for using the section 936 tax credit would be tightened, raising revenues. Under current law, in order to qualify for the section 936 tax credit, a corporation is required to earn at least 75% of its income from the active conduct of its trade or business in Puerto Rico. Under the commonwealth option, the required percentage would be increased in 1995 to 80%, and then increased further to 85% in 1996 and beyond. The Joint Committee on Taxation estimates that the tightened requirements for the section 936 tax credit would raise $30 million in federal receipts in 1995.

ESTIMATED FEDERAL REVENUES UNDER THE COMMONWEALTH OPTION

[By fiscal year in millions of dollars]

	1993	1994	1995
Tightening of requirements for claiming section 936 tax credit: Estimated revenues	0	0	30

6. Estimated cost to State and local government: The costs to state and local governments would vary considerably depending upon which status option is certified.

Under Statehood, Puerto Rico would incur significant savings in some entitlement programs. The AABD program would be replaced with the federally funded SSI program, and Puerto Rico would save $5 million annually. Currently, Puerto Rico spends $450 million on health care, and under Statehood and the extension of Medicaid, this estimate assumes Puerto Rico would spend $40 million on health care for a net savings of $410 million in benefit payments in fiscal year 1993. The savings would be $338 million and $266 million 1994 and 1995. Puerto Rico would save $40 million in 1993 and $70 million a year in 1994–1996 on the AFDC program. These savings would result from provisions in the bill that increase the federal matching rate and eliminate the cap on federal funds.

Under Independence, there would be savings to the federal government that could lead to costs for the government of Puerto Rico. It is unclear, however, to what extent Puerto Rico would pick up the difference in program spending.

Under Enhanced Commonwealth, the costs to Puerto Rico would be the required 50 percent match for the programs under the Finance Committee's jurisdiction. Currently, Puerto Rico spends $5 million annually on the AABD program. Under this option, they would spend $80 million in 1993 growing to $200 million in 1995. In AFDC, Puerto Rico would save $20 million a year during 1994–1996 from a combination of lowering the federal matching rate and eliminating the spending cap.

7. Estimate Comparison: None.

8. Previous CBO estimate: On September 6, 1989, CBO prepared an estimate of S. 712, The Puerto Rico Status Referendum Act, as ordered reported by the Senate Committee on Energy and Natural Resources. We also prepared a revised estimate of S. 712 as ordered reported by the Senate Committee on Energy and Natural Resources. This estimate is substantially different from the previous two estimates. This version of S. 712 would provide a 5-year transition under the statehood and commonwealth options for programs within the Finance Committee's jurisdiction. Also, this version provides for increased benefits under the commonwealth option at a 50 percent federal matching rate for those programs under the Senate Finance Committee's jurisdiction. And, this estimate combines the costs of S. 712 as ordered reported by the Energy and Natural Resources, except for Food Stamp program costs, with the cost of this bill.

9. Estimate prepared by: Mark Booth, Alan Fairbank, Maureen Griffin, Terri Gullo, Jim Hearn, Lori Housman, Julie Isaacs, Cory Leach, Marta Morgan, Janice Peskin, and Patrick Purcell.

10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

V. Changes in Existing Law Made by the Committee Amendment

In the opinion of the Committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill as amended and reported by the Committee on Finance).

O

HOUSE INSULAR AND INTERNATIONAL AFFAIRS SUBCOMMITTE

Statement of Congressmen Ron de Lugo, Robert J. Lagomarsino,

Jaime Fuster, and Morris K. Udall

AUGUST 2, 1990

Good Afternoon:

Congressman Lagomarsino, the ranking Republican Member of the Subcommittee on Insular and International Affairs, and I would like to take a few moments to inform you and the people of Puerto Rico where things stand in our efforts to obtain enactment of political status legislation for our fellow American citizens in Puerto Rico.

As we all know, there are few issues which have generated so much interest, concern, and anxiety in Puerto Rico over the years as political status. It is nothing short of a miracle then that the various political parties in Puerto Rico have come as far as they have in trying to reach agreement on this contentious matter. We are not there yet, but are still trying to work out an agreement that will ultimately provide the people of the Commonwealth with the opportunity to express themselves on their self-

determination goals and aspirations.

Our members and staff worked well into the early hours of this day on remaining areas of controversy and are continuing to try to work out a bill which all sides can live with and that has a reasonable chance of passage by the House of Representatives.

This is an historic period in the annals of Puerto Rico. It requires the very best thinking we can bring to bear. It requires great patience and understanding.

It should also be recognized that we in Congress can only go so far in our efforts to obtain a fair bill which we believe could be enacted. The nature of this process given its level of difficulty and sensitivity is that any party who wishes can torpedo the bill. We intend though to complete our obligation and responsibilities to the people of Puerto Rico and to our nation to make every effort to report a bill out of this Subcommittee for further consideration.

We are not prepared to do that today, but will continue our efforts into tonight to achieve a bill which could be taken up in Subcommittee tomorrow.

Union Calendar No. 497

101ST CONGRESS
2D SESSION

H. R. 4765

[Report No. 101–790, Parts I and II]

To enable the people of Puerto Rico to exercise self-determination.

IN THE HOUSE OF REPRESENTATIVES

MAY 9, 1990

Mr. DE LUGO (for himself, Mr. LAGOMARSINO, Mr. FUSTER, Mr. UDALL, Mr. YOUNG of Alaska, Mr. MOAKLEY, Mr. QUILLEN, Mr. CLARKE, Mr. LEWIS of Georgia, Mr. FALEOMAVAEGA, Mr. BLAZ, and Mr. DARDEN) introduced the following bill; which was referred jointly to the Committees on Interior and Insular Affairs and Rules

OCTOBER 2, 1990

Additional sponsors: Mr. MARKEY, Mr. OWENS of Utah, Mr. SOLARZ, Mr. COLEMAN of Missouri, Mr. DORNAN of California, Mr. KYL, Mr. MILLER of Washington, Mr. JONES of Georgia, and Mr. KOSTMAYER

OCTOBER 2, 1990

Reported from the Committee on Interior and Insular Affairs with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

OCTOBER 2, 1990

Reported from the Committee on Rules with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as May 9, 1990]

A BILL

To enable the people of Puerto Rico to exercise self-determination.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Puerto Rico Self-Determination Act".

SEC. 2. REFERENDUM ON STATUS OPTIONS.

(a) There are hereby authorized to be appropriated $13,500,000 to the Executive Office of the President for grants to the State Elections Commission of Puerto Rico for a referendum which is to be held on September 16, 1991, or on a later date in 1991 agreed to by a majority of the members of the Dialogue Committee on the Status of Puerto Rico (hereafter in this Act referred to as the "Dialogue Committee"), as established by executive order of the Governor of Puerto Rico on June 29, 1989, on the following question:

Which political status do you favor for the Commonwealth of Puerto Rico on terms to be consented to by the people of Puerto Rico and the Congress of the United States?

independence;

statehood;

a new commonwealth relationship; or

none of the above statuses.

(b)(1) Of the amount authorized to be appropriated by subsection (a), the State Elections Commission is authorized to—

(A) expend $7,500,000 for costs of conducting the referendum, including $1,500,000 to facilitate the participation of Puerto Ricans not resident in Puerto Rico in the referendum as authorized pursuant to section 3(c); and

(B) disburse $6,000,000 to the Dialogue Committee to be expended for the purpose of informing the people of Puerto Rico regarding the three status options, such amount to be equally divided among Puerto Rico's principal parties.

(2) Funds appropriated under paragraph (1) shall be made available for the necessary expenses, including the travel and transportation of persons, services as authorized by section 3109 of title 5, United States Code, communications, utilities, printing and reproduction, supplies and materials and other related services, and administrative costs.

(3) To be eligible to receive payments under paragraph (1)(B), a recipient shall—

(A) agree not to incur expenses related to the referendum in excess of amounts established by the elec-

toral laws of Puerto Rico for expenditures by the parties in general elections as of September 19, 1990;

(B) agree to keep complete records as to receipts and expenditures related to informing the people of Puerto Rico regarding the status question and furnish to the State Elections Commission such information as it may request; and

(C) agree to financial audits and examinations of such funds by the Comptroller General of the United States.

(4) Under such regulations as the Comptroller General of the United States shall prescribe, the Comptroller General shall audit and examine transactions made with funds made available under this subsection.

(c) The referendum shall be conducted pursuant to the laws of Puerto Rico.

(d) These Federal laws that apply to the election of the Resident Commissioner of Puerto Rico shall, if appropriate, also apply to the referendum. Any reference in such Federal laws to elections shall be considered, where appropriate, to be a reference to the referendum, and any reference in such laws to candidates for office shall be considered, where appropriate, to be a reference to the political status options under the referendum.

SEC. 3. NONRESIDENT PUERTO RICANS.

(a) The Congress finds that—

(1) a substantial number of the Puerto Rican people reside outside of Puerto Rico; and

(2) the Government of Puerto Rico has the authority to enable some Puerto Ricans who are United States citizens residing in places other than Puerto Rico to vote in the referendum.

(b) The Congress hereby authorizes the Government of Puerto Rico, subject to the plan referred to in subsection (c), to enable Puerto Ricans not resident in Puerto Rico to register and vote in the referendum without being present in Puerto Rico. Such persons may include those born in Puerto Rico or those who have at least one parent who was born in Puerto Rico.

(c) The Dialogue Committee is authorized to submit to the Legislative Assembly of Puerto Rico for its ratification a plan agreed to by a majority of the members of such committee to accomplish the purposes authorized by subsection (b). Once so ratified, such plan shall have the force of law.

(d) In the event that any provision of this Act is held invalid, or the Dialogue Committee does not submit a plan, or the Legislative Assembly of Puerto Rico fails to ratify such plan not later than one hundred and twenty days before the referendum, it is the intent of Congress that the remain-

ing provisions of this Act shall continue in full force and effect.

SEC. 4. DEVELOPMENT OF LEGISLATION.

(a) If the referendum results in a majority for one of the three status options, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of Puerto Rico's principal parties, the President of the United States, and other interested persons as may be appropriate, shall draft legislation to implement the selected status addressing the aspects of that status set forth in the report which accompanies the bill, H.R. 4765 (H. Rept. 101–790). In drafting the legislation provided for in this section, the governing principles of each status option shall be treated equally, consistent with the constitutional authority of the United States Congress.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the consultations.

SEC. 5. CONSIDERATION OF LEGISLATION.

(a) Not later than March 6, 1992, the Chairman of the Committee on Energy and Natural Resources shall introduce the legislation provided for in section 4(a) in the United States Senate and the Chairman of the Committee on Interior and Insular Affairs shall introduce such legislation in the United States House of Representatives.

(b) At any time after the close of the one hundred and eightieth-calendar day beginning after the date of introduction of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to discharge any committee of that House from further consideration of the legislation. A motion to discharge shall be highly privileged, and debate thereon shall be limited to not more than two hours, to be divided equally between those supporting and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(c) At any time after the close of the fourteenth legislative day beginning after the last committee has reported or been discharged from further consideration of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to proceed to the immediate consideration of the legislation (such motion not being debatable), and such motion is hereby made of high privilege. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(d) Enactment of this section constitutes a commitment that the United States Congress will vote on legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico.

SEC. 6. RATIFYING VOTE ON LEGISLATION.

(a) If enacted, the legislation draft pursuant to section 4(a) as approved by the Congress shall be submitted to the people of Puerto Rico of ratification according to the laws of Puerto Rico not later than sixty days after enactment. The legislation shall take effect in accordance with its terms upon approval by the people of Puerto Rico in the ratification vote.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the ratification vote provided for by this section.

SEC. 7. RECOMMENDATIONS, IF NECESSARY.

If the referendum provided for by section 2 does not result in a majority for one of the three status options or if the legislation drafted pursuant to this Act does not come into effect, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of the principal parties of Puerto Rico, the President of the United States, and other interested persons as may be appropriate, shall make such recommendations as may be appropriate at that time to facilitate the exercise of self-determination by the people of Puerto Rico.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Puerto Rico Self-Determination Act".

SEC. 2. REFERENDUM ON STATUS OPTIONS.

(a) There are hereby authorized to be appropriated $13,500,000 to the Executive Office of the President for grants to the State Elections Commission of Puerto Rico for a referendum which is to be held on September 16, 1991, or on a later date in 1991 agreed to by a majority of the members of the Dialogue Committee on the Status of Puerto Rico (hereafter in this Act referred to as the "Dialogue Committee"), as established by executive order of the Governor of Puerto Rico on June 29, 1989, on the following question:

Which political status do you favor for the Commonwealth of Puerto Rico on terms to be consented to by the people of Puerto Rico and the Congress of the United States?

independence;

statehood;

a new commonwealth relationship;

or

none of the above statuses.

(b)(1) Of the amount authorized to be appropriated by subsection (a), the State Elections Commission is authorized to—

(A) expend $7,500,000 for costs of conducting the referendum, including $1,500,000 to facilitate the participation of Puerto Ricans not resident in Puerto Rico in the referendum as authorized pursuant to section 3(c); and

(B) disburse $6,000,000 to the Dialogue Committee to be expended for the purpose of informing the people of Puerto Rico regarding the three status options, such amount to be equally divided among Puerto Rico's principal parties.

(2) Funds appropriated under paragraph (1) shall be made available for the necessary expenses, including the travel and transportation of persons, services as authorized by section 3109 of title 5, United States Code, communications, utilities, printing and reproduction, supplies and materials and other related services, and administrative costs.

(3) To be eligible to receive payments under paragraph (1)(B), a recipient shall—

(A) agree not to incur expenses related to the referendum in excess of amounts established by the electoral laws of Puerto Rico for expenditures by the parties in general elections as of September 19, 1990;

(B) agree to keep complete records as to receipts and expenditures related to informing the people of Puerto Rico regarding the status question and furnish to the State Elections Commission such information as it may request; and

(C) agree to financial audits and examinations of such funds by the Comptroller General of the United States.

(4) Under such regulations as the Comptroller General of the United States shall prescribe, the Comptroller General shall audit and examine transactions made with funds made available under this subsection.

(c) The referendum shall be conducted pursuant to the laws of Puerto Rico.

(d) Those Federal laws that apply to the election of the Resident Commissioner of Puerto Rico

shall, if appropriate, also apply to the referendum. Any reference in such Federal laws to elections shall be considered, where appropriate, to be a reference to the referendum, and any reference in such laws to candidates for office shall be considered, where appropriate, to be a reference to the political status options under the referendum.

SEC. 3. NONRESIDENT PUERTO RICANS.

(a) The Congress finds that—

(1) a substantial number of the Puerto Rican people reside outside of Puerto Rico; and

(2) the Government of Puerto Rico has the authority to enable some Puerto Ricans who are United States citizens residing in places other than Puerto Rico to vote in the referendum.

(b) The Congress hereby authorizes the government of Puerto Rico, subject to the plan referred to in subsection (c), to enable Puerto Ricans not resident in Puerto Rico to register and vote in the referendum without being present in Puerto Rico. Such persons may include those born in Puerto Rico or those who have at least one parent who was born in Puerto Rico.

(c) The Dialogue Committee is authorized to submit to the Legislative Assembly of Puerto Rico for its ratification a plan agreed to by a majority of the members of such committee to accomplish the purposes authorized by subsection (b). Once so ratified, such plan shall have the force of law.

(d) In the event that any provision of this Act is held invalid, or the Dialogue Committee does not submit a plan, or the Legislative Assembly of Puerto Rico fails to ratify such plan not later than one hundred and twenty days before the referendum, it is the intent of Congress that the remaining provisions of this Act shall continue in full force and effect.

SEC. 4. DEVELOPMENT OF LEGISLATION.

(a) If the referendum results in a majority for one of the three status options, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of Puerto Rico's principal parties, the President of the United States, and other interested persons as may be appropriate, shall draft legislation to implement the select-

ed status addressing the aspects of that status set forth in the report which accompanies the bill, H.R. 4765 (H. Rept. 101-790, Part 1). In drafting the legislation provided for in this section, the governing principles of each status option shall be treated equally, consistent with the constitutional authority of the United States Congress.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the consultations.

SEC. 5. CONSIDERATION OF LEGISLATION.

(a) Not later than March 6, 1992, the Chairman of the Committee on Energy and Natural Resources shall introduce the legislation provided for in section 4(a) in the United States Senate and the Chairman of the Committee on Interior and Insular Affairs shall introduce such legislation in the United States House of Representatives.

(b) At any time after the close of the one hundred and eightieth-calendar day beginning after the date of introduction of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to discharge any committee of that House from further consideration of the

legislation. A motion to discharge shall be highly privileged, and debate thereon shall be limited to not more than two hours, to be divided equally between those supporting and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(c) At any time after the close of the fourteenth legislative day beginning after the last committee has reported or been discharged from further consideration of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to proceed to the immediate consideration of the legislation (such motion not being debatable), and such motion is hereby made of high privilege. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(d) Enactment of this section constitutes a commitment that the United States Congress will vote on legislation establishing appropriate mech-

anisms and procedures to implement the political status selected by the people of Puerto Rico.

SEC. 6. RATIFYING VOTE ON LEGISLATION.

(a) If enacted, the legislation drafted pursuant to section 4(a) as approved by the Congress shall be submitted to the people of Puerto Rico for ratification according to the laws of Puerto Rico not later than sixty days after enactment. The legislation shall take effect in accordance with its terms upon approval by the people of Puerto Rico in the ratification vote.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the ratification vote provided for by this section.

SEC. 7. RECOMMENDATIONS, IF NECESSARY.

If the referendum provided for by section 2 does not result in a majority for one of the three status options or if the legislation drafted pursuant to this Act does not come into effect, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of the

principal parties of Puerto Rico, the President of the United States, and other interested persons as may be appropriate, shall make such recommendations as may be appropriate at that time to facilitate the exercise of self-determination by the people of Puerto Rico.

8-01-90

11 p.m.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4765

OFFERED BY _____

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Puerto Rico Self-Determination Act".

SEC. 2. REFERENDUM ON STATUS OPTIONS.

(a) There are hereby authorized to be appropriated $12,000,000 to the Executive Office of the President for grants to the State Elections Commission of Puerto Rico for a referendum which is to be held on a date in 1991 determined by the Elections Commission, on the following question:

Which political status do you favor for the Commonwealth of Puerto Rico on terms to be mutually agreed to by the people of Puerto Rico and the Congress of the United States?

independence;

statehood;

a new commonwealth relationship; or

none of the above statuses.

(b)(1) Of the amount authorized to be appropriated by

subsection (a), the State Elections Commission of Puerto Rico is authorized to--

(A) expend $6,000,000 for costs of conducting the referendum; and

(B) disburse $6,000,000 to the Dialogue Committee on the Status of Puerto Rico (hereafter in this Act referred to as the "Committee"), established by executive order of the Governor of Puerto Rico dated June 29, 1990, to be expended for the purpose of informing the people of Puerto Rico regarding the three status options, such amount to be equally divided among Puerto Rico's principal parties.

(2) Funds appropriated under paragraph (1) shall be made available for the necessary expenses, including the travel and transportation of persons, services as authorized by section 3109 of title 5, United States Code, communications, utilities, printing and reproduction, supplies and materials and other related services, and administrative costs.

(3) To be eligible to receive payments under paragraph (1) a party shall--

(A) agree not to incur expenses related to the referendum in excess of amounts established by the Committee, which amounts shall not be higher than the amounts established pursuant to the electoral laws of Puerto Rico for expenditures by the parties in general

elections;

(B) agree to keep complete records as to receipts and expenditures related to informing the people of Puerto Rico regarding the status question and furnish to the State Elections Commission of Puerto Rico such information as it may request; and

(C) agree to a financial audit and examination of such funds by the Comptroller General of the United States in accordance with regulations which the Comptroller General shall prescribe.

(4) Under such regulations as the Comptroller General of the United States shall prescribe, the Comptroller General shall conduct a financial audit and examination of the transactions made with funds made available under this subsection.

(c) The referendum shall be conducted pursuant to the laws of Puerto Rico.

(d) Those Federal laws that apply to the election of the Resident Commissioner of Puerto Rico shall, if appropriate, also apply to the referendum. Any reference in such Federal laws to elections shall be considered, where applicable, to be a reference to the referendum, and any reference in such laws to candidates for office shall be considered, where applicable, to be a reference to the political status options under the referendum. In all Federal cases arising under this Act, venue shall

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exclusively lie in the United States District Court of the District of Columbia.

SEC. 3. NONRESIDENT PUERTO RICANS.

(a) Because a substantial number of Puerto Ricans now reside outside of Puerto Rico, the government of Puerto Rico is authorized to enable Puerto Ricans who are United States citizens residing in places other than Puerto Rico, upon proper documentation for expedited registration procedures, to register and vote in the referendum without being present in Puerto Rico even if not domiciled in Puerto Rico. Such persons may include those born in Puerto Rico or those who have at least one parent who was born in Puerto Rico.

(b) The State Elections Commission of Puerto Rico is authorized to submit to the Legislative Assembly of Puerto Rico for its ratification a plan agreed to by a majority of the electoral commissioners to accomplish the purposes authorized by subsection (a). Once so ratified, such plan shall have the force of law.

(c) The Comptroller General of the United States shall investigate the potential social and economic impacts of the status options set forth in section 2(a) on Puerto Ricans who are not domiciled in Puerto Rico and report his findings to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate not later than June 4, 1991.

(d) In the event that this section of this Act is held invalid, it is the intent of Congress that the remaining sections or provisions of this Act shall continue in full force and effect.

SEC. 4. DEVELOPMENT OF LEGISLATION.

(a) If the referendum results in a majority for one of the three status options, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of Puerto Rico's principal parties, the President of the United States, and other interested persons as may be appropriate, shall draft legislation to implement the selected status addressing the aspects of that status set forth in the report which accompanies the bill, H.R. 4765 (H. Rept. 101--___). In drafting the legislation provided for in this section the governing principles of each status option shall be treated equally.

(b) Not later than December 3, 1991, such legislation shall be presented to the Chairman of the Committee on Energy and Natural Resources of the United States Senate and the Chairman of the Committee on Interior and Insular Affairs of the United States House of Representatives.

(c) There are authorized to be appropriated such sums as may be necessary for the conduct of the consultations.

SEC. 5. CONSIDERATION OF LEGISLATION.

(a) Not later than the first day of the second session of the 102nd Congress, the Chairman of the Committee on Energy and Natural Resources shall introduce the legislation provided for in section 4(a) in the United States Senate and the Chairman of the Committee on Interior and Insular Affairs shall introduce such legislation in the United States House of Representatives.

(b) At any time after the close of the 180th-calendar day beginning after the date of introduction of the legislation provided for in section 4(a), it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to discharge any committee of that House from further consideration of the legislation. A motion to discharge shall be highly privileged, and debate thereon shall be limited to not more than 2 hours, to be divided equally between those supporting and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(c) At any time after the close of the 14th legislative day beginning after the last committee has reported or been discharged from further consideration of the legislation provided for in section 4(a), it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to proceed to the immediate

consideration of the legislation (such motion not being debatable), and such motion is hereby made of high privilege. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(d) Enactment of this section constitutes a commitment that the United States Congress will vote on legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico.

SEC. 6. RATIFYING VOTE ON LEGISLATION.

(a) If enacted, the legislation provided for in section 4(a) as approved by the Congress shall be submitted to the people of Puerto Rico for ratification according to the laws of Puerto Rico not later than 60 days after enactment. The legislation shall take effect not later than Oct. 1, 1992, only if it is approved by the people of Puerto Rico in the ratification vote.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the ratification vote provided for by this section.

SEC. 7. RECOMMENDATIONS IF NECESSARY.

If the referendum provided for by section 2 does not result in a majority for one of the three status options or if the legislation provided for in section 4(a) does not come into effect, Members of the Committee on Energy and

Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of the principal parties of Puerto Rico, the President of the United States, and other interested persons as may be appropriate, shall make such recommendations as may be appropriate at that time to enable the people of Puerto Rico to exercise self-determination.

8-3-90

4:45 pm

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4765

OFFERED BY _____

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Puerto Rico Self-Determination Act''.

SEC. 2. REFERENDUM ON STATUS OPTIONS.

(a) There are hereby authorized to be appropriated $12,000,000 to the Executive Office of the President for grants to the State Elections Commission of Puerto Rico for a referendum which is to be held on _____, 1991, on the following question:

Which political status do you favor for the Commonwealth of Puerto Rico on terms to be mutually agreed to by the people of Puerto Rico and the Congress of the United States?

independence;

statehood;

a new commonwealth relationship; or

none of the above statuses.

(b)(1) Of the amount authorized to be appropriated by subsection (a), the State Elections Commission of Puerto Rico is authorized to--

(A) expend $6,000,000 for costs of conducting the referendum; and

(B) disburse $6,000,000 to the Dialogue Committee on the Status of Puerto Rico (hereafter in this Act referred to as the ``Committee''), established by executive order of the Governor of Puerto Rico dated June 29, 1990, to be expended for the purpose of informing the people of Puerto Rico regarding the three status options, such amount to be equally divided among Puerto Rico's principal parties.

(2) Funds appropriated under paragraph (1) shall be made available for the necessary expenses, including the travel and transportation of persons, services as authorized by section 3109 of title 5, United States Code, communications, utilities, printing and reproduction, supplies and materials and other related services, and administrative costs.

(3) To be eligible to receive payments under paragraph (1), a party shall--

(A) agree not to incur expenses related to the referendum in excess of amounts established by the

Committee, which amounts shall not be higher than the amounts established pursuant to the electoral laws of Puerto Rico for expenditures by the parties in general elections;

(B) agree to keep complete records as to receipts and expenditures related to informing the people of Puerto Rico regarding the status question and furnish to the State Elections Commission of Puerto Rico such information as it may request; and

(C) agree to a financial audit and examination of such funds by the Comptroller General of the United States in accordance with regulations which the Comptroller General shall prescribe.

(4) Under such regulations as the Comptroller General of the United States shall prescribe, the Comptroller General shall conduct a financial audit and examination of the transactions made with funds made available under this subsection.

(c) The referendum shall be conducted pursuant to the laws of Puerto Rico.

(d) Those Federal laws that apply to the election of the Resident Commissioner of Puerto Rico shall, if appropriate, also apply to the referendum. Any reference in such Federal laws to elections shall be considered, where applicable, to be a reference to the referendum, and any reference in such

laws to candidates for office shall be considered, where applicable, to be a reference to the political status options under the referendum.

SEC. 3. NONRESIDENT PUERTO RICANS.

The Comptroller General of the United States shall investigate the potential social and economic impacts of the status options set forth in section 2(a) on Puerto Ricans who are not domiciled in Puerto Rico and report his findings to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate not later than June 4, 1991.

SEC. 4. DEVELOPMENT OF LEGISLATION.

(a) If the referendum results in a majority for one of the three status options, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of Puerto Rico's principal parties, the President of the United States, and other interested persons as may be appropriate, shall draft legislation to implement the selected status addressing the aspects of that status set forth in the report which accompanies the bill, H.R. 4765 (H. Rept. 101--) In drafting the legislation provided for in this section, the governing principles of

each status option shall be treated equally, consistent with the constitutional authority of the United States Congress.

(b) Not later than December 3, 1991, such legislation shall be presented to the Chairman of the Committee on Energy and Natural Resources of the United States Senate and the Chairman of the Committee on Interior and Insular Affairs of the United States House of Representatives.

(c) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the consultations.

SEC. 5. CONSIDERATION OF LEGISLATION.

(a) Not later than the first day of the second session of the 102nd Congress, the Chairman of the Committee on Energy and Natural Resources shall introduce the legislation provided for in section 4(a) in the United States Senate and the Chairman of the Committee on Interior and Insular Affairs shall introduce such legislation in the United States House of Representatives.

(b) At any time after the close of the 180th-calendar day beginning after the date of introduction of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to discharge any committee of that House from further consideration of the legislation. A motion to discharge shall be highly privileged, and debate thereon shall be limited to

not more than 2 hours, to be divided equally between those supporting and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(c) At any time after the close of the 14th legislative day beginning after the last committee has reported or been discharged from further consideration of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to proceed to the immediate consideration of the legislation (such motion not being debatable), and such motion is hereby made of high privilege. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(d) Enactment of this section constitutes a commitment that the United States Congress will vote on legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico.

SEC. 6. RATIFYING VOTE ON LEGISLATION.

(a) If enacted, the legislation drafted pursuant to section 4(a) as approved by the Congress shall be submitted to the people of Puerto Rico for ratification according to

the laws of Puerto Rico not later than 60 days after enactment. The legislation shall take effect not later than October 1, 1992, only if it is approved by the people of Puerto Rico in the ratification vote.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the ratification vote provided for by this section.

SEC. 7. RECOMMENDATIONS, IF NECESSARY.

If the referendum provided for by section 2 does not result in a majority for one of the three status options or if the legislation drafted pursuant to this Act does not come into effect, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of the principal parties of Puerto Rico, the President of the United States, and other interested persons as may be appropriate, shall make such recommendations as may be appropriate at that time to enable the people of Puerto Rico to exercise self-determination.

Descriptions of Status Options Incorporated into H.R. 4765

(1) **Independence.**--(A) Puerto Rico would establish a republican form of government through a constitution that would guarantee the full protection of human rights. The United States would act on providing a reasonable and fair transition of at least ten years for the economy of Puerto Rico under independence. Measures to be considered would involve such matters as--

(i) annual block grants based on the present total amount of Federal spending in the Commonwealth;

(ii) continued preferential entry of Puerto Rican products into the United States market;

(iii) incentives for United States investment in the private and public sectors of Puerto Rico and the market for loans originating in Puerto Rico that would make available incentives similar to those presently provided by law;

(iv) the eventual demilitarization of Puerto Rico; and

(v) the continued use in Puerto Rico of United States currency.

(B) The grant of independence would not impair the rights of individuals in Puerto Rico to benefits acquired by virtue of services rendered or contributions made to the United States nor impair the United States citizenship of persons born before the date of independence.

(C) The President of the United States would be authorized to negotiate a treaty and other bilateral agreements with the government of the republic that would further detail the relationship between the two countries.

(2) **Statehood.**--(A) The Commonwealth of Puerto Rico would be admitted into the Union permanently as a sovereign State on an equal footing with the other States. The current constitution and the laws of Puerto Rico would be accepted as the constitution and laws of the new State, and the Constitution and laws of the United States would be extended in full to Puerto Rico.

(B) The United States citizenship of persons born in Puerto Rico would be constitutionally guaranteed and equal in all respects to the citizenship of persons born in the other States. Citizens of the new State would be entitled to vote for the President and Vice President of the United States and would elect the apportioned number of Members of the House of Representatives and two Members of the Senate of the United States.

(C) Residents of the new State would be treated equally with residents of the other States in all Federal programs and would assume all obligations of residents of the States of the Union. The Congress would act on providing a reasonable and fair transition for the economy of Puerto Rico under statehood.

(3) **A new commonwealth relationship.**--(A) The new Commonwealth of Puerto Rico would be joined in a union with the United States that would be permanent and the relationship could only be altered by mutual consent. Under a compact, the Commonwealth would be an autonomous body politic with its own character and culture, not incorporated into the United States, and sovereign over matters governed by the Constitution of Puerto Rico, consistent with the Constitution of the United States.

(B) The United States citizenship of persons born in Puerto Rico would be guaranteed and secured as provided by the Fifth Amendment of the Constitution of the United States and equal to that of citizens born in the several states. The individual rights, privileges, and immunities provided for by the Constitution of the United States would apply to residents of Puerto Rico. Residents of Puerto Rico would be entitled to receive benefits under Federal social programs equally with residents of the several States contingent on equitable contributions from Puerto Rico as provided by law.

(C) To enable Puerto Rico to govern matters necessary to its economic, social, and cultural development under its constitution, the Commonwealth would be authorized to submit proposals for the entry of Puerto Rico into international agreements or the exemption of Puerto Rico from specific Federal laws or provisions thereof to the United States. The President and the Congress, as appropriate, would consider whether such proposals would be consistent with the vital national interests of the United States on an expedited basis through special procedures to be provided by law. The Commonwealth would assume any expenses related to increased responsibilities resulting from the approval of these proposals.

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SEP 19 1990

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

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September 18, 1990

MEMORANDUM TO THE MEMBERS OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

FROM: RON DE LUGO, Chairman, Subcommittee on Insular and International Affairs

SUBJECT: Mark-up on H.R. 4765

As you know, the Committee is scheduled to consider H.R. 4765, the Puerto Rico Self-Determination Act, tomorrow.

Enclosed is a summary of the bill as it would be amended by a substitute that I will offer on behalf of Chairman Udall, Bob Lagomarsino, Don Young and myself as well as an analysis of it and an explanation of the background of this matter.

Please call me or have your staff call Jeff Farrow of the Subcommittee staff (5-9297) if you have any questions about this matter.

H.R. 4765

The Puerto Rican Self-Determination Act

- Authorizes $13.5 million for a Puerto Rican referendum between independence, statehood, a new commonwealth relationship, and none of the above on September 16, 1991 or a later date agreed to by at least two of Puerto Rico's three political parties.

- Authorizes Puerto Rico to enable non-resident Puerto Ricans to vote in the referendum by agreement of at least two of the parties and enactment of a local law.

- Requires the House Interior and Insular Affairs Committee and the Senate Energy and Natural Resources Committee to draft bills to implement a winning status in consultation with the party advocating that status, the other two parties and the President by March 6, 1992. Lists issues to be addressed in drafting the bills.

- Provides for the bills to be discharged from committees if not reported after 180 days and for subsequent floor votes after 14 days. Expresses a Congressional commitment to vote on the implementation bill.

- Provides that the implementation bill, if enacted, would become effective if approved in a Puerto Rican ratification vote within 60 days of enactment.

- Requires the Interior and Insular Affairs and Energy and Natural Resources Committees to make further recommendations on Puerto Rico's future political status if Puerto Rico's status is not changed under this Act.

EWB176I

9-19-90

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4765
Offered by de Lugo, Lagomarsino, Udall and Young.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Puerto Rico Self-Determination Act''.

SEC. 2. REFERENDUM ON STATUS OPTIONS.

(a) There are hereby authorized to be appropriated $13,500,000 to the Executive Office of the President for grants to the State Elections Commission of Puerto Rico for a referendum which is to be held on September 16, 1991, or on a later date in 1991 agreed to by a majority of the members of the Dialogue Committee on the Status of Puerto Rico (hereafter in this Act referred to as the ``Dialogue Committee''), as established by executive order of the Governor of Puerto Rico on June 29, 1989, on the following question:

Which political status do you favor for the Commonwealth of Puerto Rico on terms to be consented to by the people of Puerto Rico and the Congress of the United States?

independence;

statehood;

a new commonwealth relationship; or

none of the above statuses.

(b)(1) Of the amount authorized to be appropriated by subsection (a), the State Elections Commission is authorized to--

(A) expend $7,500,000 for costs of conducting the referendum, including $1,500,000 to facilitate the participation of Puerto Ricans not resident in Puerto Rico in the referendum as authorized pursuant to section 3(c); and

(B) disburse $6,000,000 to the Dialogue Committee to be expended for the purpose of informing the people of Puerto Rico regarding the three status options, such amount to be equally divided among Puerto Rico's principal parties.

(2) Funds appropriated under paragraph (1) shall be made available for the necessary expenses, including the travel and transportation of persons, services as authorized by section 3109 of title 5, United States Code, communications, utilities, printing and reproduction, supplies and materials and other related services, and administrative costs.

(3) To be eligible to receive payments under paragraph (1)(B), a recipient shall--

(A) agree not to incur expenses related to the referendum in excess of amounts established by the electoral laws of Puerto Rico for expenditures by the parties in general elections as of September 19, 1990;

(B) agree to keep complete records as to receipts and expenditures related to informing the people of Puerto Rico regarding the status question and furnish to the State Elections Commission such information as it may request; and

(C) agree to financial audits and examinations of such funds by the Comptroller General of the United States.

(4) Under such regulations as the Comptroller General of the United States shall prescribe, the Comptroller General shall audit and examine transactions made with funds made available under this subsection.

(c) The referendum shall be conducted pursuant to the laws of Puerto Rico.

(d) Those Federal laws that apply to the election of the Resident Commissioner of Puerto Rico shall, if appropriate, also apply to the referendum. Any reference in such Federal laws to elections shall be considered, where appropriate, to be a reference to the referendum, and any reference in such laws to candidates for office shall be considered, where appropriate, to be a reference to the political status

options under the referendum.

SEC. 3. NONRESIDENT PUERTO RICANS.

(a) The Congress finds that--

(1) a substantial number of the Puerto Rican people reside outside of Puerto Rico; and

(2) the Government of Puerto Rico has the authority to enable some Puerto Ricans who are United States citizens residing in places other than Puerto Rico to vote in the referendum.

(b) The Congress hereby authorizes the Government of Puerto Rico, subject to the plan referred to in subsection (c), to enable Puerto Ricans not resident in Puerto Rico to register and vote in the referendum without being present in Puerto Rico. Such persons may include those born in Puerto Rico or those who have at least one parent who was born in Puerto Rico.

(c) The Dialogue Committee is authorized to submit to the Legislative Assembly of Puerto Rico for its ratification a plan agreed to by a majority of the members of such committee to accomplish the purposes authorized by subsection (b). Once so ratified, such plan shall have the force of law.

(d) In the event that any provision of this Act is held invalid, or the Dialogue Committee does not submit a plan, or the Legislative Assembly of Puerto Rico fails to ratify such plan not later than 120 days before the referendum, it is the

intent of Congress that the remaining provisions of this Act shall continue in full force and effect.

SEC. 4. DEVELOPMENT OF LEGISLATION.

(a) If the referendum results in a majority for one of the three status options, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of Puerto Rico's principal parties, the President of the United States, and other interested persons as may be appropriate, shall draft legislation to implement the selected status addressing the aspects of that status set forth in the report which accompanies the bill, H.R. 4765 (H. Rept. 101--___). In drafting the legislation provided for in this section, the governing principles of each status option shall be treated equally, consistent with the constitutional authority of the United States Congress.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the consultations.

SEC. 5. CONSIDERATION OF LEGISLATION.

(a) Not later than March 6, 1992, the Chairman of the Committee on Energy and Natural Resources shall introduce the legislation provided for in section 4(a) in the United States Senate and the Chairman of the Committee on Interior and

Insular Affairs shall introduce such legislation in the United States House of Representatives.

(b) At any time after the close of the 180th-calendar day beginning after the date of introduction of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to discharge any committee of that House from further consideration of the legislation. A motion to discharge shall be highly privileged, and debate thereon shall be limited to not more than 2 hours, to be divided equally between those supporting and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(c) At any time after the close of the 14th legislative day beginning after the last committee has reported or been discharged from further consideration of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to proceed to the immediate consideration of the legislation (such motion not being debatable), and such motion is hereby made of high privilege. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(d) Enactment of this section constitutes a commitment that the United States Congress will vote on legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico.

SEC. 6. RATIFYING VOTE ON LEGISLATION.

(a) If enacted, the legislation drafted pursuant to section 4(a) as approved by the Congress shall be submitted to the people of Puerto Rico for ratification according to the laws of Puerto Rico not later than 60 days after enactment. The legislation shall take effect in accordance with its terms upon approval by the people of Puerto Rico in the ratification vote.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the ratification vote provided for by this section.

SEC. 7. RECOMMENDATIONS, IF NECESSARY.

If the referendum provided for by section 2 does not result in a majority for one of the three status options or if the legislation drafted pursuant to this Act does not come into effect, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of the principal parties of Puerto Rico, the President

of the United States, and other interested persons as may be appropriate, shall make such recommendations as may be appropriate at that time to facilitate the exercise of self-determination by the people of Puerto Rico.

H.R. 4765

PUERTO RICO SELF-DETERMINATION ACT

BACKGROUND AND NEED

Current Initiative

Governor Hernandez Colon proposed a referendum among the status options of improving commonwealth, statehood, and independence and a federal commitment to respond to the referendum in his 1989 inaugural address. He was joined shortly afterwards as president of the Popular Democratic Party by the presidents of the other two principal political parties of Puerto Rico, the New Progressive and Puerto Rican Independence Parties (headed by Baltasar Corrada del Rio and Ruben Berrios Martinez), in proposing that the federal government commit to act on implementing a status that received majority support in the referendum.

The following month, President George Bush endorsed the party presidents' request, while expressing his personal support of statehood, before a Joint Session of the Congress. The chairman of this Committee's counterpart committee in the Senate reacted to the proposal by introducing three bills.

Anticipating a Senate bill consistent with the party presidents' proposal, Subcommittee Chairman de Lugo agreed to the Senate committee chairman's proposed schedule for congressional consideration of the proposal. It called for Senate action last year to be followed by House action this year.

S. 712

The Senate Committee on Energy and Natural Resources narrowly approved a bill last year different from what had been anticipated, however. S. 712 would grant federal approval of statehood, independence, and enhanced commonwealth and unilaterally determine implementation measures for each status option. It would then automatically begin next Fall to implement the measures related to the status option that wins majority popular support in a referendum in Puerto Rico next summer.

This Bill

Speaker Foley, Chairman Udall, and other Members expressed serious concerns about S. 712's approach to the issue last year. When it was clear that the bill's problems would prevent it from being approved, Chairman Udall and Ranking Democrat George Miller joined with Subcommittee Chairman de Lugo in inviting the presidents of three parties to agree on alternative legislation.

The party presidents (Hernandez Colon, Berrios, and Romero, who had succeeded Corrada as head of the statehood party by this time) decided a few months ago to support legislation drafted for de Lugo and Subcommittee Ranking Republican Lagomarsino which would more accurately reflect their proposal for the federal government to commit to act after the people of Puerto Rico had expressed their status preference.

The draft legislation became this bill, H.R. 4765.

S. 712 Amendments

The Senate Committee on Finance has since unanimously approved amendments to S. 712 which would delay the implementation of statehood for five years (although that implementation would still be automatic). Federal program benefits and taxes would be phased-in during the delay.

The amendments would also provide significantly increased program benefits under enhanced commonwealth. The increases would be financed by revenues now transferred to Puerto Rico and new revenues generated by restrictions on the federal tax credit that encourages U.S. investment in Puerto Rico.

Current Situation

The Commonwealth of Puerto Rico is a United States insular area in the Caribbean. It consists of the main island of Puerto Rico and the few small islands surrounding that island and has a population of some 3.6 million people.

Puerto Rico exercises self-governing authority similar to that of a State. Its people are United States Citizens who are represented before the federal government by a Resident Commissioner (who has all the powers and privileges of a Member of the House including voting in committees other than a vote on the Floor of the House.) The people of Puerto Rico do not vote in presidential elections, although they participate in the nominating process of both national political parties.

Poverty has been pervasive in Puerto Rico for some time and approximately 60 percent of the population still lives below the federal poverty level. The islands' economy has, however, improved dramatically in recent decades as it has shifted from an agrarian base to one based on manufacturing and tourism.

Many Puerto Ricans have migrated to the States (particularly because of the relative lack of opportunity in Puerto Rico). There are now some 2.5 million Puerto Ricans and their descendants living in places other than Puerto Rico. In recent years, substantial numbers of Puerto Ricans have moved back and

forth between Puerto Rico and the States.

Most federal laws apply to the Commonwealth in the same way that they apply to the States. There are, though, significant differences in the way Puerto Rico is treated under revenue and social program laws from the way that the States are treated.

Initial U.S. Policy

United States responsibilities in Puerto Rico began with an invasion during the Spanish-American War. The treaty that settled the war ceded Puerto Rico to the United States in 1898 and provided that Puerto Rico's future political status would be determined by the Congress.

The initial military administration of Puerto Rico that followed was replaced with a civil government under an "organic" law enacted on April 12, 1900. Known as the Foraker Act, the law provided limited local participation in government (principally through the popular election of members of the lower house of a legislature).

The act also provided that Puerto Rico was to be represented in the United States by an elected resident commissioner. It established a federal district court and extended federal laws "not locally inapplicable".

Organic Act Revised

Dissatisfaction in both San Juan and Washington led to the enactment of a new organic act on March 2, 1917. Known as the Jones Act, the law included a bill of rights, provided for a fully-elective Legislative Assembly, and granted United States Citizenship; but it left executive and judicial power in the hands of federal appointees.

Amendments to the Jones Act were made in succeeding years. The most notable came in 1947 when Puerto Ricans were authorized to elect their governor.

Constitution Approved

A law enacted on July 3, 1950 authorized a constitutional convention and provided for a draft constitution to be considered in a referendum and by the Congress. "Adopted in the nature of a compact", the law's effectiveness was conditioned on it first being accepted by the people of Puerto Rico.

The constitution was to supersede those provisions of the organic act which organized the insular government -- as opposed to those which defined the federal-insular relationship. These later provisions were to be continued as the Puerto Rican Federal

Relations Act.

The 1950 law was approved by the people of Puerto Rico in a 1951 referendum and a constitution for a "commonwealth" was then drafted by a convention (in which independence supporters did not participate.) The constitution was approved in a second referendum and (with slight amendments) by the Congress in a law enacted on July 3, 1952.

Post-Constitution Initiatives

Supporters of statehood and independence have consistently claimed that commonwealth was not a new status since the constitution was approved. Commonwealth advocates, for their part, have made repeated, unsuccessful attempts to develop and clarify the relationship since that time.

Legislation in 1963, based upon a strategy Governor Munoz Marin worked out with President John F. Kennedy, would have established a commission to draft a "compact of permanent union". The compact was to be submitted to a referendum in Puerto Rico along with proposals for statehood and independence.

The 1963 bill was not approved; but it led to the enactment of Public Law 88-211. That act established a joint federal-commonwealth commission to study the United States-Puerto Rico relationship.

1967 Referendum

The commission's report prompted a referendum in July 1967. The result was a vote of 60% for commonwealth; 39% for statehood; and 1% for independence.

A commonwealther, Governor Hernandez Colon, appointed an advisory group jointly with President Nixon to implement the results of the referendum by developing the "maximum self-government" under commonwealth.

The group recommended a Compact of Permanent Union that would have established a free association relationship between the United States and Puerto Rico. An amended version of the Compact legislation was favorably reported by this Committee's Subcommittee on Territorial and Insular Affairs in 1976.

Recent Initiatives

The Congress, in a 1979 resolution, pledged to support whatever status might be chosen by the people of Puerto Rico, a policy advocated by President Jimmy Carter. President Ronald Reagan maintained a similar policy; but added his personal support of statehood to it as well.

Divisive and Distracting Debate

Puerto Rico has sufficient authority to call a referendum on status on its own; but the experience of the Congress not acting on the results of the 1967 referendum has convinced commonwealth supporters, in particular, that a referendum should only be conducted if it is preceded by a federal commitment to respect the results.

During the years since the commonwealth was established, Puerto Rico has been consumed by a divisive and distracting debate over its ultimate political status. This debate has effectively prevented action in both the insular capital of San Juan and here in Washington on many of the very serious problems that Puerto Rico faces. Virtually every public policy proposal is debated on its status ramifications (and its political implications) as well as on its merits.

During this period, support for commonwealth appears to have eroded and support for statehood has clearly grown. A number of factors are responsible for this change in public opinion.

A major factor has been that the federal government has not agreed to any of the improvements to the commonwealth relationship that have been proposed or proposed any alternatives to these suggested improvements.

Another factor has been that some federal actions have contradicted commonwealth commitments (such as the failure to provide for the $2 per gallon increase in the federal excise tax on rum produced in Puerto Rico that was enacted in 1984 to be transferred into the insular treasury along with other locally-originated federal collections).

A third factor has been the discrimination against the needy in Puerto Rico in the development of federal social programs and efforts to reduce budget deficits (such as in the cases of the caps on AFDC and Medicaid, the non-extension of SSI to Puerto Rico, and the taking of Puerto Rico out of the Food Stamps program in the budget reconciliation act of 1981).

H.R. 4765
PUERTO RICO SELF-DETERMINATION ACT

SECTION-BY-SECTION ANALYSIS

SEC. 1 would designate the bill the "Puerto Rico Self-Determination Act".

SEC. 2(a) would authorize $13.5 million for a referendum in Puerto Rico among the political status options of independence, statehood, and a modification of the current commonwealth relationship with the United States -- on terms to be agreed to by the Puerto Rican people and the Congress -- or none of these status options. The referendum would be held on September 16, 1991 or a later date in 1991 agreed to by at least two of Puerto Rico's three political parties in the Dialogue Committee on the Status of Puerto Rico.

(b) The Elections Commission would be authorized to spend $7.5 million for administrative and related costs of conducting the referendum and be required to provide $6 million to the dialogue committee for public education about the status options. The General Accounting Office would be required to audit the use of the funds.

(c) would apply Puerto Rican election laws to the referendum.

(d) would apply appropriate federal election laws to the referendum. The federal laws which would apply are: the Voting Rights Act of 1965, as amended (42 U.S.C. 1973); the Civil Rights Act of 1968, as amended (18 U.S.C. 245(b)(1)(A)); patronage statutes (18 U.S.C. 598, 600, 601); mail and wire fraud statutes (18 U.S.C. 1341, 1343, 1346); and the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee).

SEC. 3 (a) would recognize that many people of Puerto Rican descent now live outside of Puerto Rico. It would also recognize that the government of Puerto Rico has some authority to expand the current electorate of Puerto Rico.

(b) would authorize the government of Puerto Rico to amend its laws to enable Puerto Ricans who do not reside in Puerto Rico to register and vote in the referendum contingent upon approval of the plan referred to in subsection (c).

This subsection is not intended to circumscribe any and/or all powers that the government of Puerto Rico may have to extend the franchise to persons currently not eligible to vote under Puerto Rican law nor to convey or confirm such powers or claims thereof.

(c) would authorize the Dialogue Committee to submit a plan to enable non-resident Puerto Ricans to vote in the referendum, if approved by two of its three party members, to the Puerto Rico

Legislative Assembly for ratification and provide that the plan will become law in Puerto Rico if ratified.

(d) would provide that a finding by a court that any provision of this Act is constitutionally infirm will not invalidate any other provision so that other provisions can continue in effect.

SEC. 4 (a) would require this Committee and the Senate Energy and Natural Resources Committee to draft legislation to implement a status that receives a majority in the referendum addressing the matters listed below, by status. The bills would be required to be drafted in consultation with the Dialogue Committee, the President, and any other appropriate persons or groups.

(1) **Independence.**--(A) Puerto Rico would establish a republican form of government through a constitution that would guarantee the full protection of human rights. The United States would act on providing a reasonable and fair transition of at least ten years for the economy of Puerto Rico under independence. Measures would involve such matters as--

(i) annual block grants based on the present total amount of Federal spending in the Commonwealth;

(ii) continued preferential entry of Puerto Rican products into the United States market;

(iii) incentives for United States investment in the private and public sectors of Puerto Rico and the market for loans originating in Puerto Rico that would make available incentives similar to those presently provided by law; and

(iv) the continued use in Puerto Rico of United States currency.

The eventual demilitarization of Puerto Rico would also be considered.

(B) The grant of independence would not impair the rights of individuals in Puerto Rico to benefits acquired by virtue of services rendered or contributions made to the United States nor impair the United States citizenship of persons born before the date of independence.

(C) The President of the United States would be authorized to negotiate a treaty and other bilateral agreements with the government of the republic that would further detail the relationship between the two countries.

(2) **Statehood.**--(A) The Commonwealth of Puerto Rico would be admitted into the Union permanently as a sovereign State on an equal footing with the other States. The current constitution and the laws of Puerto Rico would be accepted as the constitution and laws of the new State, and the Constitution and laws of the United States would be extended in full to Puerto Rico.

(B) The United States citizenship of persons born in

Puerto Rico would be constitutionally guaranteed and equal in all respects to the citizenship of persons born in the other States. Citizens of the new State would be entitled to vote for the President and Vice President of the United States and would elect the apportioned number of Members of the House of Representatives and two Members of the Senate of the United States.

(C) Residents of the new State would be treated equally with residents of the other States in all Federal programs and would assume all obligations of residents of the States of the Union. The Congress would act on providing a reasonable and fair transition for the economy of Puerto Rico under statehood.

(3) **A new commonwealth relationship.**--(A) The new Commonwealth of Puerto Rico would be joined in a union with the United States that would be permanent and the relationship could only be altered by mutual consent. Under a compact, the Commonwealth would be an autonomous body politic with its own character and culture, not incorporated into the United States, and sovereign over matters governed by the Constitution of Puerto Rico, consistent with the Constitution of the United States.

(B) The United States citizenship of persons born in Puerto Rico would be guaranteed and secured as provided by the Fifth Amendment of the Constitution of the United States and equal to that of citizens born in the several states. The individual rights, privileges, and immunities provided for by the Constitution of the United States would apply to residents of Puerto Rico. Residents of Puerto Rico would be entitled to receive benefits under Federal social programs equally with residents of the several States contingent on equitable contributions from Puerto Rico as provided by law.

(C) To enable Puerto Rico to govern matters necessary to its economic, social, and cultural development under its constitution, the Commonwealth would be authorized to submit proposals for the entry of Puerto Rico into international agreements or the exemption of Puerto Rico from specific Federal laws or provisions thereof to the United States. The President and the Congress, as appropriate, would consider whether such proposals would be consistent with the vital national interests of the United States on an expedited basis through special procedures to be provided by law. The Commonwealth would assume any expenses related to increased responsibilities resulting from the approval of these proposals.

The inclusion of these matters in this report would constitute a good faith commitment for the Congress to consider those matters contained in the list of the status that received majority support in the referendum in responding to that

expression of public will.

(b) would authorize the appropriation of funds to enable the parties to work with the committees and, if necessary, to assist the committees in drafting the legislation.

SEC. 5 (a) would require the Chairman of this Committee and the Chairman of the Energy and Natural Resources Committee to introduce the legislation provided for in section 4(a) by March 6, 1992.

(b) would authorize any Member of the House or Senate to move that the legislation be discharged from a committee 181 calendar days after the legislation was introduced.

(c) would authorize any Member to move that the full House or Senate consider the legislation 15 legislative days after the legislation had been reported or been discharged from all committees to which it had been referred.

(d) would state the Congress' commitment to vote on legislation.

In sum, this section would commit committees to act on the legislation and commit both Houses to act on it. This provision would not, however, commit either House to act on the legislation, as introduced; to approve it; or the Congress to enact it.

SEC. 6 (a) would require that legislation drafted pursuant to section 4(a) enacted into law be submitted to the people of Puerto Rico in a second referendum to be held not more than 60 calendar days after the law is enacted. It would also provide that the legislation will not take effect unless approved in that referendum. Finally, it would provide that the law will become effective on the date that legislation might determine.

(b) would authorize appropriations for the second referendum, including funds for public education and the actual conduct of the vote.

SEC. 7 would require this Committee and the Senate Energy and Natural Resources Committee to make further recommendations on Puerto Rico's political status development if none of the three statuses receives a majority in the first referendum; if the implementing legislation is not enacted into law; or if the implementing law is not approved in the second referendum.

101ST CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPT. 101–790
Part 1

PUERTO RICO SELF-DETERMINATION ACT

OCTOBER 2, 1990.—Ordered to be printed

Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 4765 which on May 9, 1990 was referred jointly to the Committees on Interior and Insular Affairs and Rules]

[Including cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 4765) to enable the people of Puerto Rico to exercise self-determination, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 3, strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Puerto Rico Self-Determination Act".

SEC. 2. REFERENDUM ON STATUS OPTIONS.

(a) There are hereby authorized to be appropriated $13,500,000 to the Executive Office of the President for grants to the State Elections Commission of Puerto Rico for a referendum which is to be held on September 16, 1991, or on a later date in 1991 agreed to by a majority of the members of the Dialogue Committee on the Status of Puerto Rico (hereafter in this Act referred to as the "Dialogue Committee"), as established by executive order of the Governor of Puerto Rico on June 29, 1989, on the following question:

Which political status do you favor for the Commonwealth of Puerto Rico on terms to be consented to by the people of Puerto Rico and the Congress of the United States?

independence;
statehood;
a new commonwealth relationship; or
none of the above statuses.

49–006

(b)(1) Of the amount authorized to be appropriated by subsection (a), the State Elections Commission is authorized to—

(A) expend $7,500,000 for costs of conducting the referendum, including $1,500,000 to facilitate the participation of Puerto Ricans not resident in Puerto Rico in the referendum as authorized pursuant to section 3(c); and

(B) disburse $6,000,000 to the Dialogue Committee to be expended for the purpose of informing the people of Puerto Rico regarding the three status options, such amount to be equally divided among Puerto Rico's principal parties.

(2) Funds appropriated under paragraph (1) shall be made available for the necessary expenses, including the travel and transportation of persons, services as authorized by section 3109 of title 5, United States Code, communications, utilities, printing and reproduction, supplies and materials and other related services, and administrative costs.

(3) To be eligible to receive payments under paragraph (1)(B), a recipient shall—

(A) agree not to incur expenses related to the referendum in excess of amounts established by the electoral laws of Puerto Rico for expenditures by the parties in general elections as of September 19, 1990;

(B) agree to keep complete records as to receipts and expenditures related to informing the people of Puerto Rico regarding the status question and furnish to the State Elections Commission such information as it may request; and

(C) agree to financial audits and examinations of such funds by the Comptroller General of the United States.

(4) Under such regulations as the Comptroller General of the United States shall prescribe, the Comptroller General shall audit and examine transactions made with funds made available under this subsection.

(c) The referendum shall be conducted pursuant to the laws of Puerto Rico.

(d) Those Federal laws that apply to the election of the Resident Commissioner of Puerto Rico shall, if appropriate, also apply to the referendum. Any reference in such Federal laws to elections shall be considered, where appropriate, to be a reference to the referendum, and any reference in such laws to candidates for office shall be considered, where appropriate, to be a reference to the political status options under the referendum.

SEC. 3. NONRESIDENT PUERTO RICANS.

(a) The Congress finds that—

(1) a substantial number of the Puerto Rican people reside outside of Puerto Rico; and

(2) the Government of Puerto Rico has the authority to enable some Puerto Ricans who are United States citizens residing in places other than Puerto Rico to vote in the referendum.

(b) The Congress hereby authorizes the Government of Puerto Rico, subject to the plan referred to in subsection (c), to enable Puerto Ricans not resident in Puerto Rico to register and vote in the referendum without being present in Puerto Rico. Such persons may include those born in Puerto Rico or those who have at least one parent who was born in Puerto Rico.

(c) The Dialogue Committee is authorized to submit to the Legislative Assembly of Puerto Rico for its ratification a plan agreed to by a majority of the members of such committee to accomplish the purposes authorized by subsection (b). Once so ratified, such plan shall have the force of law.

(d) In the event that any provision of this Act is held invalid, or the Dialogue Committee does not submit a plan, or the Legislative Assembly of Puerto Rico fails to ratify such plan not later than 120 days before the referendum, it is the intent of Congress that the remaining provisions of this Act shall continue in full force and effect.

SEC. 4. DEVELOPMENT OF LEGISLATION.

(a) If the referendum results in a majority for one of the three status options, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of Puerto Rico's principal parties, the President of the United States, and other interested persons as may be appropriate, shall draft legislation to implement the selected status addressing the aspects of that status set forth in the report which accompanies the bill, H.R. 4765 (H. Rept. 101-790). In drafting the legislation provided for in this section, the governing principles of each status option shall be treated equally, consistent with the constitutional authority of the United States Congress.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the consultations.

SEC. 5. CONSIDERATION OF LEGISLATION.

(a) Not later than March 6, 1992, the Chairman of the Committee on Energy and Natural Resources shall introduce the legislation provided for in section 4(a) in the United States Senate and the Chairman of the Committee on Interior and Insular Affairs shall introduce such legislation in the United States House of Representatives.

(b) At any time after the close of the 180th calendar day beginning after the date of introduction of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to discharge any committee of that House from further consideration of the legislation. A motion to discharge shall be highly privileged, and debate thereon shall be limited to not more than 2 hours, to be divided equally between those supporting and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(c) At any time after the close of the 14th legislative day begining after the last committee has reported or been discharged from further consideration of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to proceed to the immediate consideration of the legislation (such motion not being debatable), and such motion is hereby made of high privilege. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(d) Enactment of this section constitutes a commitment that the United States Congress will vote on legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico.

SEC. 6. RATIFYING VOTE ON LEGISLATION.

(a) If enacted, the legislation drafted pursuant to section 4(a) as approved by the Congress shall be submitted to the people of Puerto Rico for ratification according to the laws of Puerto Rico not later than 60 days after enactment. The legislation shall take effect in accordance with its terms upon approval by the people of Puerto Rico in the ratification vote.

(b) There are hereby authorized to be appropriate such sums as may be necessary for the conduct of the ratification vote provided for by this section.

SEC. 7. RECOMMENDATIONS, IF NECESSARY.

If the referendum provided for by section 2 does not result in a majority for one of the three status options or if the legislation drafted pursuant to this Act does not come into effect, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of the principal parties of Puerto Rico, the President of the United States, and other interested persons as may be appropriate, shall make such recommendations as may be appropriate at that time to facilitate the exercise of self-determination by the people of Puerto Rico.

I. PURPOSE

The purpose of the bill is to provide a process for the development or change of Puerto Rico's political status. The objectives are to enable the Puerto Rican people to determine the political status that they want for Puerto Rico's future; to commit the Congress to respond to their decision; and to provide for further mutual consideration of this matter if the process provided for by the bill does not result in the development or change of Puerto Rico's current status.

The bill would:

Authorize $13.5 million for a referendum in Puerto Rico in 1991 to determine whether the Puerto Rican people want to enter into a new commonwealth relationship with the United

States, statehood, independence, or none of these status options;

Establish a process for the development of legislation to implement a status option selected in this referendum and for the expedited consideration of that legislation in 1992;

Provide that the implementing legislation would take effect if it is both enacted into law and approved in a referendum in Puerto Rico; and

Require the development of further recommendations to enable the Puerto Rican people to exercise self-determination if there is no majority in the first referendum or if the implementing legislation is not approved by the Congress or the Puerto Rican people.

II. BACKGROUND AND NEED

Current situation

The Commonwealth of Puerto Rico is a United States insular (island) area in the Caribbean. It consists of the main island of Puerto Rico and the few small islands surrounding that island. It has a population of some 3.6 million people.

Puerto Rico exercises self-governing authority similar to that of a State. Its people are United States Citizens who are represented before the federal government by a Resident Commissioner (who has all the powers and privileges of a Member of the House—including voting in committees—other than a vote on the Floor of the House). The people of the Puerto Rico do not vote in presidential elections (although many participate in the nominating process of the two national political parties).

Puerto Rico's economy is closely linked with the United States' economy. In 1989, 87 percent of Puerto Rico's $16.4 billion in exports were shipped to the United States market and 67 percent of Puerto Rico's $14 billion in imports were from the United States.

Approximately 60 percent of the population still lives below the federal poverty level. The island's economy has, however, grown dramatically since World War II as it has shifted from an agrarian base to one based on manufacturing; trade; and finance, insurance and real estate; government; and tourism.

While per capita income has increased at a faster pace during this period than that of the Nation as a whole, it is still only about a third of the national average although it is high for the Caribbean Basin region. Unemployment, which is currently around 15 percent and has been higher in prior years, is over twice the national average.

Puerto Rico's Spanish heritage is important to its people who have assimilated native Indian as well as African influences into what has become a distinct culture. While the 1980 Census indicates that 42 percent of the population can speak some English with varying degrees of proficiency, Spanish is the vernacular.

Health care has significantly improved in Puerto Rico in recent decades. Life expectancy is one of the highest in the world even though infant mortality rates are high compared to the United States.

There has also been noteworthy progress in education. This is especially true in the areas of higher education and the literacy rate. The high school graduation rate is lower than the national average, however.

Many Puerto Ricans have migrated to the States particularly because of the relative lack of opportunity in Puerto Rico. There are now some 2.5 million Puerto Ricans and their descendants living in places other than Puerto Rico. Currently, migration takes place in two directions as Puerto Ricans move back and forth between Puerto Rico and the States.

Many Puerto Ricans have distinguished themselves in service to the federal government including the Armed Forces.

The "fundamental" rights provided by the United States Constitution apply to Puerto Rico but other provisions are not applicable. Most federal laws, including program laws, apply in the same way that they apply to the States. There are, though, significant differences in the way Puerto Rico is treated under revenue and social program laws from the way that the States are treated.

Tax and trade relationship

Federal income taxes are not collected on local-source income in Puerto Rico. Local individual income tax rates, however, are at rates, in some cases, even higher than federal income tax rates, although aggregate income tax collections in Puerto Rico are less as a percentage of income or gross product than aggregate income tax collections in the United States.

Additionally, the income of U.S. companies operating in Puerto Rico that meets certain criteria is effectively exempted from federal tax liability by a credit intended to encourage investment. Much of the industrialization, financial development, and the relative prosperity of Puerto Rico responds to this federal investment incentive and a companion insular exemption from most local income taxes.

Federal excise taxes are imposed on insular products shipped to the States. Most of the excise tax collections along with federal customs duties are rebated to the treasury of Puerto Rico. There is authority under current law for this rebate to apply to other federal levies that might be applied to Puerto Rico.

Although Puerto Rico is within the customs territory of the United States, it has the authority under federal law to impose special tariffs on coffee imports.

Federal programs

Puerto Rico participates in the Aid to Families with Dependent Children program (AFDC); but a cap limits the amount of assistance available to needy families. This cap also covers assistance to the aged, blind, and disabled, since the Supplemental Security Income (SSI) program has not been extended to Puerto Rico. As a consequence, the needy aged, blind, and disabled in Puerto Rico receive approximately one-eleventh of the amount that they would receive if Puerto Rico were treated like a State in the SSI program.

Another cap limits Medicaid payments to Puerto Rico. It, too, limits the amount of assistance available to the needy. Medicaid recipients in Puerto Rico receive approximately a tenth of the

amount of federal assistance received by the medically needy in the States.

In one respect, Puerto Rico is also treated differently than a State under the Medicare program. Its prospective payment rate is primarily based on local—rather than national—hospitalization costs.

Puerto Rico was initially included in the Food Stamp program; but it was taken out of that program by the Budget Reconciliation Act of 1981. It now receives a nutrition block grant funded at about three-fifths the amount that Food Stamps would provide.

There are also some differences in the application of education programs to Puerto Rico. The most significant effectively limits Elementary and Secondary Education Act grants to Puerto Rico to about three-fifths the amount that a State would receive.

Significant federal activities in Puerto Rico include the operation of a large naval station at Roosevelt Roads and maintenance of a large forest and a major historic site.

Initial U.S. policy

United States responsibilities in Puerto Rico began with an invasion during the Spanish-American War. The treaty that settled the war ceded Puerto Rico to the United States in 1898 and provided that Puerto Rico's future political status and the civil rights of its people would be determined by the Congress. (This assignment was consistent with the Territorial Clause of the Constitution which assigns the Congress the responsibility to "make all needful rules and regulations" regarding the Nation's territory.)

The invasion was welcomed by many Puerto Ricans. They were initially encouraged by the commanding general's explanation that the United States had come to bestow "the immunities and blessings of the liberal institutions of our government."

The initial military administration of Puerto Rico that followed did not bestow those "blessings". It was replaced with a civil government under an "organic" law enacted on April 12, 1900. Known as the Foraker Act, the law provided limited local participation in government (principally through the popular election of members of the lower house of a legislature).

The act also provided that Puerto Rico was to be represented in the United States by an elected resident commissioner. It established a federal district court and extended federal laws "not locally inapplicable".

Among laws not extended to Puerto Rico, which had a very low standard of living, were internal revenue laws. Federal levies on foreign articles imported into Puerto Rico and temporary levies on merchandise shipped between Puerto Rico and the United States were imposed, however, although the law provided that these collections were to be transferred to the local treasury.

Political status defined

The temporary duties on goods shipped between Puerto Rico and the States resulted in litigation which helped to clarify Puerto Rico's political status. A 1901 decision by the Supreme Court defined Puerto Rico to be an unincorporated territory.

The court found that the Uniformity Clause of the Constitution did not prohibit the contested duties because Puerto Rico had not been incorporated into the United States by the 1898 treaty. It based this decision on a new doctrine that the full Constitution did not apply to a territory which was a possession—rather than a part—of the United States. The ruling held that the Congress' authority in such territories was limited by only the "fundamental parts" of the Constitution.

The opinion, in what is known as one of the Insular Cases, addressed what had by that time become a national controversy about the political status of the insular areas acquired around the turn of the century.

Predictably, Puerto Ricans were dissatisfied with the Foraker Act. Its provisions compared unfavorably with provisions of a Charter of Autonomy decreed by Spain for the governing of Puerto Rico in 1897 and with what was initially understood as the promise of American democracy.

These federal policies rekindled a status debate that had its origins in the Spanish colonial era with movements for statehood and independence as well as local autonomy.

Organic Act revised

The dissatisfaction with the Foraker Act led to the enactment of a new organic act on March 2, 1917. Known as the Jones Act, the law included a bill of rights, provided for a fully elective Legislative Assembly, and granted United States citizenship; but it left executive and judicial power in the hands of federal appointees.

The grant of citizenship persuaded some that the law had effectively incorporated Puerto Rico into the United States implicitly extending full constitutional rights. The Supreme Court held in 1922, however, that it had not incorporated Puerto Rico into the United States.

In ruling that the Sixth Amendment right to a jury trial did not apply to Puerto Rico, the Court expanded upon the incorporation doctrine first set forth in the earlier Insular Cases. The decision asserted that incorporation was an important step towards statehood that the Congress clearly indicated when intending to take it. The opinion noted that the Congress had not indicated this intent in the case of Puerto Rico.

Amendments to the Jones Act were made in succeeding years. The most notable came in 1947 when Puerto Ricans were authorized to elect their governor.

Early status initiatives

The movements for statehood and independence continued to develop, however, after the organic act was revised. The movements led to various proposals being made locally as well as in Washington for resolving Puerto Rico's ultimate political status. (Popular dissatisfaction in Puerto Rico also related to a federal policy of "Americanization" as well as the structure of government.)

The elective governor amendment was a modest federal response to some of these status initiatives that was supported by the island's Popular Democratic Party, which by then had come to dominate the Legislative Assembly. The party's leader, Luis Munoz

Marin, became Puerto Rico's first elected governor in 1948, campaigning on a platform that included seeking authorization for Puerto Rico to adopt its own constitution.

Munoz's proposal for a constitution was part of a larger plan for a status that would be a middle-ground between statehood and independence. It was promoted as a new type of state that would be bound to the Union by a mutual consent arrangement.

Constitution approved

A law enacted on July 3, 1950 authorized a constitutional convention in Puerto Rico to draft a constitution for adoption in a referendum and approval by the Congress. "Adopted in the nature of a compact", the law's effectiveness was conditioned on it first being accepted by the people of Puerto Rico.

The constitution was to supersede these provisions of the organic act which organized the insular government—as opposed to those which defined the federal-insular relationship. These later provisions were essentially to be continued as the Puerto Rican Federal Relations Act.

The 1950 law was overwhelmingly approved with the support of both commonwealth and statehood supporters by the people of Puerto Rico in a 1951 referendum and a constitution was then drafted by a convention in which independence supporters declined to participate. The constitution was adopted in a second referendum with amendments approved by the Congress in a law enacted on July 3, 1952.

The constitution established a government which was given the Spanish name of "Estado Libre Asociado" and the English name of "Commonwealth". It took effect July 25, 1952, after the Congressional amendments were accepted by the constitutional convention.

The phrase "Estado Libre Asociado" had been translated by the convention into English as "Commonwealth" so that it would not be literally translated as "Free Associated State". The purpose was to avoid any suggestion to the Congress that Puerto Rico intended to be a State of the Union. This translation could also now be confused with the status of free association.

Status implications

The legislative histories of the 1950 and 1952 laws indicate that they were intended to grant full local self-government; but not, to, in the words of the reports on the 1950 law, "change Puerto Rico's fundamental political, social, and economic relationship to the United States" or "in any way preclude a future determination by the Congress of Puerto Rico's ultimate political status". The intent was not to relinquish Congressional authority to enact federal policies for Puerto Rico or suggest that constitutional government was a step towards statehood or independence.

The constitutional development was represented in Puerto Rico as having established a new status since it was based on consent of the people of Puerto Rico. This caused serious concern among independence and statehood supporters who objected to these representations.

Nevertheless, the Congress declared that the authorization for the constitution was a "compact" in approving the constitution

President Harry S Truman asserted that the relationship was "based on mutual consent" in signing the 1952 law.

Puerto Rico was taken off the United Nation's list of non-self-governing territories in 1953 based on United States representations that Puerto Rico was now self-governing under a compact that could only be amended by common consent. A General Assembly resolution recognized that the people of Puerto Rico had "effectively exercised their right of self-determination" and had "been invested with the attributes of political sovereignty which clearly identify the status of self-government attained * * * as that of an autonomous political entity."

Later, the U.N.'s decolonization committee recognized the continuing right of the people of Puerto Rico to self-determination and called for a transfer of powers from the United States to them. The most recent committee resolution also generally expressed support for the enactment of self-determination legislation.

The Executive Branch also recognized the development of Puerto Rico's status by replacing Department of Interior responsibility for the handling of Puerto Rico matters with Executive Office of the President responsibility. This change in responsibility, however, did not clearly indicate a change in Puerto Rico's status.

Over the years, courts have made ambiguous and conflicting statements about the status implications of the constitution with some expressing a clearer view than others and some according it very different significance than others. These statements, in turn, have been given vastly different interpretations by advocates of the different statuses in Puerto Rico.

Any attempt to summarize these decisions is susceptible to oversimplification. Generally, however, among the wide-range of opinions are many statements that Puerto Rico's independence from federal control parallels that of the States and statements that it is no longer a territory in the constitutional sense. There are also, however, other statements suggesting that the constitution did not really change Puerto Rico's status and that commonwealth is a different kind of territory.

The Supreme Court has not, however, directly considered Puerto Rico's status since the constitution was adopted. It has, though, stated in various cases that Puerto Rico's relationship to the United States is unique; that it is autonomous and sovereign over matters not ruled by the Constitution in the way that a State is; and that the Congress retains its Territorial Clause power to treat Puerto Rico differently from the States, so long as it has a rational basis for doing so.

A fuller discussion of Judicial Branch conclusions as to the political status significance of the establishment of the commonwealth is found in a November 30, 1989 joint report to the Subcommittee on Insular and International Affairs by the General Accounting Office and the Congressional Research Service entitled "Puerto Rico: Information for Status Deliberations".

Postconstitution initiatives

Supporters of statehood and independence have consistently claimed that commonwealth did not end Puerto Rico's territorial and colonial status to the extent that they have had opportunities

to do so. (Independence supporters, for example, were reportedly denied the opportunity to protest the United Nations' action in 1953.) Commonwealth advocates, for their part, have made repeated, unsuccessful attempts since 1952 to develop and clarify the relationship, as had been initially contemplated.

Legislation in 1959 sought to replace the Federal Relations Act with "Articles of Permanent Association" to clarify the concept of compact and transfer federal powers to the commonwealth. The Congress did not approve the legislation.

Legislation in 1963, based upon a strategy Governor Munoz Marin worked out with President John F. Kennedy, would have established a commission to draft a "compact of permanent union". The compact was to be submitted to a referendum in Puerto Rico along with proposals for statehood and independence.

The Congress did not accept this approach and instead enacted Public Law 88–271, which established a joint federal-commonwealth commission. Its charter was to simply study the United States-Puerto Rico relationship.

In its report, the Commission on the Status of Puerto Rico found that commonwealth, statehood, and independence were all equally valid and dignified status options. It held, though, that a change to either statehood or independence would require long-term transition measures to prevent serious dislocations in the economy.

The Commission also recommended that any change in Puerto Rico's status be undertaken consistent with the principles of mutual consent and self-determination and only after being initiated by the people of Puerto Rico. It said that a vote on status would be "helpful" and that joint advisory groups should be designated after such a vote to recommend appropriate implementation or transition measures.

In 1966, ten bipartisan bills providing for statehood were introduced in the House. Bills relating to statehood were also introduced in 1960 and 1982. None of these bills were acted upon.

1967 referendum

The government of Puerto Rico called a referendum in July 1967, as suggested by the commission. The law required a simple majority vote to be conclusive.

Most independence advocates boycotted the vote. They cited reasons that included the referendum not being preceded by a transfer of powers from the United States; the federal government's control of and continued presence in Puerto Rico; and their perception that the insular government would manipulate the referendum in favor of commonwealth.

The statehood party also urged non-participation. One of its primary objections was that the referendum was based on the premise that commonwealth could be a permanent status (which would suggest that it was not territorial in nature). They also complained about the fairness of the ballot.

A non-partisan statehood group was established under the leadership of Luis A. Ferre to carry the statehood banner into the referendum. Former Governor Munoz led the campaign for "perfecting" commonwealth.

The result was a vote of slightly over 60 percent for commonwealth; 39 percent for statehood; and just less than 1 percent for independence.

Ferre became the first statehood advocate to be elected governor the next year as candidate of the New Progressive Party after a split in the Popular Democratic Party. Along with President Richard M. Nixon, he later appointed an advisory group, as had been recommended by the status commission.

This group recommended that the presidential vote be extended to Puerto Rico if Puerto Ricans supported it in a referendum. Commonwealth supporters in the Legislative Assembly, however, blocked the proposal and the referendum was never held.

A commonwealth advocate, Rafael Hernandez Colon, was then elected governor in 1972. He also appointed an advisory group jointly with President Nixon. This group, co-chaired by Munoz, was to develop the "maximum self-government" under commonwealth.

The group recommended a Compact of Permanent Union that would have established an association between the United States and Puerto Rico that neither could have amended unilaterally.

Under this group's proposal, the people of Puerto Rico would have retained their U.S. citizenship and had one representative in both the House and the Senate. The proposed "free associated state" would have been able: to require the Congress and federal agencies to specifically act to apply federal laws or rules to it; to control labor and environmental matters; to exercise certain tariff authority; to enter into international agreements with the approval of the President; and to participate in setting immigration quotas.

An amended version of the Compact legislation was favorably reported by this Committee's Subcommittee on Territorial and Insular Affairs in 1976.

Efforts to develop commonwealth were halted by the election of statehood advocate Carlos Romero Barcelo as governor that year and President Gerald Ford's submission of a statehood bill to the Congress.

Recent initiatives

The Congress, in a 1979 resolution, pledged to support whatever status might be chosen by the people of Puerto Rico, a policy advocated by President Jimmy Carter. President Ronald Reagan pledged his personal support of statehood if that status was desired by the majority of the people of Puerto Rico.

Governor Romero hoped that a status referendum would be held in 1981. Although re-elected in 1980, the lack of a majority vote as well as control of the Legislative Assembly, convinced him to postpone the idea.

Hernandez Colon succeeded Romero as governor in 1985 after a split in the New Progressive Party and after making a pledge to concentrate on economic and other matters and not status.

This Committee held hearings later that year on Puerto Rico's economic problems. The hearings did not focus on political status but many witnesses asserted that the solutions to Puerto Rico's economic and social problems lay in status development.

Members generally reacted to these assertions by saying that consideration of status change would only occur after a petition

from the people of Puerto Rico. Their response stimulated statehood advocates to submit an estimated 350,000 petitions for statehood to the Congress.

This prompted Subcommittee on Insular and International Affairs Ranking Minority Member Robert J. Lagomarsino and other Members to propose legislation in 1987 for a referendum on and implementation of statehood if it won majority support in the referendum.

Subcommittee Chairman Ron de Lugo later drafted amendments to the Lagomarsino bill to broaden the status choice to include other options as well as statehood. The initiative was put on hold because of the 1988 election.

Senator Robert Dole also introduced legislation for a referendum on statehood in 1987. Representative Ronald V. Dellums introduced legislation calling for a transfer of powers to a constitutional convention in Puerto Rico that year, as he had in previous years. None of these bills were enacted.

Divisive and distracting debate

Puerto Rico has sufficient authority to call a referendum on status on its own; but the experience of the Congress not acting on the results of the locally-authorized 1967 referendum has convinced commonwealth supporters, in particular, that a referendum should only be conducted if it is preceded by a federal commitment to respect the results.

Puerto Rican politics have historically revolved around intensive status debates. This debate has often been so divisive and distracting that it has effectively prevented action in both the insular capital of San Juan and here in Washington on many of the very serious problems that Puerto Rico faces. Virtually every public policy proposal is debated on its status ramifications as well as its political implications, in addition to its merits.

During this period, support for commonwealth appears to have eroded and support for statehood has clearly grown. A number of factors are responsible for this change in public opinion.

A major factor has been that the federal government has not agreed to any of the improvements to the commonwealth relationship that have been proposed or proposed any alternatives to these suggested improvements.

Another factor has been that some federal actions have contradicted commonwealth commitments, such as the failure to provide for the $2 per gallon increase in the federal excise tax on rum produced in Puerto Rico enacted in 1984 to be transferred to the insular treasury along with other locally-originated federal excise taxes and customs duties.

A third factor has been the limitations on the amounts provided for the needy in Puerto Rico in the development of federal social programs and efforts to reduce budget deficits such as caps on AFDC and Medicaid, the nonextension of SSI to Puerto Rico, and the removal of Puerto Rico from the Food Stamps program in budget reconciliation legislation.

Yet another factor has been the application of certain federal policies designed for the circumstances of the States to Puerto Rico

although these policies do not always provide the intended benefits in insular situations.

These factors have suggested to some a lack of power and potential in commonwealth and the contrasting need for the power and benefits of statehood. They have combined with other factors in recent decades to intensify interest in status development. These factors include: Puerto Rico's increased standard of living; its increased dependence on federal programs; its economic problems; its increased social ties to the United States; and its migration to and from the United States.

Current initiative

Governor Hernandez Colon, who was re-elected in 1988, proposed a referendum among the status options of enhancing the commonwealth relationship, statehood, and independence and a federal commitment to respond to the referendum in his 1989 inaugural address.

He was joined shortly afterwards as president of the Popular Democratic Party by the presidents of the other two principal political parties of Puerto Rico, the New Progressive Party (then headed by Baltasar Corrada del Rio) and the Puerto Rican Independence Party (headed by Ruben Berrios Martinez,) in proposing that the federal government commit to act on implementing a status that receives majority support in the referendum. The agreement was viewed as historic because the three parties had long-disagreed on the proper approach to resolving the status issue.

The following month, President George Bush proposed to a Joint Session of the Congress that the Congress allow the people of Puerto Rico to decide their future status in a referendum, while expressing his own strong personal support of statehood.

The chairman of this Committee's counterpart committee in the Senate reacted to the proposal by introducting three bills.

Anticipating a Senate bill consistent with the party presidents' proposal, Subcommittee Chairman de Lugo agreed to the Senate committee chairman's schedule for congressional consideration of the proposal. It called for Senate action last year to be followed by House action this year.

S. 712

The Senate Committee on Energy and Natural Resources, however, narrowly approved a bill last year different from what had been anticipated. S. 712 would grant federal approval of statehood, independence, and an enhanced commonwealth relationship and it would unilaterally determine implementation measures for each status option. It would then automatically begin next Fall to implement the measures related to the status option that wins majority popular support in a referendum in Puerto Rico next Summer.

Poll results indicate that S. 712, as reported by the Energy and Natural Resources Committee, encouraged support for statehood in Puerto Rico to surge past commonwealth.

A reason for this development appears to have been that the bill would provide that statehood could be obtained immediately simply by a majority vote on the island. Another factor is that the bill would provide that most of the federal social program benefits

statehood would bring, would apply immediately while federal tax responsibilities would be phased-in later. Yet another reason for the apparent growth of public support for statehood was that the bill would provide few meaningful enhancements for commonwealth.

This bill

Speaker Thomas S. Foley, Chairman Morris K. Udall, and other Members expressed serious concerns about S. 712's approach to the issue last year. Among concerns expressed by Members were the unprecedented approach of having the Congress pre-approve status changes for Puerto Rico—as well as all of the terms of these possible changes—before the Puerto Rican people had decided on a future status. Such a process would inevitably be unfair to the Puerto Rican people because it would have the Congress alone make hypothetical 'final' decisions on specific terms before there is any mandate from the people most affected.

When it was clear that S. 712's problems would prevent it from being approved, Chairman Udall and Ranking Democrat George Miller joined with Subcommittee Chairman de Lugo in inviting the presidents of three parties to agree on alternative legislation.

The party presidents (Hernandez Colon, Berrios, and Romero, who had succeeded Corrada as head of the Statehood party shortly after the three parties proposed legislation on this matter) did not do so immediately because of the quick implementation "promise" of S. 712.

Later, however, it became obvious to these leaders that holding out for the automatic implementation approach might result in the Congress not approving their request for a federal commitment to act on the results of a status referendum. So, the party presidents decided a few months ago to support legislation suggested by de Lugo and Lagomarsino, in consultation with Resident Commissioner Jaime B. Fuster. This legislation would more accurately reflect the parties' proposal for the federal government to commit to act after the people of Puerto Rico had expressed their status preference.

The draft legislation was based in part on S. 711, another one of the bills on this matter sponsored by the chairman of the Senate committee of jurisdiction. It became this bill, H.R. 4765.

The substitute approved by this Committee was developed through inordinately intensive and extraordinarily extensive negotiations and is broadly supported by President Bush and the presidents of the three parties.

S. 712 amendments

The Senate Committee on Finance has since approved amendments to S. 712 (although it has not favorably reported the overall bill). The amendments would delay the implementation of statehood (which would be immediate in the Energy and Natural Resources Committee version) for five years (although that implementation would still be automatic). Federal program benefits and taxes would be phased in during the delay.

The amendments would also provide significantly increased program benefits under enhanced commonwealth. The increases would

be financed by revenues now transferred to Puerto Rico and new revenues generated by restrictions on the federal tax credit that encourages investment in Puerto Rico.

Problems with S. 712, as it would be amended by the Senate committees, include: the process of defining the status options and the automatic implementation procedures; limitations on both commonwealth and independence contained in the Energy and Natural Resources version; the terms of the financing of the improved treatment in federal social programs under enhanced commonwealth in the Finance version; as well as the excessive delay of statehood (since the selected status is to be automatically-implemented) in the Finance version.

Committee approach

This Committee's approach in developing this legislation has followed guidelines set forth by Subcommittee Chairman de Lugo at the March 2, 1990 hearing on this issue:

> I want to make it clear that I have no favorites among the statuses * * * or the parties.
>
> The options are all legitimate * * * and the parties all have able leaders.
>
> Only the people of Puerto Rico should decide which is best.
>
> I am dedicated to trying to make each of the options as good as it can be so that the people of Puerto Rico will be able to live as well as they can under whatever choice they make.
>
> I will accord each of the parties equal participation in the process of developing this choice.

It is important to note that this approach recognizes that there cannot be a level playing field among the status options. The inherent differences among the options are so great that they cannot present the Puerto Rican people with equivalent choices and any effort to construct a level playing field will result in artificial and unreasonable terms.

It also recognizes that the status options cannot fairly be implemented in a budget-neutral way. There are different costs and advantages for both the United States and Puerto Rico associated with each option; but no cost is so great that it should prevent or impede the right of the Puerto Rican people to realize a status to which they aspire.

Nonresident participation in the referendum

Representative Jose E. Serrano proposed that the bill be amended to enable all persons who were either born in Puerto Rico or who had one parent born in Puerto Rico to vote in the referendum. This proposal was supported by Representatives Charles B. Rangel and Bill Green.

Their proposal was based on positions that: much of the migration of Puerto Ricans to the States has been involuntary, due to economic necessity in part related to federal policies; a high percentage of residents of Puerto Rico spend part of their lives in the States and many Puerto Ricans in the States intend to eventually

return to Puerto Rico; the referendum may lead to a permanent decision on the destiny of the Puerto Rican people (as opposed to a decision on electing temporary officials;) and there is some international precedent for non-resident participation in status referenda.

United States precedent for non-resident voting in status referenda is limited to referenda in the Pacific Islands Territory that the United States has administered in trust for the United Nations. The non-resident voting contemplated by the Serrano amendment has no precedent in Puerto Rico.

The presidents of Puerto Rico's three parties objected to the Congress—directly or indirectly—mandating participation in the referendum by non-residents. In doing so, however, Governor Hernandez Colon asked that this legislation authorize Puerto Rico to extend the franchise to non-residents for the purpose of the referendum.

Subcommittee Chairman de Lugo and Ranking Minority Member Lagomarsino and Representatives Serrano, Rangel, and Green reached agreement, in consultation with the Bush Administration and the three parties, on a modification of the Serrano amendment. It would authorize Puerto Rico, to the extent that at least two of the three parties agree, to enable non-residents to vote in the referendum.

III. SECTION-BY-SECTION ANALYSIS

Section 1 would designate the bill the "Puerto Rico Self-Determination Act".

Section 2(a) would authorize the appropriation of $13.5 million for a referendum in Puerto Rico among the political status options of independence, statehood, and a modification of the current commonwealth relationship with the United States—on terms to be agreed to by the Puerto Rican people and the Congress—or none of these status options. The referendum would be held on September 16, 1991 or a later date in 1991 agreed to by at least two of Puerto Rico's three political parties in the Dialogue Committee on the Status of Puerto Rico.

The Dialogue Committee is composed of the presidents of Puerto Rico's three parties, each of which is the primary advocate of one of the three status options. This committee was established on June 29, 1989 by executive order of Governor Hernandez Colon after an agreement with the other two party presidents. The party presidents are generally represented on committee matters by delegates provided for in the order.

References in this bill to the Dialogue Committee are intended to ensure that the current equivalent political balance in the committee be maintained for the purposes of this legislation so that no one party dominates or makes final decisions for the panel. This committee expects that the Dialogue Committee will be maintained as presently structured and with adequate funding.

Puerto Rico's three parties had agreed in 1989 on June 4, 1991 as the date for the referendum. The commonwealth party later proposed, however, that the date needed be pushed back to October or November to allow adequate time to prepare for the referendum, if needed.

The other two parties objected to this delay; but this Committee agreed to delay the referendum until September 16, 1991. It believes that a later date is impractical if there is to be adequate time for the development and consideration of the legislation provided for in Section 4(a) in the 102nd Congress under the process set forth in Sections 4 and 5. This subsection would, however, authorize a later date for the referendum in 1991 if at least two of the three parties reach agreement on such a date.

This subsection would also require appropriations for the referendum to be made to the Executive Office of the President. These funds would be required to be subsequently granted to the State Elections Commission of Puerto Rico (with audit and other requirements set forth in the following subsection).

(b) would authorize the Elections Commission to spend $7.5 million of these grants for administrative and related costs of conducting the referendum. $1.5 million of this amount could only be spent for the purpose of facilitating the participation of Puerto Ricans who do not reside in Puerto Rico as would be authorized by subsections (b) and (c) of Section 3. It could not be expended if their participation is not authorized under those subsections.

The Elections Commission would also be required to provide $6 million to the Dialogue Committee for public education about the status options. The Dialogue Committe would be required to distribute the education funds equally among Puerto Rico's principal political parties.

This Committee recognizes that the $7.5 million which would be authorized for costs of an administrative nature would only fund a portion of these costs. It understands, for example, that the insular government expended some $17 million on the 1988 general elections and that the Elections Commission is estimating the cost of a separate referendum on another issue in 1991 at from $11–12 million. (These votes would only involve voters domiciled in Puerto Rico.) The additional funds necessary for the referendum contemplated by this bill would be provided by the government of Puerto Rico.

The $6 million in education funding would be provided to help ensure that the Puerto Rican people can make an informed choice regarding their status aspirations and that each status option can be fully and fairly presented to the voters. The Dialogue Committee has agreed that the government of Puerto Rico should also provide funding equally distributed among the three principal political parties for this purpose.

Party eligibility for this funding would be contingent on adherence to absolute limits on spending related to the referendum. These limits are the limits imposed on the parties for general election campaigns by current Puerto Rican election law. This Committee understand these limits to include $1.5 million to purchase broadcast and other advertising and $5 million for other expenses.

The purpose of applying spending limits to referendum campaigns is to ensure that a stauts option is not chosen because the party advocating it is able to unduly influence the outcome of the referendum by virtue of using an unfairly excessive amount of resources. Representatives of the three parties have agreed that the

proposed limits for the referendum are reasonable in light of anticipated costs.

The limits also, though, are high enough to allow public support for a status option to be somewhat reflected through private contributions which could make up the gap between funds provided by government and the spending cap. This Committee expects, however, that there will be no effort to circumvent these caps by persons associated with the parties or other interests.

Party eligibility for funding would also be contingent on agreement to strict record-keeping and audit requirements. The General Accounting Office would be required to audit the use of all funds provided under this legislation.

It is intended that these examinations be conducted on an ongoing basis while the funds are being spent and that the parties would be unable to use the funds that they are provided for any purposes other than referendum-related purposes. Funds would not be able to be spent for normal party operational expenses or promotion for the election of candidates.

It is further intended that the share of the funds of any party which declines to accept this federal funding would be divided between the parties accepting the funding and that the caps on spending would be commensurately increased for those parties.

At a minimum, the State Elections Commission should require that each political party report all receipts of cash or services, expenditures, and contracts in excess of $500 within 15 days of their occurrence. This would permit the timely detection and resolution by the Elections Commission of any irregularities.

The actual disbursement of federal funds by the Dialogue Committee should be on a time-phased basis. That is, each political party should receive an equal monthly allocation, starting on January 1, 1991, and on the first of each month thereafter until the referendum.

(c) would apply Puerto Rican election laws to the referendum.

The laws which would apply by virtue of this provision would include, but not be limited to, a law that Puerto Rico would have to enact to conduct the referendum, since there is no provision in Puerto Rico's law now for the referendum that this bill contemplates. This Committee understands that Puerto Rico's Legislative Assembly intends to consider legislation for this purpose next year.

This Committee also understands that Puerto Rico has a tradition of trying to amend its election laws pursuant to a consensus of the three parties and hopes that approach will be followed in the enactment of an insular law on the referendum.

(d) would also apply appropriate federal election laws to the referendum.

The federal laws which are intended to apply are some of those which apply to the election of federal elected officials, including Puerto Rico's Resident Commissioner. The purpose of applying these laws is to provide the utmost integrity for the referendum process with the fullest possible protection for the rights of voters. The laws that would apply would facilitate voting, provide for various substantive and procedural voter rights, define a variety of wrongful activities, and establish penalties for the commission of any of those activities.

They are: laws which are listed in the U.S. House of Representatives, Election Law Guidebook 1988 (H. Doc. 100–208); the Voting Rights Act of 1965, as amended (42 U.S.C. 1973); the Civil Rights Act of 1968, as amended (18 U.S.C. 245(b)(1)(A)); mail and wire fraud statutes (18 U.S.C. 1341, 1343, 1346); and the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee). Laws which would not apply are: the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431 to 456, except for 441b) and the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff).

The Uniformed and Overseas Citizens Absentee Voting Act is not intended to apply because this Committee understands that Puerto Rico's election laws already include some provisions for absentee voting by Armed Forces personnel and because the government of Puerto Rico would be granted broad authority under subsections (b) and (c) of Section 3 to enable Puerto Ricans abroad to vote in the referendum.

This Committee expects the law that the government of Puerto Rico would have to enact to conduct the referendum to facilitate voting by members of the military and their dependents to the greatest possible degree. Whatever opportunities it may provide for non-resident Puerto Ricans to vote under subsections (b) and (c) of Section 3, if any, should be provided without regard to where a non-resident lives.

References in the federal laws that would apply to elections of any kind would be deemed to include the referendum, and references to candidates for office would be deemed, where practical, to be references to the status options.

This section is not intended to make inapplicable any federal laws that might apply of their own force to the referendum.

Section 3(a) would recognize that many people of Puerto Rican descent now live outside of Puerto Rico. It would also recognize that the government of Puerto Rico has some legislative authority under current law to expand the current electorate of Puerto Rico to include some individuals who do not now reside in Puerto Rico.

The recognition of the insular government's authority is not intended to grant any authority which does not exist under current law nor to validate any specific claims of authority.

This Committee simply understands that the current electoral laws of Puerto Rico regarding absentee voting are very limited in comparison to absentee ballot laws in many States. It also does not intend to supersede authority Puerto Rico's government may already have to act on this matter.

(b) would authorize the government of Puerto Rico to amend its laws to enable Puerto Ricans who do not reside in Puerto Rico to register and vote in the referendum and to do so without being physically present in Puerto Rico.

This authorization would be contingent upon approval by the government of Puerto Rico of the plan referred to in subsection (c) and would have no effect in the absence of such a plan. It would authorize the government to extend the franchise to only those non-resident Puerto Ricans determined under the plan.

Language is included to clarify that the authorization can be effectuated by the plan to apply to all persons either born in Puerto

Rico or who have one parent who was born in Puerto Rico. (It could also apply to subsets of these classes of individuals.)

This subsection is not intended to by itself grant any rights to vote in the referendum. Nor is it intended to circumscribe any and/or all powers that the government of Puerto Rico may have to extend the franchise to persons currently not eligible to vote under Puerto Rican law nor to convey or confirm such powers or claims thereof.

(c) would authorize the Dialogue Committee to submit a plan to enable non-resident Puerto Ricans to vote in the referendum, if approved by two of its three party members, to the Puerto Rico Legislative Assembly for ratification. It also would provide that the plan will become law in Puerto Rico if ratified by the Legislative Assembly and signed by the Governor.

The Legislative Assembly would be able to accept or reject the plan; but not to amend it. Any authorization for non-resident voting contained in an act of the Assembly not based upon agreement of at least two of the three parties would only be able to be effective based on authority which may exist outside of the scope of this legislation.

As noted earlier, this Committee understands that Puerto Rico has a tradition of generally changing election laws by multi-party agreement which it hopes will be maintained in this matter. It expects that the parties will make a sincere effort to develop a plan to expand the electorate as authorized in subsections (b) and (c) of this section.

(d) would provide that a finding by a court that any provision of this legislation is constitutionally infirm will not invalidate any other provision, so that the other provisions can continue in effect. It is also intended to provide that a failure of the Dialogue Committee to submit a plan for non-resident voting or of the Legislative Assembly to approve such a plan 120 days before the referendum would not prevent other provisions of this Act from continuing in effect, preventing, for example, the referendum from being conducted. This provision is included in recognition of the controversial and complex nature of proposals for non-resident Puerto Ricans to vote in the referendum and of the likelihood of litigation on this and other matters.

Section 4(a) would require this Committee and the Senate Energy and Natural Resources Committee to draft legislation to implement a status that receives a majority of votes cast in the referendum addressing the matters listed below. The bills would be required to be drafted in consultation with Puerto Rico's political parties, the President, and any other appropriate persons or groups.

This subsection also expresses the intent that the basic elements of the selected status would be considered in the drafting process as seriously as the elements of any of the other statuses would have been considered.

It is intended that the committees would try to work out the provisions of the legislation with representatives of the party advocating the status that received an absolute majority in the referendum. In doing so, the committees would be expected to receive opinions on the issues involved from the parties which advocated

other status options, the Executive Branch, or any other appropriate groups or persons.

The purpose of consulting with the parties which did not advocate the selected status would not be to frustrate implementation of the majority will in Puerto Rico. Instead, it would be to ensure that all views in Puerto Rico on specific aspects of the selected status—rather than the status as a whole—are considered.

Examples of other groups or persons that it might be appropriate to hear from would include recognized organizations in Puerto Rico, representatives of Puerto Ricans who do not reside in Puerto Rico, and others with an important connection to Puerto Rico.

The President would be represented in the consultation process by staff from the Executive Office of the President as well as by officials from various agencies.

The requirement to consult with representatives of the parties is intended to facilitate consultation with leaders in Puerto Rico and would not limit contact with public or party officials in the drafting process solely to the principal representatives of the parties. It is included in recognition of the leading role that the parties play in the debate on the future political status of Puerto Rico.

The matters which would be required to be addressed in drafting the legislation which the Congress would be committed to consider are listed by status option as follows:

(1) INDEPENDENCE.—(A) Puerto Rico would establish a republican form of government through a constitution that would guarantee the full protection of human rights. The United States would act on providing a reasonable and fair transition of at least ten years for the economy of Puerto Rico under independence. Measures would involve such matters as—

(i) annual block grants based on the present total amount of Federal spending in the Commonwealth;

(ii) continued preferential entry of Puerto Rican products into the United States market;

(iii) incentives for United States investment in the private and public sectors of Puerto Rico and the market for loans originating in Puerto Rico that would make available incentives similar to those presently provided by law; and

(iv) the continued use in Puerto Rico of United States currency.

The eventual demilitarization of Puerto Rico would also be considered.

(B) The grant of independence would not impair the rights of individuals in Puerto Rico to benefits acquired by virtue of services rendered or contributions made to the United States nor impair the United States citizenship of persons born before the date of independence.

(C) The President of the United States would be authorized to negotiate a treaty and other bilateral agreements with the government of the republic that would further detail the relationship between the two countries.

(2) STATEHOOD.—(A) The Commonwealth of Puerto Rico would be admitted into the Union permanently as a sovereign State on an equal footing with the other States. The current

constitution and the laws of Puerto Rico would be accepted as the constitution and laws of the new State, and the Constitution and laws of the United States would be extended in full to Puerto Rico.

(B) The United States citizenship of persons born in Puerto Rico would be constitutionally guaranteed and equal in all respects to the citizenship of persons born in the other States. Citizens of the new State would be entitled to vote for the President and Vice President of the United States and would elect the apportioned number of Members of the House of Representatives and two Members of the Senate of the United States.

(C) Residents of the new State would be treated equally with residents of the other States in all Federal programs and would assume all obligations of residents of the States of the Union. The Congress would act on providing a reasonable and fair transition for the economy of Puerto Rico under statehood.

(3) A NEW COMMONWEALTH RELATIONSHIP.—(A) The new Commonwealth of Puerto Rico would be joined in a union with the United States that would be permanent and the relationship could only be altered by mutual consent. Under a compact, the Commonwealth would be an autonomous body politic with its own character and culture, not incorporated into the United States, and sovereign over matters governed by the Constitution of Puerto Rico, consistent with the Constitution of the United States.

(B) The United States citizenship of persons born in Puerto Rico would be guaranteed and secured as provided by the Fifth Amendment of the Constitution of the United States and equal to that of citizens born in the several States. The individual rights, privileges, and immunities provided for by the Constitution of the United States would apply to residents of Puerto Rico. Residents of Puerto Rico would be entitled to receive benefits under Federal social programs equally with residents of the several States contingent on equitable contributions from Puerto Rico as provided by law.

(C) To enable Puerto Rico to govern matters necessary to its economic, social, and cultural development under its constitution, the Commonwealth would be authorized to submit proposals for the entry of Puerto Rico into international agreements or the exemption of Puerto Rico from specific Federal laws or provisions thereof to the United States. The President and the Congress, as appropriate, would consider whether such proposals would be consistent with the vital national interests of the United States on an expedited basis through special procedures to be provided by law. The Commonwealth would assume any expenses related to increased responsibilities resulting from the approval of these proposals.

The matters described above are modified versions of proposals submitted by the presidents of Puerto Rico's three principal political parties to a Subcommittee on Insular and International Affairs hearing on June 28th. Modifications were made for reasons of form and policy; but are consistent with this Committee's understanding of the intent of the proposals.

The inclusion of these matters in this report would constitute a good faith commitment to consider those matters contained in the conceptual description of the status that receives majority support in the referendum in responding to that expression of will by the Puerto Rican people. The enactment of this legislation would impose moral obligations on the Executive Branch as well as the Congress in this regard.

These descriptions cannot be fairly termed wish-lists. They would not, however, obligate this Committee or its counterpart Senate committee to necessarily incorporate the above-listed elements of the description related to the selected status in the legislation or in it to the extent advocated by the status' advocates.

Instead, this section would pledge that the committees will seriously and fully review and respond to the proposals. The enactment of this section would, therefore, provide a conceptual framework from which to undertake the process of developing legislation to implement the status selected in the referendum.

This Committee would intend to also work out provisions of the implementing legislation with any other committees of jurisdiction in the House. For the purposes of what would essentially be negotiations, this Committee would presumably be represented by the Subcommittee (or its equivalent) and staff.

(b) would authorize the appropriation of funds to enable the consultations to be conducted and the implementing legislation to be drafted.

Section 5(a) would require the Chairman of this Committee and the chairman of the Energy and Natural Resources Committee of the Senate to introduce the legislation provided for in section 4(a) by March 6, 1992.

(b) would authorize any Member of the House and Senate to move that the legislation be discharged from a committee 181 or more calendar days after the legislation was introduced. It would make such motions in order at any time. Such motions would be debatable for a maximum of two hours; but would not be subject to amendment or to motions to reconsider.

(c) would authorize any Member to move that the full House or Senate consider the legislation 15 or more legislative days after the legislation is reported or discharged from all committees to which it was referred. It would make such motions in order at any time and provide that they would not be debatable, amendable, or subject to reconsider.

(d) would state the Congress' commitment to vote on legislation which would set forth the process for implementing the status selected by the Puerto Rican people in the referendum.

The various provisions of this section are intended to provide assurance that the implementing legislation will be developed and considered and that both Houses will act on it. Subsection (a) would require the legislation to be introduced. Subsection (b) would provide for a 180 calendar day time limit on committee consideration. Subsection (c) would provide for consideration by the full House (or Senate) after 14 legislative days after the end of committee consideration. Subsection (d) would state the Congress' intent to vote on the legislation.

In sum, the expedited procedures contained in this section would obligate committees to act on the legislation and commit both Houses to act on it. They would not, however, prevent either House from amending the legislation; commit either House to approve it; or commit that the legislation will be enacted into law.

These commitments represent moral—rather than legal—obligations since one Congress cannot constitutionally bind its successors in matters of this nature. They would, however, constitute solemn political obligations. Their not being honored is inconceivable to this Committee.

This Committee believes that the assurances this section would provide the people of Puerto Rico that the federal government will respond to their status decision are an essential part of this legislation's approach to the status issue. Puerto Ricans have been disappointed in the past by the federal government's failure to act on their status preference (even after encouraging such a determination). Their leaders could not support this approach (as opposed to the automatic implementation approach of the Senate bill) without such assurances.

This Committee, therefore, also notes that it is unlikely that the expedited procedures provided for in this section will ever be used. It fully expects that legislation to implement the selected status will be expeditiously acted upon by committees and both Houses. It has no doubt that enactment of this legislation will represent a sincere commitment to Puerto Rican self-determination that the next Congress and the President will honor.

Section 6(a) would require that legislation drafted pursuant to section 4(a) that is enacted into law be submitted to the people of Puerto Rico in a second referendum. This referendum would be required to be held not more than 60 calendar days after the law is enacted. This subsection would also provide that the legislation will not take effect unless approved in that referendum. Finally, it would provide that the law will become effective on the date and subject to such other terms as that legislation might include.

(b) would authorize appropriations for the second referendum, including funds for public education and the actual conduct of the vote.

Section 7 would require this Committee and the Senate Energy and Natural Resources Committee to make further recommendations on Puerto Rico's political status development if none of the three statuses receives a majority in the first referendum; if the implementing legislation is not enacted into law; or if the implementing law is not approved in the second referendum.

The recommendations would be required to be developed in consultation with representatives of Puerto Rico's principal political parties, the President, and other appropriate groups or persons. (This would be a consultation requirement similar to that contained in Section 4(a)).

The contemplated recommendations could be either of a procedural or substantive nature.

IV. LEGISLATIVE HISTORY AND COMMITTEE RECOMMENDATION

H.R. 4765 was introduced on May 9 by Chairman Ron de Lugo of the Subcommittee on Insular and International Affairs along with Subcommittee Ranking Minority Member Robert J. Lagomarsino; Chairman Morris K. Udall and Ranking Minority Member Don Young of this Committee; Chairman John Joseph Moakley and Ranking Minority Member James H. (Jimmy) Quillen of the Committee on Rules; Resident Commissioner Jaime B. Fuster; and Subcommittee on Insular and International Affairs Members James McClure Clarke, John Lewis, George (Buddy) Darden, Eni F. H. Faleomavaega, and Ben Garrido Blaz.

The bill was introduced with the expressed support of Speaker Thomas S. Foley and Minority Leader Robert H. Michel and was subsequently sponsored by Representatives Edward J. Markey, Wayne Owens, Stephen J. Solarz, E. Thomas Coleman, Robert K. Dornan, Peter H. Kostmayer, John Miller, Jon L. Kyl, and Ben Jones.

Hearings were held by the Subcommittee on Insular and International Affairs this year preceding introduction on March 2 in Washington, D.C. and March 9, 10, and 12 in San Juan, Ponce, and Mayaguez, P.R. respectively. Hearings were held after introduction on June 25, in New York, N.Y. and June 28 in Washington, D.C. The Subcommittee also conducted a formal briefing on this matter January 30.

The bill was approved with an amendment in the nature of a substitute sponsored by Congressmen de Lugo, Lagomarsino, Udall, and Fuster by the Subcommittee on Insular and International Affairs on August 3 by a vote of 10 yeas and 0 nays. It was approved with an amendment in the nature of a substitute sponsored by Congressman de Lugo, Lagomarsino, Udall, Don Young, George Miller, and Fuster by this Committee on September 19 by a vote of 37 yeas and 1 nay.

V. BUDGET EFFECTS

The analysis of the Congressional Budget Office follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 25, 1990.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 4765, the Puerto Rico Self-Determination Act.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT F. HALE
(For Robert D. Reischauer, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 4765.

2. Bill title: Puerto Rico Self-Determination Act.

3. Bill status: As ordered reported by the House Committee on Interior and Insular Affairs on September 19, 1990.

4. Bill purpose: H.R. 4765 would authorize appropriations of $7.5 million for a referendum in Puerto Rico to determine the political status of the island and $6 million to provide information to Puerto Rico residents on the referendum issues. The bill also would establish procedures for the development and consideration of legislation by the Congress to implement the results of the referendum and would provide for a subsequent vote within Puerto Rico to ratify the legislation passed by the U.S. Congress. Such sums as are necessary would be authorized for development of the legislation and conducting the ratification vote.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Referendum on status:					
Authorization level	14				
Estimated outlays	11	3			
Development of legislation:					
Estimated authorization level		(1)			
Estimated outlays		(1)			
Ratification vote:					
Estimated authorization level			15		
Estimated outlays			13	2	
Total					
Estimated authorization level	14	(1)	15		
Estimated outlays	11	3	13	2	

[1] Less than $500,000.

The costs of this bill would fall within budget function 800.

Basis of estimate: This estimate assumes that the authorized sums would be appropriated and a referendum would be held before the end of fiscal year 1991. It assumes a year for development and passage of enacting legislation, and a ratification vote sometime in fiscal year 1993. Based on the cost of recent elections in Puerto Rico, we estimate the cost of the ratification vote to be $15 million in 1993.

6. Estimated cost to State and local governments: Puerto Rico would be responsible for conducting both the election and the ratification vote. The costs of the referendum vote would be partly covered by grants authorized by H.R. 4765; the remaining costs ($6 million to $8 million in 1991) would be borne by Puerto Rico. Similarly, if the full amounts required are not appropriated, Puerto Rico would pay some of the costs of the ratification vote.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Marta Morgan.

10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

VI. OVERSIGHT FINDINGS

In compliance with clause (2)(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the need for this legislation has been confirmed at hearings previously held and oversight findings made by the Subcommittee on Insular and International Affairs.

VII. INFLATION IMPACT

In compliance with clause 2(l)(4) of rule XI of the House of Representatives, with regard to the inflationary impact of the reported bill, the Committee believes that the bill will not have an inflationary impact on national prices or costs.

ADDITIONAL VIEWS

The history of the political relationship between Puerto Rico and the United States is one of profound controversy and continuing debate. Conflicting views of how the relationship has evolved and dramatically different notions on how it ought to be structured in the future continue to make any attempt at understanding the status of Puerto Rico a very difficult endeavor. The differences in perceptions both between and within the United States and Puerto Rico have frustrated many attempts at resolving this seemingly unending question.

For the first time in fifteen years, this Committee is taking up the issue of Puerto Rico's political status at the initiative of the Governor of Puerto Rico, and with the active concurrence of the President of the United States and the leadership of Puerto Rico's three political parties. Never before in our history had we had such resolve and concerted will as during the past year and a half, thus making the responsibility of this Committee all the more important, all the more solemn.

H.R. 4765 is the result of an intense process of hearings, discussions, and negotiations that have tried to reconcile and accommodate many of what historically have been irreconcilable differences in perspective. As such, even more than others, this is a compromise bill whose scope and import is inevitably full of interpretative nuances and subtleties that will give rise to difficult queries to be resolved when the time is ripe. As a sponsor and supporter of H.R. 4765, as the elected representative of the people of Puerto Rico before the U.S. Congress and as an active participant in this process of self-determination, I hope that such queries will be dealt with on the basis of the most complete understanding of the issues involved. To contribute to such an understanding and to help clarify some of the many complicated aspects of this important piece of legislation, I am submitting these additional views to the Committee Report. I do so because of my concern that the Committee Report may not by itself shed enough light to ensure the most correct understanding of crucial aspects of the bill. The drafting of Congressional Committee reports inevitably involves summarization and careful attention to details is often not possible. Niceties that are important to accurately construe essential elements of a bill are sometimes lost.

I. BACKGROUND

My principal concern is with the interpretation of the main provision of H.R. 4765. Before discussing said provision, however, I most point out that Section II of the Committee Report, entitled "Background and Need", likewise contains statements that are not as precise or complete as they could have been. As with the rest of

the Report, care should be taken here also not to consider this Section as fully conforming to fact or indisputable. A few examples should help to illustrate my concerns.

(1) In the sixth paragraph of Section II, it is asserted that "* * * the 1980 Census indicates that over 42% of the population of Puerto Rico can speak some English with varying degrees of proficiency * * *." The precise information, according to U.S. Census figures, is that 19 percent of island residents speak English easily, 23 percent speak English with difficulty, and 58 percent are uanble to speak English.

(2) In the first paragraph of the subsection entitled, "Status Implications", it is asserted that the 1950 report of the federal legislation that paved the way for the creation of Commonwealth status indicates that such legislation was "intended to grant full local self-government (to Puerto Rico), but not to * * * change Puerto Rico's fundamental political, social and economic relationship to the United States." Such assertion is true as far as it goes but by itself alone it does not completely portray the far reaching nature of what Puerto Rico and the United States agreed upon at that time. A more precise description is the one offered by a member of Congress, who participated in approving the legislation in question, when asked at the United Nations to explain its scope. Mrs. Frances Bolton, member of Congress from Ohio, serving in 1953 as part of the United States delegation to the United Nations, officially responded to the claim made by some at the United Nations that Commonwealth status did not change Puerto Rico's colonial relationship with the United States, by stating:

> The Federal Relations Act to which reference has been made has continued provisions of political and economic union with the United States which the people of Puerto Rico have wished to maintain. In this sense the relationships between Puerto Rico and the United States have not changed. It would be wrong, however, to hold that because this is so and has been so declared in Congress, the creation of the Commonwealth of Puerto Rico does not signify a fundamental change in the status of Puerto Rico. The previous status of Puerto Rico was that of a territory subject to the full authority of the Congress of the United States in all governmental matters. The previous constitution of Puerto Rico was in fact a law of the Congress of the United States, which we called an Organic Act. Congress only could amend the Organic Act of Puerto Rico. The present status of Puerto Rico is that of a people with a constitution of their own adoption, stemming from their own authority, which only they can alter or amend. The relationships previously established also by a law of the Congress, which only Congress could amend, have now become provisions of a compact of a bilateral nature whose terms may be changed only by common consent.

(3) In the several paragraphs of the subsection entitled "Status Implications" that briefly discuss judicial statements on the nature of commonwealth status the salient notion conveyed there is that the "courts have made ambiguous and conflicting statements on

this matter"; and that court decisions express a "wide-range of opinions". This notion is grossly inaccurate. It is true that judicial opinions have not all uniformly followed one and the same view. But it is also true that the overwhelming weight of judicial authority supports only one view. There are a few disparate judicial decisions on this matter but most of the authoritative state and federal courts have generally agreed with the following views, expressed in 1981 by Judge Breyer, a distinguished judge of the United States Court of Appeals, in *Cordova* v. *Chase* (649 F2d 36):

> The Federal Relations Act and the Puerto Rican Constitution were intended to mark a significant change in the relation between Puerto Rico and the United States * * *. Under the Treaty of Paris which ceded Puerto Rico to the United States, the island lost its autonomy. It became a "territory" of the United States and subject to the command of the Congress * * *. The Federal Relations Act was intended to end this subordinate status * * *. The theme that consistently runs throughout the legislative history of Puerto Rico's attainment of Commonwealth status is that the Commonwealth represents the fuflillment of a process of increasing self-government over local affairs by the people of Puerto Rico * * *. In sum, Puerto Rico's status changed from that of a mere territory to the unique status of Commonwealth. And the federal government's relations with Puerto Rico changed from being bounded merely by the Territorial Clause and the rights of the people of Puerto Rico as United States citizens, to being bounded by the United States and Puerto Rico Constitutions, Public Law 600, The Puerto Rican Federal Relations Act and the rights of the people of Puerto Rico as Untied States citizens.

or in 1985 by Judge Bownes, also a United States Court of Appeals judge, in *United States* v. *Quiñones* (758 F2d 40):

> Thus, in 1952, Puerto Rico ceased being a territory of the United States subject to the plenary powers of Congress as provided in the Federal Constitution. The authority exercised by the federal government emanated thereafter from the compact itself. Under the compact between the people of Puerto Rico and the United States, Congress cannot amend the Puerto Rico Constitution unilaterally, and the government of Puerto Rico is no longer a federal government agency exercising delegated power.

(4) In the first paragraph of the subsection entitled "Post-Constitution Initiatives" it is asserted that "supporters of statehood and independence have consistently claimed that Commonwealth did not end Puerto Rico's territorial and colonial status * * *" and that "Commonwealth advocates, for their part, have made repeated, unsuccessful attempts since 1952 to develop and clarify the relationship * * *." The notion conveyed is that Commonwealth status, at least as it is now, has never fully satisfied the people of Puerto Rico. The statements and notion are quite imprecise and do not reveal the whole picture regarding this matter.

To begin with, independence and statehood supporters do not share the same record regarding their views on Commonwealth. While generally speaking, independence supporters have always claimed that Commonwealth is a deceptive colonial status, statehooders have wavered historically between that notion and the very different one that statehood is the only form of permanent union with the United States and therefore a better option than Commonwealth.

More importantly, dissatisfaction with the existing Commonwealth is much stronger today than it was twenty or thirty years ago, not only in the midst of its own followers but even as regards statehooders and independence supporters.

When Commonwealth was established in 1952, it had the strong support of an overwhelming majority of the Puerto Rican people. After over fifty years of a disappointing colonial tutelage, Commonwealth appeared as a clear breakthrough in the relationship with the United States. Puerto Rico's most noted contemporary historian has said that "a profound psychological change took place in 1952". The outlook was rosy and even many of the non-supporters had high hopes and expectations because establishment of Commonwealth pointed to new ways and possibilities. More specifically, many non-supporters felt that the new status could grow in different directions.

The leaders in Puerto Rico who created Commonwealth knew from the very beginning that the new status had shortcomings. Congressional conservatism had not made it possible to get all that was desired. Washington was still too imbued in the gradualist policy of allowing Puerto Ricans to exercise self-government little by little. But Commonwealth leaders believed that the new status was a huge step forward and that once it was in place, new efforts could then be made to perfect it.

The high hopes of the Puerto Rican people were well anchored in legal developments accompanying the creation of the Commonwealth. The Constitutional Convention of Puerto Rico, in approving the new status had advised Congress that:

> The people of Puerto Rico reserve the right to propose and to accept modifications in the terms of its relations with the United States of America (Res. 23 of Feb. 4, 1952).

At the United Nations in 1953, shortly after the Commonwealth had been established, the United States claimed that under the new status, Puerto Rico had attained a full measure of self-government and therefore was no longer a Non-Self-Governing Territory subject to Article 73e of the United Nations Charter. A number of issues were raised in considering the United States request, including the question of whether Puerto Rico, in opting for the new Commonwealth status, had fully exercised its right to self-determination. United States Ambassador to the United Nations Henry Cabot Lodge, stated the official position of the United States on this question by saying, on behalf of President Eisenhower, that if at any time Puerto Rico sought "more complete or even absolute independence", he, President Eisenhower would "immediately thereafter recommend to Congress that such independence be granted". The United Nations, in its ensuing resolution (No. 748

VIII), acknowledging Puerto Rico's new relationship with the United States reiterated the so-called Eisenhower Declaration by stating, in article 9 of the Resolution, that the United Nations

> expresses its assurance that * * * due regard will be paid to the will of both the Puerto Rican and American peoples * * * in the eventuality that either of the parties to the mutually agreed association may desire any change in the terms of this association.

Commonwealth leaders did in fact seek to perfect the relationship. They tried it in 1959, in 1963 and then again in 1974. All of the attempts were unsuccessful largely because Washington was not responsive. And thus, the current dissatisfaction with Commonwealth status is to a large degree the result of federal inaction in the face of repeated Puerto Rican demands that the Eisenhower Declaration be honored.

(5) In the subsection entitled "1967 Referendum" a number of assertions contained in the Report, read together, may convey the impression that said referendum did not really reflect the will of the Puerto Rican people at the time. It is asserted, for example, that "most independence advocates boycotted the vote"; that "the statehood party also urged non-participation" and that it was a "non partisan statehood group" which "carried the statehood banner into the referendum".

The Report fails to mention that a break-away pro-independence group did carry the banner for independence into the referendum; and that the so-called "non-partisan statehood group" was in fact made up of nearly every rank-and-file member of the old statehood party, led as it was by the most popular leader that the statehood movement has ever had.

The truth of the matter is that the results of the 1967 referendum reflected the will of the people of Puerto Rico fairly well as is evidenced from a comparison of such results with the results of the general elections in Puerto Rico both before and after the referendum (even after considering that in 1968 the Commonwealth vote was split between two different parties and the deep upheaval represented by that split skewed normal electoral patterns):

[In percent]

	Commonwealth vote	Statehood vote	Independence vote
1964 Elections	59	34	2.6
1967 Referendum	60	39	1
1968 Elections	53	43	3.5

Another assertion in the Committee Report under the subtitle "1967 Referendum" needs to be commented upon. It is stated there without any further explanations that in the 1967 Referendum, the Statehood party "complained about the fairness of the ballot". Indeed! The central issue raised during the 1967 Referendum campaign was precisely that the ballot was inadequate because it failed to define the options in sufficient detail to allow voters to make an

intelligent choice. The ballot contained only general abstract definitions of the three status options and voters were not given enough guidance to assess what each option would precisely entail. This limitation of the ballot in the 1967 Referendum is one of the basic reasons why its legitimacy has been assailed, the other important one being that there was no prior commitment from Congress to honor the results of said referendum.

To sum up, then, the opinion of most Puerto Ricans today is that the 1967 Referendum was of limited value not because, as the Committee Report seems to suggest, its results did not really reflect the people's choice. No one in the island would seriously question that "Commonwealth" was clearly the preferred status of the vast majority. The big fault with the 1967 Referendum was that it was essentially a "popularity contest"; that is, that it failed to serve as a means to help solve Puerto Rico's status problem because Congress was not committed to honor the results, and in fact never did honor them; and because the people were just given a choice between general options without detailed definitions of what each meant. There is today in Puerto Rico an overwhelming consensus that no future referendum on status should be held if these limitations are again present. No more popularity contests!

(6) In the second paragraph of the subsection entitled "Current Initiative" it is asserted that the presidents of all the three principal political parties of Puerto Rico joined in 1989 in proposing "that the federal government commit to act on implementing a status that receives majority support in the referendum". This statement misrepresents the intent of the three presidents on this matter. They did not merely request that the federal government "commit to act" because such a commitment does not cover the content or substance of the action they sought. What they did request was a qualitatively stronger commitment from the federal government to approve and enact into law the winning status as chosen by the majority of the Puerto Rican people. As the letter of the three presidents dated January 17, 1989 clearly stated, they wanted "* * * a guarantee that the will of the people once expressed shall be implemented through an act of Congress * * *" A mere commitment to act can be complied with by action that only in part honors the result of the referendum or, conceivably even by action that rejects the option chosen by the people. Clearly, no such actions were intended by the three party presidents.

There are other examples of imprecise or inaccurate statements contained in the "background" section of the Report but I believe the six ones commented upon illustrate sufficiently enough the problem I wish to raise. The Report deals with very complicated matters that do not lend themselves to easy generalizations and a lof of care must be taken by persons not well familiarized with these issues not to be unwittingly misled by the summarization that is unavoidably incurred in when such Reports are written.

II. THE MAIN PROVISION OF THE BILL

Section 4(a). The most important part of the bill is obviously Section 4(a) that requires the pertinent Congressional Committees to draft legislation to implement the winning option. The Committees

are required to draft such legislation "addressing the aspects of (the winning) status set forth in the report which accompanies the bill * * *."

The question arises as to what precisely must the committees do to comply with the mandate to "address" the aspects of the winning status that are set forth in the report. Are they required to incorporate those aspects in the implementing legislation; that is, to direct their efforts to the task of enacting those aspects into law? Or are the committees required to merely consider those aspects in taking whatever action the committees see fit with regard to the matters they include?

The Report attempts to answer the questions above. It asserts, on the one hand, that the aspects to be addressed by the congressional commitees are not "wish lists"; that they "provide a conceptual framework from which to undertake the process of developing legislation to implement the (winning) status * * *;" and that this section of the bill commits "the committees to seriously and fully review and respond" to such aspects. On the other hand, it is also asserted that the bill does not commit the committees "to necessarily incorporate (such aspects) * * * to the extent advocated by (the winning) status' advocates * * *."

I believe that the true scope of this section cannot be properly ascertained without considering the specific history, purposes and nature of this provision in some detail. To begin with, it should be noted that the so called "aspects of the (winning) status set forth in the report which accompanies the bill" are really the definitions or descriptions of the different status options drafted by the Committee based on the proposals submitted by Puerto Rico's three principal political parties. As the Report itself clearly states, each party proposed a definition of its own preferred option as it wished to present it to the Puerto Rican people for them to choose among the three in the referendum, and the Committee adopted such definitions after making modifications to the party proposals "for reasons of form and policy". Such modified versions of the proposals are the "aspects" referred to in Section 4(a) of the bill.

These definitions or descriptions, then, encompass precisely the matters that will be presented to the people of Puerto Rico for a vote in the referendum. It is on the basis of such definitions that the people will make their choice. Without them, the referendum would be a farce because the people would not know what precisely they are voting for.

From the very beginning of the legislative process that led to the approval of H.R. 4765 by the Committee, it has been indisputably clear that no referendum can be legitimate if it does not include clear and adequate definitions of each of the three options to be presented to the people of Puerto Rico, because only with such definitions will the people be able to choose intelligently, with a full understanding of what each option means and what they concretely entail. Chairman Udall expressed this idea when the original version of H.R. 4765 was introduced in the House on May 9, 1990. He said:

> The general principles on which each status option would be based will be briefly outlined in the legislation * * *. That outline is intended to provide the people of Puerto Rico with an overview of what each status option means and what the Congress will seek to incorporate about that option into any subsequent implementing legislation.

Insular Affairs Subcommittee Chairman Ron de Lugo, the member of Congress who has been the principal author of H.R. 4765 and the main leader in getting the bill approved, explained it this way on that same occasion:

> The bill would * * * clearly define the three status options as they would apply to the island * * * so that the people of Puerto Rico can make an informed choice.

The crucial importance of these definitions to the referendum process envisioned in H.R. 4765 is also attested to by the fact that they constituted the central object of the long and complex deliberations and negotiations that led to the approval of H.R. 4765. From the very day when the original version of the bill was introduced in the House of May 9, 1990 to minutes before the bill came before the Insular Affairs Subcommittee on August 3, 1990, hundreds of long hours were spent in many tense and contentious proceedings involving House members, senior staffers and party representatives who labored to work out an agreement on the content of these definitions. Congressmen De Lugo, Lagomarsino and I met on several occasions for long periods to work out agreements on just a few controversial terms or words of those definitions. Congressional and outside experts were extensively consulted; United States Justice Department and White House officials strongly intervened regarding aspects of such definitions, and Subcommittee hearings were held focusing only on them. All this enormous amount of work, encompassing scores of deals and compromises as well as a lot of soul searching, occurred because all those involved realized that the definitions are indeed the crux of the matter.

The definitions or descriptions contained in the Report will be the ones that will appear on the ballots when the referendum is finally held. They will be the means by which Puerto Ricans will exercise their most fundamental right as a people: their right to self-determination. Through those definitions the people of Puerto Rico intend to decide their collective future; they will serve as the vehicle for Puerto Ricans to express their will as to the kind of relationship, if any, they want to have with the United States. By selecting one of those definitions through a majority vote, they hope to put to rest the agonizing political status debate that has consumed so much of their peace of mind and creative energies for centuries now. The definitions are the very essence of the process that hopefully will end once and for all the cloud of colonialism that for nearly one hundred years has hovered over the relationship between the United States and Puerto Rico.

No reasonable person can deny that very important things are at stake resting precisely on these definitions. They were not included in the bill itself for tactical reasons pertaining to the goal of obtaining congressional approval of the bill expeditedly. Many of the members of the Committee and myself who preferred the defini-

tions to appear on the text of the bill were assured by members of the leadership of the Committee and of the House that the chances of getting the bill approved improved significantly if the definitions were put in the Report rather than in the bill itself. We were assured that doing so was not unprecedented in Congressional experience, and finally, we were assured that since that part of the Report language is incorporated by reference into the bill itself, it really did not make any difference to put it there rather than on the bill.

In view of all the considerations above, it is clear to me that the intention of most of the members who voted in favor of H.R. 4765 is that the definitions contained in the Report are morally and politically binding. Many of the Members expressed it in their remarks when the bill was marked up both in the Insular Affairs Subcommittee and in the full Interior Committee. It is simply inconceivable that through this bill Congress would summon the people of Puerto Rico to exercise their sacred right to self-determination by choosing one of the options that appears in a ballot as Congress itself drafted it, only to be told when the time comes to implement that option, that Congress is free to disregard or exclude any of the essential aspects of that option. Such a possibility would make this bill and the process of self-determination that it purports to enable *a monumental hoax*. It would be a travesty upon the people of Puerto Rico for it would be tantamount to replicating the sad experience of the 1967 Referendum (see section I (5) above) and it would constitute a crass congressional disregard of Puerto Rican rights under the Eisenhower Declaration and international law (see section I (4) above).

To conclude, nothing of the above means that the Committees will not have to exercise a good degree of discretion in developing the final legislation to implement the winning option. The descriptions or definitions contained in the Report constitute broad principles that require detailed implementing language. Many important decisions remain to be made in translating such broad principles into concrete provisions. Just as an architect's blueprint delineates the boundaries of a structure that remains to be built, these definitions essentially provide the necessary conceptual framework for the actual fulfillment later on of whatever change in status is chosen by the people of Puerto Rico.

So the responsibility that remains in Congress is still awesome. This bill commits the congressional committees to a good faith effort to enact the broad principles of the winning option into law. The committees are not free to alter or reject any of the essential elements of the definitions; they are duty-bound to seek to incorporate all the basic principles of the winning definition into the implementing legislation. But the challenge remains to work out such legislation with the necessary agreements by all the parties concerned.

It behooves the leaders of the Nation which was founded upon the principles of self-determination and government by consent to respect the will of the people of Puerto Rico as expressed in the referendum. I am confident that the parties involved will indeed develop legislation to implement these definitions as they appear in

the ballots. Such challenge of statesmanship is the task before Congress.

JAIME B. FUSTER.

JANUARY 17, 1989.

Hon. MORRIS UDALL,
Chairman, Interior and Insular Affairs Committee,
Cannon House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: In the past election held on November 8, 1988, all three political parties, which represent the three alternatives for the ultimate political status of the People of Puerto Rico, included the need for the resolution of the status issue in the platforms they presented to the electorate.

In accordance with the platform of the Popular Democratic Party, the Governor of Puerto Rico announced in his Inauguration the intention of the Government of Puerto Rico to pursue the resolution of the status question with the Government of the United States of American and convened a meeting of the leadership of the three political parties that represent the three formulas.

As a result of this meeting we, the Presidents—of the Popular Democratic Party, representing Commonwealth, the New Progressive Party, representing Statehood, and the Independence Party, representing Independence—have agreed to express to the President and to the Congress of the United States of America, that the People of Puerto Rico wish to be consulted as to their preference with regards to their ultimate political status and the consultation should have the guarantee that the will of the People once expressed shall be implemented through an act of Congress which would establish the appropriate mechanisms and procedures to that effect.

Towards the formulation of such an act of Congress and related policies, we request to meet with you at your earliest convenience.

Conscious that since Puerto Rico came under the sovereignty of the United States of America through the Treaty of Paris in 1898, the People of Puerto Rico have not been formally consulted by the United States of America as to their choice of their ultimate political status, and in the understanding that we are taking a momentous decision in Puerto Rican history and confident of the commitment of the United States of America and of the People of Puerto Rico to the principles of self-determination and government by the consent of the governed, we remain,

Cordially your,

BALTASAR CORRADA DEL RIO,
President, New Progressive Party.

RAFAEL HERNANDEZ COLON,
President, Popular Democratic Party.

RUBEN BERRIOS MARTINEZ,
President, Puerto Rican Independence Party.

EXCERPT FROM PRESIDENT BUSH'S STATE OF THE UNION ADDRESS BEFORE A JOINT SESSION OF THE CONGRESS, FEBRUARY 9, 1989

There's another issue that I've decided to mention here tonight. I've long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I strongly favor statehood. But I urge the Congress to take the necessary steps to allow the people to decide in a referendum.

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101ST CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPT. 101-790
Part 2

PUERTO RICO SELF-DETERMINATION ACT

OCTOBER 2, 1990.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. MOAKLEY, from the Committee on Rules, submitted the following

REPORT

[To accompany H.R. 4765 which on May 9, 1990, was referred jointly to the Committee on Interior and Insular Affairs and the Committee on Rules]

The Committee on Rules, to whom was referred the bill (H.R. 4765) to enable the people of Puerto Rico to exercise self-determination, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Puerto Rico Self-Determination Act".

SEC. 2. REFERENDUM ON STATUS OPTIONS.

(a) There are hereby authorized to be appropriated $13,500,000 to the Executive Office of the President for grants to the State Elections Commission of Puerto Rico for a referendum which is to be held on September 16, 1991, or on a later date in 1991 agreed to by a majority of the members of the Dialogue Committee on the Status of Puerto Rico (hereafter in this Act referred to as the "Dialogue Committee"), as established by executive order of the Governor of Puerto Rico on June 29, 1989, on the following question:

Which political status do you favor for the Commonwealth of Puerto Rico on terms to be consented to by the people of Puerto Rico and the Congress of the United States?

independence;
statehood;
a new commonwealth relationship; or
none of the above statuses.

(b)(1) Of the amount authorized to be appropriated by subsection (a), the State Elections Commission is authorized to—

(A) expend $7,500,000 for costs of conducting the referendum, including $1,500,000 to facilitate the participation of Puerto Ricans not resident of Puerto Rico in the referendum as authorized pursuant to section 3(c); and

(B) disburse $6,000,000 to the Dialogue Committee to be expended for the purpose of informing the people of Puerto Rico regarding the three status options, such amount to be equally divided among Puerto Rico's principal parties.

(2) Funds appropriated under paragraph (1) shall be made available for the necessary expenses, including the travel and transportation of persons, services as authorized by section 3109 of title 5, United States Code, communications, utilities, printing and reproduction, supplies and materials and other related services, and administrative costs.

(3) To be eligible to receive payments under paragraph (1)(B), a recipient shall—

(A) agree not to incur expenses related to the referendum in excess of amounts established by the electoral laws of Puerto Rico for expenditures by the parties in general elections as of September 19, 1990;

(B) agree to keep complete records as to receipt and expenditures related to informing the people of Puerto Rico regarding the status question and furnish to the State Elections Commission such information as it may request; and

(C) agree to financial audits and examinations of such funds by the Comptroller General of the United States.

(4) Under such regulations as the Comptroller General of the United States shall prescribe, the Comptroller General shall audit and examine transactions made with funds made available under this subsection.

(c) The referendum shall be conducted pursuant to the laws of Puerto Rico.

(d) Those Federal laws that apply to the election of the Resident Commissioner of Puerto Rico shall, if approporiate, also apply to the referendum. Any reference in such Federal laws to elections shall be considered, where appropriate, to be a reference to the referendum, and any reference in such laws to candidates for office shall be considered, where appropriate, to be a reference to the political status options under the referendum.

SEC. 3. NONRESIDENT PUERTO RICANS.

(a) The Congress finds that—

(1) a substantial number of the Puerto Rican people reside outside of Puerto Rico; and

(2) the Government of Puerto Rico has the authority to enable some Puerto Ricans who are United States citizens residing in places other than Puerto Rico to vote in the referendum.

(b) The Congress hereby authorizes the Government of Puerto Rico, subject to the plan referred to in subsection (c), to enable Puerto Ricans not resident in Puerto Rico to register and vote in the referendum without being present in Puerto Rico. Such persons may include those born in Puerto Rico or those who have at least one parent who was born in Puerto Rico.

(c) The Dialogue Committee is authorized to submit to the Legislative Assembly of Puerto Rico for its ratification a plan agreed to by a majority of the members of such committee to accomplish the purposes authorized by subsection (b). Once so ratified, such plan shall have the force of law.

(d) In the event that any provision of this Act is held invalid, or the Dialogue Committee does not submit a plan, or the Legislative Assembly of Puerto Rico fails to ratify such plan not later than 120 days before the referendum, it is the intent of Congress that the remaining provisions of this Act shall continue in full force and effect.

SEC. 4. DEVELOPMENT OF LEGISLATION.

(a) If the referendum results in a majority for one of the three status options, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of Puerto Rico's principal parties, the President of the United States, and other interested persons as may be appropriate, shall draft legislation to implement the selected status addressing the aspects of that status set forth in the report which accompanies the bill, H.R. 4765 (H. Rept. 101—790). Part 1. In drafting the legislation provided for in this section, the governing principles of each status option shall be treated equally, consistent with the constitutional authority of the United States Congress.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the consultations.

SEC. 5. CONSIDERATION OF LEGISLATION.

(a) Not later than March 6, 1992, the Chairman of the Committee on Energy and Natural Resources shall introduce the legislation provided for in section 4(a) in the United States Senate and the Chairman of the Committee on Interior and Insular Affairs shall introduce such legislation in the United States House of Representatives.

(b) At any time after the close of the 180th-calendar day beginning after the date of introduction of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to discharge any committee of that House from further consideration of the legislation. A motion to discharge shall be highly privileged, and debate thereon shall be limited to not more than 2 hours, to be divided equally between those supporting and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(c) At any time after the close of the 14th legislative day beginning after the last committee has reported or been discharged from further consideration of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to proceed to the immediate consideration of the legislation (such motion not being debatable), and such motion is hereby made of high privilege. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(d) Enactment of this section constitutes a commitment that the United States Congress will vote on legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico.,

SEC. 6. RATIFYING VOTE ON LEGISLATION.

(a) If enacted, the legislation drafted pursuant to section 4(a) as approved by the Congress shall be submitted to the people of Puerto Rico for ratification according to the laws of Puerto Rico not later than 60 days after enactment. The legislation shall take effect in accordance with its terms upon approval by the people of Puerto Rico in the ratifictaion vote.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the ratification vote provided for by this section.

SEC. 7. RECOMMENDATIONS, IF NECESSARY.

If the referendum provided for by section 2 does not result in a majority for one of the three status options or if the legislation drafted pursuant to this Act does not come into effect, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of the principal parties of Puerto Rico, the President of the United States, and other interested persons as may be appropriate, shall make such recommendations as may be appropriate at that time to facilitate the exercise of self-determination by the people of Puerto Rico.

PURPOSE OF LEGISLATION

H.R. 4765 would authorize appropriations for conducting a political status referendum in Puerto Rico in 1991, and would provide a process for consideration of legislation in the 102d Congress implementing the selected status.

H.R. 4765 was introduced on May 9, 1990, by Delegate Ron de Lugo of the Virgin Islands, the chairman of the Interior Subcommittee on Insular and International Affairs. It was referred jointly to the Committees on Interior and Insular Affairs and Rules.

Among the cosponsors of the bill are Rules Committee Chairman John Joseph Moakley and Ranking Minority Member James H. (Jimmy) Quillen, Interior Committee Chairman Morris K. Udall and Ranking Minority Member Don Young, and Hon. Jaime Fuster, Resident Commissioner of Puerto Rico, and Insular Affairs Subcommittee Ranking Minority Member Robert Lagomarsino.

The legislation, as subsequently amended by the Interior and Rules Committees, would authorize the conduct of a referendum to determine the future political status of Puerto Rico, and would au-

thorize $13.5 million for the conduct of the referendum and to educate the electorate on the issues.

The bill would allow Puerto Rican voters to choose among status options of "a new commonwealth relationship," "statehood," "independence" or "none of the above." The referendum would be conducted on September 16, 1991, or on a later date if agreed to by a majority of Puerto Rico's three political parties, which espouse commonwealth, statehood and independence, respectively.

The bill would also authorize Puerto Rico to amend its election laws to allow some degree of participation in the referendum by Puerto Ricans not resident on the island, if the legislature adopts a plan to effectuate this absentee vote plan presented by a majority of Puerto Rico's three major political parties.

EXPEDITED PROCEDURES

If a majority of voters choose one of the status options, Congress would then move toward passage of implementing legislation in 1992 under procedures requiring congressional committees to act within a specified time frame. The bill provides for a motion to discharge such committees and take up the legislation directly on the floor if the schedule for committee markup and reporting to the full House is not met.

The expedited procedures provide for introduction of a bill by the chairmen of the House Interior and Senate Energy Committees. Section 4 of H.R. 4765, as amended, provides that such a bill would be required to address the aspects of each status option (independence, statehood and a new commonwealth relationship) set forth in the report of the Committee on Interior and Insular Affairs (H. Rept. 101-790, Part 1).

Following introduction, the bill would be referred to appropriate House and Senate committees of jurisdiction. If all committees to which the bill was referred have not reported within 180 calendar days, a motion to discharge such committees could be made. If the motion to discharge was successful, after another 14 legislative days a motion could be made to proceed to consideration of the bill.

The expedited procedures would provide a procedural mechanism to implement whatever status option is freely selected by the people of Puerto Rico.

While these procedures were placed in the bill as an expression of Congress' commitment to pass an implementing bill should a majority of Puerto Rican voters approve one of the status options, the implementing legislation would probably not actually be considered in Congress under those procedures. It is possible that the committees to which such legislation might be referred would conclude consideration well in advance of the time when the discharge motion and other expedited procedures in the bill become privileged. And in the event such procedures were used, it is also possible that the implementing bill might be subject to points of order for violations of the Budget Act, or for violating other rules of the House.

Nevertheless, the expedited procedures provide some assurance that no procedural obstacles will interfere with a clear congressional vote on the legislation to implement the status option chosen.

It is expected that the Rules Committee and the Leadership would schedule the implementing legislation for floor action under the normal procedures of the House.

The most important section of the bill relating to expedited procedures is section 5(d) of the substitute, which provides that:

"Enactment of this section constitutes a commitment that the United States Congress will vote on legislation establishing appropriate mechanisms and procedures to implement the political status selected by the People of Puerto Rico."

If the implementing bill is enacted, it would be placed before the voters of Puerto Rico for ratification in another referendum. If no status option received a majority in the 1991 referendum, the issue of Puerto Rico's future status would remain before Congress.

SCOPE OF JURISDICTION

In addition to its well understood responsibility for resolutions relating to the order of business, the Committee on Rules receives original referral of all bills and resolutions touching upon the rules of the House.

H.R. 4765 was referred jointly to the Committees on Interior and Insular Affairs and Rules. The bill as introduced contained expedited procedures which effectively change the Rules and Insular Affairs, upon consultation of the Rules Committee, further amplified the scope of those procedures.

Sections 4 and 5 of the amendment specify the manner by which the 102d Congress, in 1992, shall consider legislation implementing the results of the 1991 referendum authorized by the bill. Section 7 of the amendment provides that, if no status receives a majority in the 1991 referendum or if the implementing bill does not come into effect, the House Interior and Senate Energy Committees would make further recommendations as to how to proceed.

Any provision which requires the Congress, or its committees, to undertake any action, or which specifies procedures for committee or floor consideration of any measure, is a change in the rules of the House and falls within the exclusive jurisdiction of the Rules Committee.

Generally, the Committee takes a dim view of including expedited procedures in legislation and has worked with committees to minimize this practice. However, in this case, the Committee believes that the inclusion of such processes in this legislation will serve to reassure the people of Puerto Rico that Congress will indeed act to respond to their decision in the referendum.

In adopting the amendment in the nature of a substitute recommended by the Interior Committee, the Rules Committee confined its substantive consideration to the procedural sections of the legislation.

BACKGROUND OF LEGISLATION

The report of the Committee on Interior and Insular Affairs (H. Rept. 101-790, Part 1) discusses the political history of Puerto Rico and previous efforts to define the island's political status. A detailed description of the effort to forge a coalition among Puerto Rico's political parties behind this legislation, and a definition of

the various status options which would govern future congressional action, are discussed in detail in the Interior Committee report.

COMMITTEE CONSIDERATION

The Committee on Interior and Insular Affairs ordered H.R. 4765 reported with an amendment in the nature of a substitute on September 19, 1990, by a recorded vote of 37–1. The Committee filed its report on October 2, 1990 (H. Rept. 101–790, Part 1). By agreement between the two committees, the Committee on Rules deferred action on its joint referral until the conclusion of the Interior Committee's consideration.

H.R. 4765 was referred to the Subcommittee on Rules of the House on May 21, 1990. On September 27, 1990, the Subcommittee held a hearing and markup and, by voice vote, ordered the bill reported favorably to the full committee with an amendment in the nature of a substitute identical to the text approved by the Interior Committee. The Committee on Rules met on October 2, 1990 and ordered the bill reported, with the amendment recommended by the Subcommittee on Rules of the House, by voice vote.

SECTION-BY-SECTION ANALYSIS

A section-by-section analysis of the amendment in the nature of a substitute reported by the Committees on Interior and Insular Affairs and Rules is as follows:

Section 1.—Designates the bill as the "Puerto Rico Self-Determination Act.

Section 2.—(a) Authorizes $13.5 million for a referendum in Puerto Rico on September 16, 1991 or a later date if agreed to by two of the three parties among the options of independence, statehood, a new commonwealth relationship or none of the above.

(b) Authorizes the State Elections Commission of Puerto Rico to spend $7.5 million for conducting the vote (of which $1.5 million could be spent only to facilitate participation of non-resident Puerto Ricans, as authorized by section 3(c)), and $6 million to be provided to the Dialogue Committee on the Status of Puerto Rico, to be divided equally among the three parties for public education about the status options. The GAO is required to audit the use of funds.

(c) Applies Puerto Rican election laws to the referendum.

(d) Applies appropriate federal election laws to the referendum.

Section 3.—(a) Recognizes that many persons of Puerto Rican descent reside elsewhere, and recognizes some authority of the Puerto Rico government to expand the current electorate.

(b) Authorizes the Puerto Rican government to enable non-residents to register and vote in the referendum contingent upon approval of the plan referred to in subsection (c).

(c) Authorizes the Dialogue Committee to submit a plan for the non-resident vote, if approved by two of its three party members, to the Puerto Rico Legislative Assembly for ratification without amendment, and provides that such plan will become law in Puerto Rico if ratified.

(d) Provides a severability clause so that if any portion of the Act is held to be invalid, the remaining provisions would continue in effect.

Section 4.—(a) Requires the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources to draft legislation to implement the status option which receives a majority of the votes cast in the referendum, in consultation with Puerto Rico's political parties, the President and other appropriate persons or groups.

(b) Authorizes the appropriation of funds to enable the Puerto Rican political parties to work with the committees in drafting the legislation.

Section 5.—(a) Requires the introduction by the chairmen of the House Interior and Senate Energy Committees of legislation provided for in section 4(a) no later than March 6, 1992.

(b) Authorizes any Member of the House or Senate to move that the legislation be discharged from any committee to which it had been referred, if such committee(s) had not reported the legislation within 180 calendar days following introduction of the legislation.

(c) Authorizes any Member to move that the full House or Senate consider the legislation after 14 or more legislative days after the legislation had been reported or discharged from all committees to which it had been referred.

(d) States the commitment of Congress to vote on legislation which would set forth the process for implementing the status selected by the Puerto Rican people in the referendum.

Section 6.—(a) Requires that legislation drafted pursuant to section 4(a) that is enacted into law be submitted to the people of Puerto Rico in a second referendum to be held not more than 60 calendar days after the law is enacted.

(b) Authorizes appropriations for the second referendum, including funds for public education and the actual conduct of the vote.

Section 7.—Would require the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources to make further recommendations on Puerto Rico's status development if none of the three statuses receives a majority in the first referendum, if the implementing legislation is not enacted into law or if the implementing law is not approved in the second referendum. The recommendations would be required to be developed in consultation with representatives of Puerto Rico's principal political parties, the President and other appropriate persons.

COMMITTEE VOTE

Clause 2(l)(2)(B) of rule XI requires that each committee report to accompany any bill or resolution of a public character, ordered to be reported by a recorded vote, to include the total number of votes cast for and against the reporting of the measure.

On October 2, 1990, the Committee on Rules ordered H.R. 4765 reported, with an amendment, by voice vote, a quorum being present.

COMMITTEE COST ESTIMATE

Clause 7(a) of rule XIII requires that certain committee reports contain committee cost estimates. Although that provision does not apply to Committee on Rules, the committee examines the cost implications of all matters it considers.

H.R. 4765 provides an authorization of appropriations, but contains no funding. That would have to be provided separately in future appropriations acts.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Clause 2(l)(3)(B) of rule XI requires that each committee report contain any statement required by section 308(a) of the Congressional Budget Act. That section does not apply to this bill.

Clause 2(l)(3)(C) of rule XI requires that each committee report contain any cost estimate and comparison prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974. No such estimate was requested by the Committee on Interior and Insular Affairs and is included in its report on H.R. 4765, H. Rept. 101–790, Part 1. The amendments recommended by the Committees on Interior and Insular Affairs and Rules are identical.

INFLATION IMPACT STATEMENT

Clause 2(l)(4) of rule XI requires that each committee report contain a statement relating to the inflationary impact of the enactment of that measure.

There would be none.

OVERSIGHT FINDINGS

Clause 2(l)(3)(A) of rule XI requires that each committee report contain oversight findings and recommendations required pursuant to clause 2(b)(1) of Rule X.

The committee has made no oversight findings.

OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

Clause 2(l)(3)(D) of rule XI requires that each committee report contain any oversight findings and recommendations made by the Committee on Government Operations pursuant to clause 4(c)(2) of rule X.

No findings and recommendations have been received.

ADVISORY COMMITTEES

Section 5(b) of the Federal Advisory Committees Act (Public Law 92–463), enacted as an exercise of the rulemaking power of the House, requires the report accompanying any bill or joint resolution to contain certain findings of the committee with respect to any advisory committee established by the legislation.

H.R. 4765 would not create any such committees.

COMPARATIVE PRINT

Clause 4(d) of Rule XI requires reports from the Committee on Rules, on resolutions amending the Rules of the House of Representatives, to contain a comparative print indicating changes in the existing rules proposed by the resolution.

The rule does not apply to H.R. 4765, which does not directly amend the rules of the House.

CHANGES IN EXISTING LAW MADE BY THE BILL

Clause 3 of Rule XIII requires the report of each committee on a bill or joint resolution to contain a comparative print relating to that measure showing changes in existing law. The "Ramseyer rule" rule does not apply to H.R. 4765, since the bill as amended does not repeal or amend existing law.

VIEWS OF COMMITTEE MEMBERS

Clause (2)(l)(5) of Rule XI requires each committee to afford a three day opportunity for members of the committee to file additional, minority or dissenting views and to include the views in its report.

Although neither requirement applies to the committee, it always makes the maximum effort to provide its members with such an opportunity.

No separate views were submitted.

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THE PUERTO RICO REFERENDUM ACT

Mr. JOHNSTON. Mr. President, in February of last year I established the ambitious objective of enacting legislation to provide the people of Puerto Rico with an opportunity to vote on the future political status of the island.

With probably only 10 days remaining in this Congress and absent a lameduck session, it has become clear that enactment of a Puerto Rico referedum bill is not possible. Although the Committee on Energy and Natural Resources and the Committee on Finance have reported legislation, the Committee on Agriculture still has not scheduled a markup on the measure. Moreover, while the House of Representatives expects to pass a companion measure this week, there are substantial differences between the House and Senate approaches to this issue—differences which cannot be resolved within the very limited amount of time remaining in this Congress.

It is my intention to meet with the leaders of Puerto Rico next month to consider where we go from here on this issue. If there is a determination to continue this effort, then I expect to resume consideration of the Senate legislation where we have left off, and complete Senate action early next year, which would still allow for a referendum in 1991, or early 1992—well before the scheduled fall 1992 local elections.

I know that many people will be disappointed by these words. However, there is no arguing with the reality of time and an extremely busy congressional schedule for the next 10 days.

All parties involved in the development of this legislation have made

great contributions. We have gone a long way toward giving the people of Puerto Rico an opportunity to vote on their future and to make a meaningful, informed choice. I look forward to maintaining our momentum and building on this year's achievements early next year.

PUERTO RICAN STATEHOOD

Mr. JOHNSTON. Mr. President, the House passed, or soon will pass, a bill with respect to Puerto Rican status. The Senate will not have time to deal with that subject matter, assuming that we go out of session next week.

What the House bill does is to provide for a referendum in Puerto Rico whereby the people of Puerto Rico would be able to make a choice between statehood, enhanced commonwealth, and independence. But that choice would be under a one-word definition or, in the case of, I think they call it improved commonwealth, a two-word definition.

Mr. President, it is true that the House report contains some language upon which the people of Puerto Rico would be able to rely in making their choice. That is to say, the people in choosing any of the three would, according to the report of the House bill, be able to look to that report for definition.

Those definitions, first of all, in our judgment, are imprecise, being stated only in general terms, and second, constitute nothing more than a wish list of the three different parties as to the status which they would propose.

The report itself says in effect that they are not wish lists, that they are to be taken seriously, and that while they are not to be treated as an absolute plan from which no deviation can be made, they say nevertheless the Congress, its committees, and the President are bound by the spirit of that and that those descriptions are to be used as the framework for future negotiation.

Mr. President, those definitions, in my judgment, could not be used in their present form and in fact would tend to be misleading to the people of Puerto Rico. No one is more committed to self-determination for Puerto Rico than the senior Senator from Louisiana. We have worked hard on that. We worked for several months, and we reported out a bill, not this summer but last summer.

So it is not from a lack of dedication to the idea of self-determination that I say we do not have time to deal with this bill. It is because the clock ticks in almost its final hour of this session right now. We are supposed to be out of session by literally next Friday, October 19, I believe it is, Mr. President. If that bill does not make it over here today, then it would be impossible, considering the time limits, to take it up on the Senate floor, even if we were willing to accept it without modification of any kind. The Senate is never willing to accept a bill of that importance without modification and without debate. It is, in fact, the 11th hour.

What I propose in lieu of taking up the bill at this time is to build early next year on the work of this year of the Senate committees, that is, the Senate Committee on Energy and Natural Resources, which has the principal jurisdiction over status, the Finance Committee, which of course has principal jurisdiction over section 936 and other entitlement programs which constitute so many of the important economic programs, as well as the Agriculture and Judiciary Committees, which have jurisdiction over other parts of the status proposal. I would propose to build on the strengths and on the work of this past year or 2 and begin early next year on a proposal to be submitted leading to a referendum of the people of Puerto Rico.

I think we could act with even more dispatch next year than we have this year. The House, in fact, has passed legislation, so the House ought to be able to deal with more dispatch as well.

I hope that next year we could begin our work early and that we could report legislation early. I hope that the House could do the same and that we could then go to a conference committee with the House.

Mr. President, a conference committee is absolutely essential in this process because there are always, on any important piece of legislation, great differences between the House and the Senate. I am quite sure we would have differences on this piece of legislation and in the conference committee we would be able to reconcile those differences and come out early next year with a piece of legislation.

I believe there is time to complete that legislative circuit and finish the legislation by mid year of next year. That would mean that we could target a referendum in Puerto Rico for either the latter part of next year or perhaps as late as March 1992, which would be far enough in advance of the Governor's race so as to allow that issue finally to have been digested by the people and fully appreciated by them in advance of the Governor's race. The referendum would be late enough in the process, so as to allow a full debate and a full election cycle for the people of Puerto Rico.

So when I say we do not have time to deal with that legislation this year, it is not that we lack the interest to deal with it. To the contrary, no one has more interest than the senior Senator from Louisiana. No one is more dedicated to it. No committee has a staff as willing to work around the clock and, indeed, they have done so. They have shown their total dedication to this purpose. But there simply is not time. Even if we were willing to accept it without changing a jot or a tittle, there is not time on the floor to even consider or debate the measure, much less go to a conference committee.

So it is only by way of explanation of what the reality of the clock is that I say we cannot take it up this year. But it is in a spirit of continuing to be one of the champions of self-determination for Puerto Rico that I say with some degree of optimism and some degree of confidence I believe we can complete this process next year, certainly in the Senate. And if the House is willing to go at it in the same spirit as the Senate, we can also finish it in the House and complete legislation leading to a referendum in Puerto Rico either late next year or early in the spring of 1992.

I thank my colleagues for allowing me to speak on this important matter.

PUERTO RICO SELF-DETERMINATION ACT

Mr. DE LUGO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4765) to enable the people of Puerto Rico to exercise self-determination, as amended.

The Clerk read as follows:

H.R. 4765

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Puerto Rico Self-Determination Act".

SEC. 2. REFERENDUM ON STATUS OPTIONS.

(a) There are hereby authorized to be appropriated $13,500,000 to the Executive Office of the President for grants to the State Elections Commission of Puerto Rico for a referendum which is to be held on September 16, 1991, or on a later date in 1991 agreed to by a majority of the members of the Dialogue Committee on the Status of Puerto Rico (hereafter in this Act referred to as the "Dialogue Committee"), as established by executive order of the Governor of Puerto Rico on June 29, 1989, on the following question:

Which political status do you favor for the Commonwealth of Puerto Rico on terms to be consented to by the people of Puerto Rico and the Congress of the United States?

independence;

statehood;

a new commonwealth relationship; or

none of the above statuses.

(b)(1) Of the amount authorized to be appropriated by subsection (a), the State Elections Commission is authorized to—

(A) expend $7,500,000 for costs of conducting the referendum, including $1,500,000 to facilitate the participation of Puerto Ricans not resident in Puerto Rico in the referendum as authorized pursuant to section 3(c); and

(B) disburse $6,000,000 to the Dialogue Committee to be expended for the purpose of informing the people of Puerto Rico regarding the three status options, such amount to be equally divided among Puerto Rico's principal parties.

(2) Funds appropriated under paragraph (1) shall be made available for the necessary expenses, including the travel and transportation of persons, services as authorized by section 3109 of title 5, United States Code, communications, utilities, printing and reproduction, supplies and materials and other related services, and administrative costs.

(3) To be eligible to receive payments under paragraph (1)(B), a recipient shall—

(A) agree not to incur expenses related to the referendum in excess of amounts established by the electoral laws of Puerto Rico for expenditures by the parties in general elections as of September 19, 1990;

(B) agree to keep complete records as to receipts and expenditures related to informing the people of Puerto Rico regarding the status question and furnish to the State Elections Commission such information as it may request; and

(C) agree to financial audits and examinations of such funds by the Comptroller General of the United States.

(4) Under such regulations as the Comptroller General of the United States shall prescribe, the Comptroller General shall audit and examine transactions made with funds made available under this subsection.

(c) The referendum shall be conducted pursuant to the laws of Puerto Rico.

(d) Those Federal laws that apply to the election of the Resident Commissioner of Puerto Rico shall, if appropriate, also apply to the referendum. Any reference in such Federal laws to elections shall be considered, where appropriate, to be a reference to the referendum, and any reference in such laws to candidates for office shall be considered, where appropriate, to be a reference to the political status options under the referendum.

SEC. 3. NONRESIDENT PUERTO RICANS.

(a) The Congress finds that—

(1) a substantial number of the Puerto Rican people reside outside of Puerto Rico; and

(2) the Government of Puerto Rico has the authority to enable some Puerto Ricans who are United States citizens residing in places other than Puerto Rico to vote in the referendum.

(b) The Congress hereby authorizes the government of Puerto Rico, subject to the plan referred to in subsection (c), to enable Puerto Ricans not resident in Puerto Rico to register and vote in the referendum without being present in Puerto Rico. Such persons may include those born in Puerto Rico or those who have at least one parent who was born in Puerto Rico.

(c) The Dialogue Committee is authorized to submit to the Legislative Assembly of Puerto Rico for its ratification a plan agreed to by a majority of the members of such committee to accomplish the purposes authorized by subsection (b). Once so ratified, such plan shall have the force of law.

(d) In the event that any provision of this Act is held invalid, or the Dialogue Committee does not submit a plan, or the Legislative Assembly of Puerto Rico fails to ratify such plan not later than one hundred and twenty days before the referendum, it is the intent of Congress that the remaining provisions of this Act shall continue in full force and effect.

SEC. 4. DEVELOPMENT OF LEGISLATION.

(a) If the referendum results in a majority for one of the three status options, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of Puerto Rico's principal parties, the President of the United States, and other interested persons as may be appropriate, shall draft legislation to implement the selected status addressing the aspects of that status set forth in the report which accompanies the bill, H.R. 4765 (H. Rept. 101-790, Part 1). In drafting the legislation provided for in this section, the governing principles of each status option shall be treated equally, consistent with the constitutional authority of the United States Congress.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the consultations.

SEC. 5. CONSIDERATION OF LEGISLATION.

(a) Not later than March 6, 1992, the Chairman of the Committee on Energy and Natural Resources shall introduce the legislation provided for in section 4(a) in the United States Senate and the Chairman of the Committee on Interior and Insular Affairs shall introduce such legislation in the United States House of Representatives.

(b) At any time after the close of the one hundred and eightieth-calendar day beginning after the date of introduction of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to discharge any committee of that House from further consideration of the legislation. A motion to discharge shall be highly privileged, and debate thereon shall be limited to not more than two hours, to be divided equally between those supporting and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(c) At any time after the close of the fourteenth legislative day beginning after the last committee has reported or been discharged from further consideration of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to proceed to the immediate consideration of the legislation (such motion not being debatable), and such motion is hereby made of high privilege. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(d) Enactment of this section constitutes a commitment that the United States Congress will vote on legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico.

SEC. 6. RATIFYING VOTE ON LEGISLATION.

(a) If enacted, the legislation drafted pursuant to section 4(a) as approved by the Congress shall be submitted to the people of Puerto Rico for ratification according to the laws of Puerto Rico not later than sixty days after enactment. The legislation shall take effect in accordance with its terms upon approval by the people of Puerto Rico in the ratification vote.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the ratification vote provided for by this section.

SEC. 7. RECOMMENDATIONS, IF NECESSARY.

If the referendum provided for by section 2 does not result in a majority for one of the three status options or if the legislation drafted pursuant to this Act does not come into effect, Members of the Committee on Energy and Natural Resources of the

United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of the principal parties of Puerto Rico, the President of the United States, and other interested persons as may be appropriate, shall make such recommendations as may be appropriate at that time to facilitate the exercise of self-determination by the people of Puerto Rico.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from the Virgin Islands [Mr. DE LUGO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from the Virgin Islands [Mr. DE LUGO].

GENERAL LEAVE

Mr. DE LUGO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 4765, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the Virgin Islands?

There was no objection.

Mr. DE LUGO. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the intense debate in Puerto Rico on its future political status has effectively prevented action on many very serious problems facing our fellow Americans there for many years.

The leader of Puerto Rico's status-based political parties reached an historic agreement last year to end this debate. It asks for the Congress to commit to act on a status selected in a referendum.

As chairman of the Insular and International Affairs Subcommittee, I supported the request. So did President Bush who endorsed it before a joint session.

A bill acted upon by Senate committees is, however, far different from what had been anticipated. S. 712 proposes to automatically implement the status that wins a referendum. Our bill does not.

In supporting our bill, H.R. 4765, the Washington Post said that S. 712 was so skewed that it would be better to enact no bill at all.

That would be a tragedy for the United States as well as Puerto Rico.

Speaker FOLEY and other Members expressed serious concerns about S. 712.

When it became clear that S. 712 was in serious trouble, Puerto Rico's leaders agreed with us on alternative legislation that would more accurately reflect their request for the Congress to act on a status selected in the referendum.

It became the bill before the House today, H.R. 4765. I introduced it with Insular and International Affairs Subcommittee ranking Republican BOB LAGOMARSINO; Interior and Insular Affairs Committee Chairman MO UDALL and ranking Republican DON YOUNG; Rules Committee Chairman JOE MOAKLEY; and ranking Republican JIMMY QUILLEN; Resident Commissioner JAIME FUSTER; and other Members and with the expressed support of Speaker FOLEY and minority leader MICHEL.

H.R. 4765 would authorize a referendum on Puerto Rico's future relationship with the United States and commit to development and consideration of legislation on the results.

The substitute before the House was worked out in months of negotiations with the White House and Puerto Rico's parties.

As I have indicated, the purpose of the bill is to provide a process for the development or change of Puerto Rico's political status. The objectives are to enable the Puerto Rican people to determine the political status that they want for Puerto Rico's future; to commit the Congress to respond to their decision; and to provide for further mutual consideration of this matter if the process provided for by the bill does not result in the development or change of Puerto Rico's current status.

The bill would: Authorize $13.5 million for a referendum in Puerto Rico in 1991 to determine whether the Puerto Rican people want to enter into a new commonwealth relationship with the United States, statehood, independence, or none of these status options; establish a process for the development of legislation to implement a status option selected in this referendum and for the expedited consideration of that legislation in 1992; provide that the implementing legislation would take effect if it is both enacted into law and approved in a referendum in Puerto Rico; and require the development of further recommendations to enable the Puerto Rican people to exercise self-determination if there is no majority in the first referendum or if the implementing legislation is not approved by the Congress or the Puerto Rican people.

Let me explain the background and the need for this legislation.

CURRENT SITUATION

The Commonwealth of Puerto Rico is a United States insular (island) area in the Caribbean. It consists of the main island of Puerto Rico and the few small islands surrounding that island. It has a population of some 3.6 million people.

Puerto Rico exercises self-governing authority similar to that of a State. Its people are U.S. citizens who are represented before the Federal Government by a Resident Commissioner—who has all the powers and privileges of a Member of the House—including voting in committees—other than a vote on the floor of the House. The people of Puerto Rico do not vote in presidential elections—although many participate in the nominating process of the two national political parties.

Puerto Rico's economy is closely linked with the United States' economy. In 1989, 87 percent of Puerto Rico's $16.4 billion in exports were shipped to the United States market and 67 percent of Puerto Rico's $14 billion in imports were from the United States.

Approximately 60 percent of the population still lives below the Federal poverty level. The islands' economy has, however, grown dramatically since World War II as it has shifted from an agrarian base to one based on manufacturing; trade; finance, insurance, and real estate; government; and tourism.

While per capital income has increased at a faster pace during this period than that of the Nation as a whole, it is still only about a third of the national average although it is high for the Caribbean Basin region. Unemployment, which is currently around 15 percent and has been higher in prior years, is over twice the national average.

Puerto Rico's Spanish heritage is important to its people who have assimilated native Indian as well as African influences into what has become a distinct culture. While the 1980 census indicates that 42 percent of the population can speak some English with varying degrees of proficiency, Spanish is the vernacular.

Health care has significantly improved in Puerto Rico in recent decades. Life expectancy is one of the highest in the world even though infant mortality rates are high compared to the United States.

There has also been noteworthy progress in education. This is especially true in the areas of higher education and the literacy rate. The high school graduation rate is lower than the national average, however.

Many Puerto Ricans have migrated to the States particularly because of the relative lack of opportunity in Puerto Rico. There are now some 2.5 million Puerto Ricans and their descendants living in places other than Puerto Rico. Currently, migration takes place in the two directions as Puerto Ricans move back and forth between Puerto Rico and the States.

Many Puerto Ricans have distinguished themselves in service to the Federal Government, including the Armed Forces.

The fundamental rights provided by the United States Constitution apply to Puerto Rico; but other provisions are not applicable. Most Federal laws, including program laws, apply in the same way that they apply to the States. There are, though, significant differences in the way Puerto Rico is treated under revenue and social program laws from the way that the States are treated.

TAX AND TRADE RELATIONSHIP

Federal income taxes are not collected on local-source income in Puerto Rico. Local individual income tax

rates, however, are at rates even higher, in some cases, than Federal income tax rates. Aggregate income tax collections in Puerto Rico are, however, less as a percentage of income or gross product than aggregate income tax collections in the United States.

Additionally, the income of United States companies operating in Puerto Rico that meets certain criteria is effectively exempted from Federal tax liability by a credit intended to encourage investment. Much of the industrialization, financial development, and the relative prosperity of Puerto Rico is a result of this Federal investment incentive and a companion insular exemption from most local income taxes.

Federal excise taxes are imposed on insular products shipped to the States. Most of the excise tax collections along with Federal customs duties are rebated to the treasury of Puerto Rico. There is authority under current law for this rebate to apply to other Federal levies that might be applied to Puerto Rico.

Although Puerto Rico is within the customs territory of the United States, it has the authority under Federal law to impose special tariffs on coffee imports.

FEDERAL PROGRAMS

Puerto Rico participates in the Aid to Families With Dependent Children Program [AFDC]; but a cap limits the amount of assistance available to needy families. This cap also covers assistance to the aged, blind, and disabled, since the Supplemental Security Income [SSI] Program has not been extended to Puerto Rico. As a consequence, the needy aged, blind, and disabled in Puerto Rico receive approximately one-eleventh of the amount that they would receive if Puerto Rico were treated like a State in the SSI Program.

Another cap limits Medicaid payments to Puerto Rico. It, too, limits the amount of assistance available to the needy. Medicaid recipients in Puerto Rico receive approximately one-tenth of the amount of Federal assistance received by the medically needy in the States.

In one respect, Puerto Rico is also treated differently than a State under the Medicare Program. Medicare's prospective payment rate is primarily based on local—rather than national—hospitalization costs.

Puerto Rico was initially included in the Food Stamps Program; but it was taken out of that program by the Budget Reconciliation Act of 1981. It now receives a nutrition block grant funded at about three-fifths the amount that food stamps would provide.

There are also some differences in the applicatin of education programs to Puerto Rico. The most significant effectively limits Elementary and Secondary Education Act grants to Puerto Rico to about three-fifths the amount that it would receive if it were treated like the States.

Significant Federal activities in Puerto Rico include the operation of a large naval station at Roosevelt Roads and maintenance of a large forest and a major historic site.

INITIAL U.S. POLICY

United States responsibilities in Puerto Rico began with an invasion during the Spanish-American War. The treaty that settled the war ceded Puerto Rico to the United States in 1898 and provided that Puerto Rico's future political status and the civil rights of its people would be determined by the Congress.

This assignment was consistent with the territorial clause of the Constitution which assigns the Congress the responsibility to make all needful rules and regulations regarding the Nation's territory.

The invasion was welcomed by many Puerto Ricans—who had a very low standard of living. They were initially encouraged by the commanding general's explanation that the United States had come to bestow the immunities and blessings of the liberal institutions of our Government.

The initial military administration of Puerto Rico that followed did not bestow these blessings. It was replaced with a civil government under an organic law enacted on April 12, 1900. Known as the Foraker Act, the law provided limited local participation in government, principally through the popular election of members of the lower house of a legislature.

The act also provided that Puerto Rico was to be represented in the United States by an elected Resident Commissioner. It established a Federal district court and extended Federal laws not locally inapplicable.

Among laws not extended to Puerto Rico were internal revenue laws. Federal levies on foreign articles imported into Puerto Rico and temporary levies on merchandise shipped between Puerto Rico and the United States were imposed, however, although the act provided that these collections were to be transferred to the local treasury.

POLITICAL STATUS DEFINED

The temporary duties on goods shipped between Puerto Rico and the States resulted in litigation which helped to clarify Puerto Rico's political status. A 1901 decision by the Supreme Court defined Puerto Rico to be an unincorporated territory.

The Court found that the uniformity clause of the Constitution did not prohibit the contested duties because Puerto Rico and not been incorporated into the United States by the 1898 treaty. It based this decision on a new doctrine that the full Constitution did not apply to a territory which was a possession—rather than a part—of the United States. The ruling held that the Congress' authority in such territories was limited by only the fundamental parts of the Constitution.

The opinion, in what is known as one of the Insular Cases, addressed what had by that time become a national controversy about the political status of the insular areas acquired around the turn of the century.

Predictably, Puerto Ricans were dissatisfied with the Foraker Act. Its provisions compared unfavorably with provisions of a charter of autonomy decreed by Spain for the governing of Puerto Rico in 1897 and with what was initially understood as the promise of American democracy.

These Federal policies rekindled a status debate that had its origins in the Spanish colonial era with movements for statehood and independence as well as insular autonomy.

ORGANIC ACT REVISED

The dissatisfaction with the Foraker Act led to the enactment of a new organic act on March 2, 1917. Known as the Jones Act, the law included a bill of rights, provided for a fully-elective legislative assembly, and granted U.S. citizenship; but it left executive and judicial power in the hands of Federal appointees.

The grant of citizenship persuaded some that the law had effectively incorporated Puerto Rico into the United States implicitly extending full constitutional rights. The Supreme Court held in 1922, however, that it had not.

In ruling that the sixth amendment rights to a jury trial did not apply to Puerto Rico, the Court expanded upon the incorporation doctrine first set forth in the earlier Insular Cases. The decision asserted that incorporation was an important step toward statehood and that the Congress clearly indicated when intending to take it. The opinion noted, however, that the Congress had not indicated this intent in the case of Puerto Rico.

Amendments to the Jones Act were made in succeeding years. The most notable came in 1947 when Puerto Ricans were authorized to elect their Governor.

EARLY STATUS INITIATIVES

The movements for statehood and independence continued to develop after the organic act was revised. They led to various proposals being made locally—as well as in Washington—for resolving Puerto Rico's ultimate political status. Popular dissatisfaction in Puerto Rico was also related to a Federal policy of Americanization as well as to the way that Puerto Rico was governed.

The elective governor amendment was a modest Federal response to these status initiatives supported by the island's Popular Democratic Party, which by then had come to dominate the legislative assembly. The party's leader, Luis Munoz Marin, became Puerto Rico's first elected Governor in 1948, campaigning on a platform that included seeking authorization for Puerto Rico to adopt its own constitution.

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Munoz's proposal for a constitution was part of a larger plan for a status that he conceived of as a middle-ground between statehood and independence. It was promoted as a new type of state that would be bound to the Union by a mutual consent arrangement.

CONSTITUTION APPROVED

A law enacted on July 3, 1950, authorized a convention in Puerto Rico to draft a constitution for adoption in a referendum and approval by the Congress. "Adopted in the nature of a compact," the law's effectiveness was conditioned on its first being accepted by the people of Puerto Rico.

The constitution was to supersede those provisions of the organic act which organized the insular government—as opposed to those which defined the Federal-insular relationship. These later provisions were essentially to be continued as the Puerto Rican Federal Relations Act.

The 1950 law was overwhelmingly approved by the people of Puerto Rico in a 1951 referendum with the support of advocates of both an autonomous relationship with the United States and statehood. A constitution was then drafted by a convention in which independence supporters declined to participate. The constitution was adopted in a second referendum approved by the Congress with amendments in a law enacted on July 3, 1952.

The constitution established a government which was given the Spanish name of Estado Libre Asociado and the English name of Commonwealth. It took effect July 25, 1952, after the congressional amendments were accepted by the constitutional convention.

The phrase "Estado Libre Asociado" had been translated by the convention into English as "Commonwealth" so that it would not be literally translated as "Free Associated State." The purpose was to avoid any suggestion to the Congress that Puerto Rico intended to be a State of the Union. A literal translation of the name could also now, however, cause confusion because it would suggest that Puerto Rico's status is one of free association.

STATUS IMPLICATIONS

The legislative histories of the 1950 and 1952 laws indicate that they were intended to grant full local self-government; but not, to, in the words of the reports on the 1950 law, change Puerto Rico's fundamental political, social, and economic relationship to the United States or in any way preclude a future determination by the Congress of Puerto Rico's ultimate political status.

The intent, therefore, was not to relinquish congressional authority to enact Federal policies for Puerto Rico nor to suggest that constitutional government was a step toward statehood or independence. Still, the constitutional development was represented in Puerto Rico as having established a new status since it was based on the consent of the people of Puerto Rico.

These representatives caused serious concern among independence and statehood supporters. Nevertheless, the Congress declared that the authorization for the constitution was a compact in approving the constitution and President Harry S. Truman asserted that the relationship was "based on mutual consent" in signing the 1952 law.

Puerto Rico was taken off the United Nations' list of non-self-governing territories in 1953 based on United States representatives that Puerto Rico was now self-governing under a compact that could only be amended by common consent. A general assembly resolution recognized that the people of Puerto Rico had effectively exercised their right of self-determination and had been invested with the attributes of political sovereignty which clearly identify the status of self-government attained as that of an autonomous political entity.

Years later, however, the United Nation's decolonization committee recognized the continuing right of the people of Puerto Rico to self-determination and called for the United States to transfer governing powers to them. The most recent decolonization committee resolution also generally took cognizance of the bill before us today by expressing support for the enactment by the United States of self-determination legislation for Puerto Rico.

The executive branch recognized the development of Puerto Rico's status that the constitution represented by replacing Department of Interior responsibility for the handling of Puerto Rico matters with executive Office of the President responsibility. This change in responsibility, however, did not clearly indicate the nature of the development in Puerto Rico's status.

Over the years, courts have made ambiguous and conflicting statements about the status implications of the constitution with some expressing a clearer view than others and some according it very different significance than others. These statements, in turn, have been given vastly different interpretations by advocates of the different statuses in Puerto Rico.

Any attempt to summarize these decisions is susceptible to oversimplification. Generally, however, among the wide range of opinions are many statements that Puerto Rico's independence from Federal control parallels that of the States and statements that Puerto Rico is no longer a territory in the constitutional sense. There are also, however, other statements suggesting that the constitution did not really change Puerto Rico's status and that commonwealth is a different kind of territory.

The Supreme Court has not, however, directly considered Puerto Rico's status since the constitution was adopted. It has, though, stated in various cases: that Puerto Rico's relationship to the United States is unique; that it is autonomous and sovereign over matters not ruled by the constitution in the way that a State is; and that the Congress retains its territorial clause power to treat Puerto Rico differently from the States, so long as it has a rational basis for doing so.

A fuller discussion of judicial branch conclusions as to the political status significance of the establishment of the commonwealth is found in a November 30, 1989, joint report to the Subcommittee on Insular and International Affairs by the General Accounting Office and the Congressional Research Service entitled "Puerto Rico: Information for Status Deliberations."

POST-CONSTITUTION INITIATIVES

Supporters of statehood and independence have consistently claimed that commonwealth did not end Puerto Rico's territorial and colonial status when they have had opportunities to do so. Independence supporters, for example, were reportedly denied the opportunity to protest the United Nations' action in 1953. Commonwealth advocates, for their part, have made repeated, unsuccessful attempts since 1952 to develop and clarify the relationship, as had been initially contemplated.

Legislation in 1959 sought to replace the Federal Relations Act with "Articles of Permanent Association" to clarify the concept of compact and transfer Federal powers to the Commonwealth. The Congress did not approve the legislation.

Legislation in 1963, based upon a strategy Gov. Munoz Marin worked out with President John F. Kennedy, would have established a commission to draft a compact of permanent union. The compact was to be submitted to a referendum in Puerto Rico along with proposals for statehood and independence.

The Congress did not accept this approach. Instead, it enacted Public Law 88-271, which established a joint Federal-commonwealth commission to simply study the United States-Puerto Rico relationship.

In its report, the Commission on the Status of Puerto Rico found that commonwealth, statehood, and independence were all equally valid and dignified status options. It held, though, that a change to either statehood or independence would require long-term transition measures to prevent serious dislocations in the economy.

The Commission also recommended that any change in Puerto Rico's status be undertaken consistent with the principles of mutual consent and self-determination and only after being initiated by the people of Puerto Rico. It said that a vote on status would be helpful and that joint advisory groups should be designated after such a vote to recommend appropriate implementation or transition measures.

In 1966, 10 bills providing for statehood were introduced with the bipartisan sponsorship in the House. Bills relating to statehood were also introduced in 1960 and 1982. None of these bills were acted upon.

THE 1967 REFERENDUM

The government of Puerto Rico called a status referendum in July 1967, as suggested by the Commission. The law calling for it required a simple majority vote to be conclusive.

Most independence advocates boycotted the vote. They cited reasons that included the referendum not being preceded by a transfer of powers from the United States; the Federal Government's control of and continued presence in Puerto Rico; and their perception that the insular government would manipulate the referendum in favor of commonwealth.

The statehood party also urged nonparticipation. One of its primary objections was that the referendum was based on the premise that commonwealth could be a permanent status which would suggest that it was not territorial in nature. They also complained about the fairness of the ballot.

A nonpartisan group led by Luis A. Ferre carried the statehood banner into the referendum. Former Governor Munoz led the campaign for perfecting commonwealth.

The result was a vote of slightly over 60 percent for commonwealth; 39 percent for statehood; and just less than 1 percent for independence.

Ferre became the first statehood advocate to be elected Governor the next year as candidate of the New Progressive Party after a split in the Popular Democratic Party. Along with President Richard M. Nixon, he later appointed an advisory group, as had been recommended by the Status Commission.

This group recommend that the presidential vote be extended to Puerto Rico if Puerto Ricans supported the proposal in a referendum. Commonwealth supporters in the legislative assembly, however, blocked it and the referendum was never held.

A commonwealth advocate, Rafael Hernandez Colon, was then elected Governor in 1972. He also joined President Nixon in appointing an advisory group. This group cochaired by Munoz, was assigned to develop the maximum self-government under commonwealth.

The group recommended a compact of permanent union that would have established an association between the United States and Puerto Rico that neither could have amended unilaterally.

Under the proposal, the people of Puerto Rico would have retained their U.S. citizenship and had one representative in each House of the Congress. The proposed free associated state would have been able: To require the Congress and Federal agencies to specifically act to apply Federal laws or rules to it; to control labor and environmental matters; to exercise certain tariff authority; to enter into international agreements with the approval of the President; and to participate in setting immigration quotas.

An amended version of the compact legislation was favorably reported by the Subcommittee on Territorial and Insular Affairs in 1976.

Efforts to develop commonwealth were halted by the election of statehood advocate Carlos Romero Barcelo as Governor that year and President Gerald Ford's submission of a statehood bill to the Congress.

RECENT INITIATIVES

The Congress, in a 1979 resolution, pledged to support whatever status might be chosen by the people of Puerto Rico, a policy advocated by President Jimmy Carter. President Ronald Reagan pledged his personal support of statehood if statehood was desired by the majority of the people of Puerto Rico.

Governor Romero hoped that a status referendum would be held in 1981. Although reelected in 1980, the lack of a majority vote—as well as lack of control of the legislative assembly—convinced him to postpone the idea.

Hernandez Colon succeeded Romero as Governor in 1985 after a split in the New Progressive Party and after making a pledge to concentrate on economic and other matters and not status.

The Committee on Interior and Insular Affairs held hearings later that year on Puerto Rico's economic problems. The hearings did not focus on political status; but many witnesses asserted that the solutions to Puerto Rico's economic and social problems lay in status development.

Members generally reacted to these assertions by saying that consideration of status change would only occur after a petition was submitted from the people of Puerto Rico. This reaction stimulated statehood advocates to submit an estimated 350,000 petitions for statehood to the Congress.

The petitions prompted the distinguished ranking minority member of the Subcommittee on Insular and International Affairs, our colleague, ROBERT J. LAGOMARSINO, and other Members to propose legislation in 1987 for a referendum on and implementation of statehood if it won majority support in the referendum.

I later drafted amendments to the Lagomarsino bill to broaden the status choice to include other options as well as statehood. The initiative was put on hold because of the 1988 election.

Senator ROBERT DOLE also introduced legislation for a referendum on statehood in 1987. The distinguished gentleman from California, RONALD V. DELLUMS, introduced legislation calling for a transfer of powers to a constitutional convention in Puerto Rico that year, as he had in previous years. None of these bills were enacted.

DIVISIVE AND DISTRACTING DEBATE

Puerto Rico has sufficient authority to call a referendum on status on its own; but the experience of the Congress not acting on the results of the locally authorized 1967 referendum has convinced commonwealth supporters, in particular, that a referendum should only be conducted if it is preceded by a Federal commitment to respect the results.

Puerto Rican politics have historically revolved around intensive status debates. This debate has often been so divisive and distracting that it has effectively prevented action in both the insular capital of San Jaun and here in the Nation's Capital on many of the very serious problems that Puerto Rico faces. Virtually every public policy proposal is debated in Puerto Rico on its status ramifications, not to mention its political implications, in addition to its merits.

Support for commonwealth appears to have eroded and support for statehood has clearly grown during the past two decades. A number of factors are responsible for this change in public opinion.

A major factor has been that the Federal Government has not agreed to any of the improvements in the commonwealth relationship that have been proposed or proposed any alternatives to these suggested improvements.

Another factor has been that some Federal actions have contradicted commonwealth commitments, such as the failure to provide for the $2 per gallon increase in the Federal excise tax on rum produced in Puerto Rico enacted in 1984 to be transferred to the insular treasury along with other locally originated Federal excise taxes and customs duties.

A third factor has been that the Federal Government has limited the amounts provided for the needy in Puerto rico in the development of Federal social programs and efforts to reduce budget deficits such as caps on AFDC and Medicaid, the nonextension of SSI to Puerto Rico, and the removal of Puerto Rico from the Food Stamps Program in budget reconciliation legislation.

Yet another factor has been that certain Federal policies designed for the circumstances of the States have been applied to Puerto Rico although these policies have not always provided the intended benefits in insular situations.

These factors have suggested to some a lack of power and potential in commonwealth and the contrasting need for the power and benefits of statehood. They have combined with other factors to intensify interest in status development in recent decades.

Some of the other factors involved are: Puerto Rico's increased standard of living; its increased dependence on Federal programs; its economic problems; its increased social ties to the

United States; and its migration to and from the United States.

CURRENT INITIATIVE

Even before being reelected in 1988, Governor Hernandez Colon explored the possibility of reviving the amendments that I had prepared regarding the legislation introduced in the last Congress by our colleague from California, Mr. LAGOMARSINO.

After consulting with me, with the distinguished chairman of the committee of jurisdiction in the other body, the Honorable J. BENNETT JOHNSTON, and with Andrew Card of the White House staff the Governor proposed a referendum among the status options of enhancing the commonwealth relationship, statehood, and independence and a Federal commitment to respond to the referendum in his 1989 inaugural address.

Let me include what he said in the RECORD at this point:

In this period in which we are ready to scale a new peak it is necessary to meet face to face the continuous debate over our relationship with the United States of America. This is a debate which the Puerto Ricans wish to settle.

The vast majority of Puerto Ricans wish to express their view on our political status. The people wish to be consulted.

I share this desire. I believe that the time has come for the people to again express their choice between the three status alternatives and I believe that it is equally essential for the government of the United States of America to express its position . . .

Therefore, we shall promptly start conversations with the government of the United States and with those leaders in Puerto Rico representing the other status alternatives regarding the manner in which this referendum shall be done, so that the three political status proposals are ensured an equal participation in the referendum.

Gov. Hernandez Colon was joined shortly afterward in his capacity as president of the Popular Democratic Party by the presidents of the other two principal political parties of Puerto Rico, the New Progressive Party, then headed by Baltasar Corrada del Rio, and the Puerto Rican Independence Party, headed by Ruben Berrios Martinez, in proposing that the Federal Government commit to act on implementing a status that receives majority support in the referendum.

Their agreement was viewed as historic because the three parties had long disagreed on the proper approach to resolving the status issue. I include it in the RECORD at this point:

JANUARY 17, 1989.

Hon. MORRIS UDALL,
Chairman, House of Interior and Insular Affairs Committee, Washington, DC.

DEAR MR. CHAIRMAN: In the past election held on November 8, 1988, all three political parties, which represent the three alternatives for the ultimate political status of the People of Puerto Rico, included the need for the resolution of the status issue in the platforms they presented to the electorate.

In accordance with the platform of the Popular Democratic Party, the Governor of Puerto Rico announced in his Inauguration the intenion of the Government of Puerto Rico to pursue the resolution of the status question with the Government of the United States of America and convened a meeting of the leadership of the three political parties that represent the three formulas.

As a result of this meeting we, the Presidents—of the Popular Democratic Party, representing Commonwealth, the New Progressive Party, representing Statehood, and the Independence Party, representing Independence—have agreed to express to the President and to the Congress of the United States of America, that the People of Puerto Rico wish to be consulted as to their preference with regards to their ultimate political status and the consultation should have the guarantee that the will of the People once expressed shall be implemented through an act of Congress which would establish the appropriate mechanisms and procedures to that effect.

Towards the formulation of such an act of Congress and related policies, we request to meet with you at your earliest convenience.

Conscious that since Puerto Rico came under the sovereignty of the United States of America through the Treaty of Paris in 1898, the People of Puerto Rico have not been formally consulted by the United States of America as to their choice of their ultimate political status, and in the understanding that we are taking a momentous decision in Puerto Rico history and confident of the commitment of the United States of America and of the People of Puerto Rico to the principles of self-determination and government by the consent of the governed, we remain,

Cordially yours,

BALTASAR CORRADA DEL RIO,
President,
New Progressive Party.
RAFAEL HERNANDEZ COLON,
President,
Popular Democratic Party.
RUBEN BERRIOS MARTINEZ,
President,
Puerto Rican Independence Party.

The following month, President George Bush proposed to a joint session that the Congress allow the people of Puerto Rico to decide their future status in a referendum, while expressing his own strong personal support of statehood. He said the following:

There's another issue that I've decided to mention here tonight. I've long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I strongly favor statehood. But I urge the Congress to take the necessary steps to allow the people to decide in a referendum.

Chairman JOHNSTON reacted to the proposal by introducing three bills. Two of these bills were cosponsored by the distinguished ranking minority member of the Energy and Natural Resources Committee, JAMES A. MCCLURE, and Senator PAUL SIMON and one was cosponsored by Senator MCCLURE alone.

These bills proposed different approaches to this matter. Based upon discussions with Chairman JOHNSTON, though, I anticipated a Senate bill consistent with the party presidents' proposal. I also agreed to his schedule for congressional consideration of the party's proposal. It called for Senate action last year to be followed by House action this year.

S. 712

The Senate Committee on Energy and Natural Resources narrowly approved a bill last year different from what I had anticipated, however. S. 712 would grant Federal approval of statehood, independence, and an enhanced commonwealth relationship and it would unilaterally determine implementation measures for each status option. It would then automatically begin next fall to implement the measures related to the status option that wins majority popular support in a referedum in Puerto Rico next summer.

Poll results indicate that S. 712, as reported by the Energy and Natural Resources Committee, encouraged support for statehood in Puerto Rico to surge past commonwealth.

One reason that the bill encouraged support for statehood was that it would provide that statehood could be obtained immediately simply by a majority vote in Puerto Rico. This counteracted a popular perception that statehood would be difficult to achieve.

Another reason that the bill encouraged support for statehood was that it would apply most Federal social program benefits immediately to Puerto Rico under statehood, while phasing-in Federal tax responsibilities over time. This combination proved to be very attractive to Puerto Rico's low-income population.

Yet another reason for the apparent growth of public support for statehood was that the bill would provide few meaningful enhancements for commonwealth.

THIS BILL

Speaker THOMAS S. FOLEY; the distinguished chairman of the Committee on Interior and Insular Affairs, the Honorable MORRIS K. UDALL; and other Members expressed serious concerns about S. 712's approach to the issue last year. The unprecedented approach of the Congress preapproving status changes for Puerto Rico—as well as all of the terms of these possible changes—before the Puerto Rico people had decided on a future status was responsible for many of the concerns.

Such a process would inevitably be unfair to the Puerto Rican people because it would have the Congress alone make hypothetical final decisions on specific terms before there is any mandate from the people most affected. In such a circumstance, the Federal Government would lack the incentive that a local mandate would provide to propose the most reasonable terms for transition to or implementation of a status change or development.

I include in the RECORD at this point a transcript of what Speaker FOLEY said in response to a question about this matter at the National Press Club

on July 24, 1989, as well as a letter that Chairman UDALL sent last year to Chairman JOHNSTON about the approach proposed by S. 712.

Question. "What's your view on legislation pending in the Senate to provide for a referendum on the status of Puerto Rico in 1991?"

Answer. Well I favor the idea of a referendum and a choice between statehood, continued commonwealth status and independence.

I have some concern about whether we can do that in a prospective act, which more or less guarantees statehood if there is a majority, even a slight majority, in favor of it, rather than as a two-stage process where we hear the results of the Puerto Rican plebiscite and then commit ourselves—I think in a moral sense we would do so—to reflecting those wishes in legislation.

There's no question I think that the United States Congress is going to respond to the interest and concern and will of the people of Puerto Rico as far as their status is concerned. If they vote in a majority for statehood, I believe the path of statehood will be very wide and statehood will occur.

If they, on the other hand, vote to continue commonwealth status, that will result.

And if they should wish independence—I think that's unlikely—but if they should wish independence, this country will always respect the decision of any part of our national community that wishes to be independent as long as you're not a state. (Laughter.)

To tell you the truth, I have joked a little bit that some advantages that exist in commonwealth are important advantages, such as the rebate of taxes and the keeping of all taxes at home and so on. Some people have suggested that if they had their choice, New York might want to be a commonwealth. It would be a Garden of Eden if it were possible for them to keep all their tax benefits.

But whatever the choice, whatever the decision, there would have to be a transition period, but we would honor the result.

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,
Washington, DC, November 6, 1989.

HON. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter requesting consideration of your legislation to authorize a referendum in Puerto Rico between amending the current commonwealth relationship with the United States and granting statehood or independence and implementation of the preferred political status.

I agree that this is a matter of the highest importance and I appreciate your hard work on it.

The Subcommittee on Insular and International Affairs is currently conducting oversight on this matter and Chairman de Lugo has planned for briefings this year and hearings next year. This remains the schedule in this Committee.

I have given your request the most serious consideration and want you to understnad why I decided not to sponsor legislation based on S. 712.

Perhaps most importantly, there was not consensus among the leaders of Puerto Rico's three major political parties that introducing that proposal in the House was the best approach to this matter. I know that you will agree that consensus on the process of consideration of this matter may be essential for it to meaningfully continue.

Additionally, the self-implementing nature of S. 712 may excessively encumber consideration of this matter. I and other share the reservations expressed by the Speaker about this procedure. It complicates the issues involved and may add less-related factors, such as the petition of the District of Columbia for statehood, to consideration of Puerto Rico's status.

In closing, I want to reiterate my commitment to helping the people of Puerto Rico realize their goals of self-determination. In this connection, I want to assure you of my interest in seeing the enactment of legislation next year that responds to the requests of Puerto Rico's leaders for the authorization of a referendum on the island's political status in 1991 and implementation of the preferred status option. I look forward to working with you, Chairman de Lugo, and Resident Commissioner Fuster, to this end as well as with others concerned.

Sincerely,

MORRIS K. UDALL
Chairman.

When it was clear that S. 712's problems would prevent it from being approved, Chairman UDALL and the ranking Democrat GEORGE MILLER joined me in inviting the presidents of three parties to agree on alternative legislation.

The party presidents—Hernandez Colon, Berrios, and Romero, who had succeeded Corrada as head of the statehood party shortly, after the three parties proposed legislation on this matter—did not do so immediately because of the quick implementation promise of S. 712.

Later, however, it became obvious to the party presidents that holding out for the automatic implementation approach might result in the Congress not approving their request for a Federal commitment to act on the results of a status referendum. So, these leaders decided a few months ago to support legislation that I suggested along with Representative LAGOMARSINO, in consultation with the distinguished Resident Commissioner from Puerto Rico, Jaime B. Fuster. This legislation would more accurately reflect the parties' proposal for the Federal Government to commit to act after the people of Puerto Rico had expressed their status preference.

The draft legislation was in part based on S. 711, another one of the bills on this matter sponsored by Chairman JOHNSTON along with Senator JAMES A. MCCLURE and Senator PAUL SIMON. It became this bill, H.R. 4765. I include in the RECORD at this point statements of support for this bill make on the date of introduction by Speaker FOLEY and Minority Leader MICHEL.

Question. Mr. Speaker, if I can take you off the continent for a comment on a different subject, the House bill that refers to Puerto Cico is supposed to be introduced and it is a different approach from the Senate. Can you comment on that?

The SPEAKER. Well, as I understand it, the bill is being introduced by Mr. de Lugo and co-sponsored by Mr. Young, Mr. Lagomarsino, and perhaps Mr. Michel—I am not sure about that—which provides for an opportunity for a referendum on Puerto Rico or status preference for Puerto Rico, which would then be reported to Congress, and Congress would have an opportunity to consider the wishes of the people of Puerto Rico so expressed, and there would be a response made then by the Congress which would be sent back to Puerto Rico for approval.

That is as I understand it, the gist of it. I think that is a sound approach. I am personally very anxious to see legislation passed that would implement the expressed opportunity of the people of Puerto Rico and to express their views on the future status of the Commonwealth, and I think that the approach taken by Mr. de Lugo is a very sound one.

Question. As opposed to the self-executing approach of the Senate?

The SPEAKER. Yes. My own preference is for the approach taken by Mr. de Lugo. I cannot cosponsor the legislation. That is not something that traditionally Speakers do, but I think that if I were a sitting Member and not the Speaker, I would cosponsor his bill.

STATEMENT OF THE HOUSE REPUBLICAN LEADER ROBERT H. MICHEL MAY 9, 1990

I am pleased to support the initiative calling for a referendum for self determination for the Commonwealth of Puerto Rico. I am happy to join with Speaker Foley, and Reps. de Lugo, Young, and Lagomarsino in supporting legislation that will make this referendum in order.

In the spirit of democracy and self-determination that is sweeping all the other quarters in our world, I am hoping that this referendum can go forward soon so that the options of statehood, commonwealth status, and independence can be considered by the residents of Puerto Rico.

The substitute approved by the Interior and Insular Affairs and Rules Committees was developed through inordinately intensive and extraordinarily extensive negotiations with representatives of the three parties and the White House as well as the bipartisan leadership of the House and the committees concerned. These negotiations focused on both the process proposed by this legislation for developing or changing Puerto Rico's status and the nature of the prospective development or changes in Puerto Rico's status.

I include in the RECORD at this point a joint statement issued on June 5, 1990, by the presidents of the three parties in this regard.

Today's meeting of the presidents of the three principal parties of Puerto Rico with the leadership of the U.S. House Insular Affairs Subcommittee is a decisive step toward success in holding a plebiscite in Puerto Rico in 1991.

The Presidents were able to verify the existence of broad bipartisan support in the House for the attainment of this common objective.

It is especially significant that the three parties, although they do not endorse the content of the proposed definitions that each other party has prepared, have agreed that their differences in that respect will not serve to obstruct the approval of the bill in this session.

The presidents of the parties in addition express their satisfaction that the leadership of the subcommittee has accepted, at this moment, with slight modifications of form, the proposed definitions of each party. The definitions, however, remain subject to clarifications and amendments by the Congress.

The Subcommittee has committed itself to exploring, in addition, possible procedural amendments—in consultation with the parties—that will strengthen the effectiveness of the plebiscite process and guarantee the prompt approval of the bill. To this end, and to put the finishing touches on the respective proposed definitions, the Dialogue Committee will meet tomorrow with the Subcommittee advisors.

Finally, although the House bill does not provide for automatic execution and will require a process of implementation in the Congress after the plebiscite, as well as an eventuual ratification by the people, it certainly makes it feasible for the people of Puerto Rico to be able to express themselves on clearly defined alternatives with respect to which the Congress has previously made clear its political commitment.

We now have a bill that is broadly supported by President Bush and the presidents of the three parties. A letter that I have just received from the President indicates the administration support for this bill and I insert it in the RECORD at this point:

THE WHITE HOUSE,
Washington, DC, October 5, 1990.

Hon. RON DE LUGO,
House of Representatives,
Washington, DC.

DEAR RON: I applaud everything you have done to give the people of Puerto Rico the chance to declare what they want their political future to be. Your subcommittee performed truly historic labor, and now your bill is about to come to the House floor.

As you know from my first address to Congress, this issue is important to me, and not just because of my long-standing interest in Puerto Rico. As President in a time of democratic growth and vibrancy throughout the world, I strongly believe it is past time that we guarantee the residents of the Island a voice in resolving the political status of Puerto Rico, American territory for 92 years. We owe this to them, and we owe it to a world that watches to see whether the United States of America believes as much in the consent of the governed now as it did in 1776.

I would urge the entire Congress to act affirmatively and rapidly on whatever responsible measure comes before them to call for a referendum on Puerto Rico's political status. And I stand ready to sign such legislation when it reaches my desk.

Sincerely,

GEORGE BUSH.

S. 712 AMENDMENTS

The Senate Committee on Finance has since approved amendments to S. 712—although it has not favorably reported the overall bill.

The amendments would delay the implementation of statehood—which would be immediate in the Energy and Natural Resources Committee version—for 5 years—although that implementation would still be automatic. Federal program benefits and taxes would be phased-in during the delay—although in some cases program benefits would be provided to a State of Puerto Rico at a lower level than would apply to existing States.

The amendments would further provide significantly increased program benefits under enhanced commonwealth—although these benefits would still be at levels less than the levels which apply to the States. The increases in benefits under commonwealth would be financed by revenues now transferred to Puerto Rico and new revenues generated by restrictions on the Federal tax credit that encourages investment in Puerto Rico.

Problems with S. 712, as it would be amended by the Senate committees, include: the process it proposes for defining the status options and the automatic implementation procedures; limitations on both commonwealth and independence contained in the Energy and Natural Resources Committee version; the terms of the financing of the unproved treatment in Federal social programs under enhanced commonwealth in the Finance version; the excessive delay of statehood—since the selected status is to be automatically implemented—and the discrimination in the levels of Federal program benefits under statehood in the Finance version.

COMMITTEE APPROACH

The approach used in this House in developing this legislation followed guidelines I set forth at a March 2, 1990 hearing on this issue. What I said then was as follows:

I want to make it clear that I have no favorites among the statuses * * * or the parties.

The options are all legitimate * * * and the parties all have able leaders.

Only the people of Puerto Rico should decide which is best.

I am dedicated to trying to make each of the options as good as it can be so that the people of Puerto Rico will be able to live as well as they can under whatever choice they make.

I will accord each of the parties equal participation in the process of developing this choice.

It is important to note that our approach to this issue recognizes that there cannot be a level playing field among the status options. The inherent differences among the options are so great that they cannot present the Puerto Rican people with equivalent choices and any effort to construct a level playing field will result in artificial and unreasonable terms.

Our approach also recognizes that the status options cannot fairly be implemented in a budget-neutral way. There are different costs and advantages for both the United States and Puerto Rico associated with each option; but no cost is so great that it should prevent the Puerto Rican people from obtaining a status to which they aspire.

I include in the RECORD at this point an editorial that the Washington Post published on the contrasting approaches between H.R. 4765 and S. 712.

[From the Washington Post, July 13, 1990]

TAKING PUERTO RICO SERIOUSLY

The Senate and House are fitfully considering bills to change the political status of Puerto Rico, but with an important difference. Both chambers would authorize a referendum in which Puerto Rican voters (whether those in the United States as well as on the island is a question) would choose among independence, statehood or some continuing version of the present mixed commonwealth status.

But under the Senate bill, the referendum would be self-executing, which is to say that the result would supposedly take effect automatically without further legislation. Under the House bill, by contrast, Puerto Rican voters would express their preference, Congress would then pass implementing legislation, and the voters would have the choice of ratifying that.

The House approach is better. Any change in status for several million citizens as contemplated in these bills is going to be enormously complicated. The House procedure leaves needed time to think these complications through and work them out. The status issue is important in its own right. Puerto Ricans are U.S. citizens but have neither all the rights nor all the obligations of citizenship. The threshold question for them as for the U.S. public and Congress is whether that incomplete status is fair. The highly charged status issue often also becomes a part of, and an impediment to solving, the serious economic and other more tangible problems on the island. If by Caribbean standards Puerto Ricans are relatively well-of, by U.S. standards they are left behind.

The problem is that, up to now, almost no one in Congress has really focused on the Puerto Rican question. The island politicians, including the reigning commonwealthers who now regret it, all calculated that it was to their advantage to urge a referedum. The limited progress of the legislation has been a source of great excitement on the island. But here it has barely been a legislative footnote.

That is why the Senate bill is premature. It would lock in place an answer before most Americans—and most members—were alert to the question. If the island became a state, would Congress really want (and would it be bound?) to phase out the special tax breaks on which the economy is based? What would be the effect on the island economy—wages and prices, for example—of suddenly paying full U.S. benefits there? What would happen to the Spanish language? None of the issues is insuperable, but all need to be addressed. The House bill contains the more orderly process. It's not clear that Congress, in its manifest disinterest, has left time for passage even of that. What better proof of the need to proceed with greater care?

NONRESIDENT PARTICIPATION IN THE REFERENDUM

The distinguished gentleman from New York, JOSE E. SERRANO, proposed that this bill be amended to enable all persons who were either born in Puerto Rico or who had one parent born in Puerto Rico to vote in the referendum. This proposal was supported by two of our other colleagues from New York: CHARLES B. RANGEL and BILL GREEN.

Their proposal was based on positions that: Much of the migration of Puerto Ricans to the States has been involuntary, due to economic necessity in part related to Federal policies; a high percentage of residents of Puerto Rico spend part of their lives in the States and many Puerto Ricans in the States intend to eventually return to Puerto Rico; the referendum may lead to a permanent decision on the destiny of the Puerto Rican people (as opposed to a decision on electing tempo-

rary officials); and there is some international precedent for nonresident participation in status referenda.

United States precedent for nonresident voting in status referenda is limited to referenda in the Pacific Islands Territory that the United States has administered in trust for the United Nations. The nonresident voting contemplated by the Serrano amendment has no precedent in Puerto Rico or other United States.

The presidents of Puerto Rico's three parties objected to the Congress—directly or indirectly—mandating participation in the referendum by nonresidents. In doing so, however, Gov. Hernandez Colon asked that this legislation authorize Puerto Rico to extend the franchise to nonresidents for the purpose of the referedum.

I include in the RECORD at this point letters from the three party presidents on this matter.

AUGUST 1, 1990.

Hon. RON DE LUGO,
Chairman, Subcommittee on Insular and International Affairs, House Interior Committee, Washington, DC.

DEAR CHAIRMAN DE LUGO: You have inquired as to the position of the Government of the Commonwealth of Puerto Rico regarding the inclusion of a provision to facilitate the voting by non-resident Puerto Ricans in the proposed status referendum legislation, H.R. 4765.

The Government of the Commonwealth of Puerto Rico favors, and indeed finds imperative, the incorporation in the referendum bill of the provisions necessary to facilitate and authorize extending the vote to Puerto Ricans residing outside Puerto Rico. Without such authorization, it will not be possible to enfranchise Puerto Ricans residing outside Puerto Rico.

Given that authorization, the Legislative Assembly of Puerto Rico will then exert its own authority over the Commonwealth's electoral proceedings in order to make this possible.

We do not favor incorporating into the legislation provisions that would mandate participation since we have consistently maintained that the referendum must be governed under Puerto Rican law.

I hope that this information clarifies our position regarding this issue.

Cordially,

RAFAEL HERNÁNDEZ-COLÓN.

AUGUST 1, 1990.

Hon. RON DE LUGO,
Chairman, Subcommittee on Insular and International Affairs, Washington, DC.

DEAR SIR: On behalf of the Puerto Rican Independence Party I would like to reaffirm the position assumed before your subcommittee in the public hearing of June 28th by our party president, Mr. Ruben Berrios, relating to the vote of non-resident Puerto Ricans in the plebiscite envisioned by H.R. 4765.

We therefore oppose the inclusion of any language in this bill which would impose upon the Legislature of Puerto Rico the obligation to enlarge the electorate in Puerto Rico to include non-resident Puerto Ricans. We have, as you know, favored a separate vote for those Puerto Ricans which would take into account both the fact that they are members of the Puerto Rican nation, and the fact that residents and non-residents will be affected in very different ways by any status change. We proposed to your subcommittee that Congress make such a separate vote possible in the different states independently of the plebiscite vote in Puerto Rico and independently of the electoral laws of Puerto Rico.

Any decision to enlarge the absentee vote in Puerto Rico however, must be up to the political parties in Puerto Rico, by consensus, to make.

Sincerely,

SENATOR FERNANDO MARTIN,
Vice-President, Puerto Rican Independence Party.

AUGUST 1, 1990.

Hon. RON DE LUGO,
House of Representatives, Washington, DC.

DEAR RON: We have discussed the interest of Puerto Ricans who reside in the several States of the Union to vote in the forthcoming status referendum. The many legal and practical difficulties which have been underscored by the persons who understand the electoral laws and our electoral system in Puerto Rico have neither been answered nor overcome. If there is a way to overcome the difficulties, it must be found and agreed to unanimously by all three parties which represent the three status options.

Therefore, we vigorously object to having Congress mandate that Puerto Ricans residing in the fifty States of the Union be allowed to vote in the referendum. We would nevertheless endorse a statement by Congress to the effect that it authorizes Puerto Rico's Legislature to allow Puerto Ricans who reside in the fifty States of the Union to vote in the referendum; provided that the three political parties represented in the Legislature of Puerto Rico endorse such participation unanimously.

In other words, if the traditional and historical requirements now in effect to vote in Puerto Rico are to be changed, they should be changed only if all three political parties representing the three status options agree.

To impose or mandate a change of rules at this point, without the unanimous consent of the interested political parties, would delay and postpone the referendum and subject whatever law passed to multiple legal challenges.

Puerto Rico is the oldest colony in the world. We have been a colony since 1493. We have been disenfranchised U.S. citizens since 1917. Never has such a large group (3,390,000) of citizens been disenfranchised for as long as the U.S. citizens of Puerto Rico.

We have worked too long and too hard to get an opportunity to exercise out right to free determination. It would be a great frustration for our people to have this opportunity derailed.

We appreciate your interest and support in our endeavors.

Sincerely,

CARLOS ROMERO BARCELO.

The ranking minority member of the Insular and International Affairs Subcommittee, Mr. LAGOMARSINO, and I along with Representatives SERRANO, RANGEL, and GREEN and in consultation with the Bush administration and the three parties, agreed on a modification of the Serrano amendment. It would authorize Puerto Rico to the extent that at least two of the three parties agree, to enable nonresidents to vote in the referendum. This compromise is contained in section 3 of the substitute.

Mr. Speaker, I now want to expand upon my explanation of the bill at point in my capacity as primary sponsor and manager of this bill. This analysis is provided to clarify the intent of this legislation.

Section 1. Would designate the bill the Puerto Rico Self-Determination Act.

Section 2(a) would authorize the appropriation of $13.5 million for a referendum in Puerto Rico among the political status options of independence, statehood, and a modification of the current commonwealth relationship with the United States—on terms to be agreed to by the Puerto Rican people and the Congress—or none of these status options. The referendum would be held on September 16, 1991, or a later date in 1991 agreed to by at least two of Puerto Rico's three political parties in the Dialog Committee on the Status of Puerto Rico.

The Dialog Committee is composed of the presidents of Puerto Rico's three parties, each of which is the primary advocate of one of the three status options. This committee was established on June 29, 1989 by executive order of Governor Hernandez Colon after an agreement with the other two party presidents. The party presidents are generally represented on committee matters by delegates provided for in the order. I include in the RECORD at this point the official English translation of the text of the order.

ADMINISTRATIVE BULLETIN No. 5397A—EXECUTIVE ORDER

Whereas: The platforms of the three principal political parties presented to the people for the 1988 elections included diverse proposals intended to lead to a consultation with the people about their political status—the New Progressive Party (PNP) proposed a referendum on Statehood, the Puerto Rican Independence Party (PIP) the convocation of a National Assembly of the people to discuss the political status and, the Popular Democratic Party (PPD) the consultation of the people about the political status.

Whereas: In his January 2nd, 1989, Inaugural Message, the Governor of Puerto Rico announced that it was the intention of the Government of Puerto Rico to ensure the participation of the Government of the United States of America in the process of consultation about the political status.

Whereas: There exists a consensus between the principal political parties and the people in general over the desirability of consulting the people of Puerto Rico about its political status.

Whereas: Senators J. Bennett Johnston and James McClure, President of the Committee on Energy and Natural Resources of the United States Senate and minority leader of the Committee respectively, have introduced legislation in Congress directed at making feasible a consultation about the political status, and said process requires that the representatives of each of the three formulas of political status explore possible areas of consensus.

Whereas: The Presidents of the three principal political parties agree on the convenience of having the Governor of Puerto Rico issue an executive order to establish a Committee for Dialogue on the Political Status, constituted by the Presidents of the already mentioned political parties.

Whereas: It is desirable to establish a mechanism of dialogue which would permit representatives from the three principal political parties to take action in consensus with respect to any initiatives and transactions having to do with the political status.

Whereas: It is convenient to institutionalise the dialogue process in order to make feasible the congressional transactions and the whole plebiscitary process, and, supplement, or equal conditions, the resources provided by the federal government for each of the principal political parties in such a way that the particular actions and dealings such formula may count with adequate resources.

Therefore: I, Rafael Hernández Colón, Governor of the Commonwealth of Puerto Rico, by virtue of the power vested in me by Law No. 104 of June 28th, 1956, presently dispose:

First: To create the Committee for Dialogue and Consultation on the Political Status, to be composed of the Governor of Puerto Rico and the President of the Popular Democratic Party Rafael Hernández Colón, Esq., the President of the New Progressive Party, Mr. Carlos Romero Barceló Esq, the President of the Independence party Rubán Barrioa Marties, Esq. Each Party President will have the right to name a Presidential Delegate who will be able to represent him before the committee and before the Secretariat.

Second: To constitute the Secretariat of the Committee for Dialogue on the Political Status (hereafter denominated as "the Secretariat") assigned for administrative purpose to the Office of Management and Budget, with equal autonomy for budget and proceedings granted to the political parties.

Third: The Secretariat will be managed by three representatives of the three political formulas, denominated as Presidential Delegates, named by the Governor upon recommendation from the three principal political parties.

Fourth: The Presidential Delegates, as well as any other functionaries that may be appointed, will receive the compensation that the Presidents or the Presidential Delegates establish, in the same way for the three main political parties, and will have the following functions, duties and responsibilities:

—Assist and advise the members of the Dialogue Committee on the Political Status they may be representing;

—Work as a group with the other Presidential Delegates to search for consensus area between the three parties regarding the consultation to the people on their political status preference and the carrying out of that preference of the people through a law of the Congress of the United States which establishes the adequate mechanisms and proceedings to be followed.

—Assist and advise the members of the Committee which they represent in their conversations with functionaries of the Pederal Government.

—Coordinate the legal and constitutional studies and the research needed to carry out their duties.

Fifth: The Presidential Delegates will have the power to appoint one Administrative Delegate of the Secretariat who will work as a trusted employee of the Committee's Presidential Delegates in order to facilitate their duties, and to exercise any other duty that the Delegates might vest on him.

As he carried out his duties, the Administrative Delegate will have the power to recruit and hire personnel, receive interagency loans from the public sector, and hire or acquire physical facilities, goods and services, and will be able to manage those resources that are assigned to him by the Legislative Assembly for these purposes; granted that all is consistent with the principle of equality of conditions and resources.

Sixth: The Department of State will provide the Secretariat with the physical facilities and equipment needed to the carry out its duties.

References in this bill to the dialog committee are intended to ensure that the current equivalent political balance in the committee be maintained for the purposes of this legislation so that no one party dominates or makes final decisions for the panel. We expect that the dialog committee will be maintained presented structured and with adequate funding.

Puerto Rico's three parties had agreed in 1989 on June 4, 1991, as the date for the referendum. The commonwealth party later proposed, however, that the date be pushed back to October or November to allow adequate time to prepare for the referendum, particularly if needed to enable nonresident Puerto Ricans to vote in it under the provisions of subsections (b) and (c) of section 3.

The other two parties objected to this delay; but we agreed to delay the referendum until September 16, 1991. We believe that a later date for the referendum is impractical if there is to be adequate time for the development and consideration of the legislation provided for in section 4(a) in the 102d Congress under the process set forth in sections 4 and 5. This subsection would, however, authorize a later date for the referendum in 1991 if at least two of the three parties reach agreement on such a date.

This subsection would also require appropriations for the referendum to be made to the Executive Office of the President. These funds would be required to be subsequently granted to the State Elections Commission of Puerto Rico—with audit and other requirements set forth in the following subsection.

Subsection (b) would authorize the elections commission to spend $7.5 million of these grants for administrative and related costs of conducting the referendum; $1.5 million of this amount could only be spent for the purpose of facilitating the participation of Puerto Ricans who do not reside in Puerto Rico as would be authorized by subsections (b) and (c) of section 3. It could not be expended if their participation is not authorized under those subsections.

The elections commission would also be required to provide $6 million to the dialog committee for public education about the status options. The dialog committee would be required to distribute the education funds equally among Puerto Rico's principal political parties.

We recognize that the $7.5 million which would be authorized for costs of an administrative nature would only fund a portion of these costs. We understand, for example, that the insular government expended some $17 million on the 1988 general elections and that the elections commission is estimating the cost of a separate referendum on another issue in 1991 at from $11 to $12 million. These votes would only involve voters domiciled in Puerto Rico. The participation of nonresidents in the referendum could impose greater costs. The additional funds necessary for the referendum contemplated by this bill would be provided by the government of Puerto Rico.

The $6 million in education funding would be provided to help ensure that the Puerto Rican people can make an informed choice regarding their status aspirations and that each status option can be fully and fairly presented to the voters. The dialog committee has agreed that the government of Puerto Rico should also provide funding equally distributed among the three principal political parties for this purpose.

Party eligibility for this funding would be contingent on adherence to absolute limits on spending related to the referendum. These limits are the limits imposed on the parties for general election campaigns by current Puerto Rican election law. We understand these limits to include $1.5 million to purchase broadcast and other advertising and $5 million for other expenses.

The purpose of applying spending limits to referendum campaigns is to ensure that a status option is not chosen because the party advocating it is able to unduly influence the outcome of the referendum by virtue of using an unfairly excessive amount of resources. Representatives of the three parties have agreed that the proposed limits for the referendum are reasonable in light of anticipated costs.

The limits, though, are high enough to allow public support for a status option to be somewhat reflected through private contributions which could make up the gap between funds provided by government and the spending cap. We expect, however, that there will be no effort to circumvent these caps by persons associated with the parties or other interests.

Party eligibility for funding would also be contingent on an agreement to have strict recordkeeping and audit requirements. The General Accounting Office would be required to audit the use of all funds provided under this legislation.

It is intended that these examinations be conducted on an ongoing basis while the funds are being spent and that the parties would be unable to use the funds that they are provided for any purposes other than referendum-related purposes. Funds would not be able to be spent for normal party operational expenses or promotion for the election of candidates.

It is further intended that the share of the funds of any party which de-

clines to accept this Federal funding would be divided between the parties accepting the funding and that the caps on spending would be commensurately increased for those parties.

At a minimum, the State elections commission should require that each political party report all receipts of cash or services, expenditures, and contracts in excess of $500 within 15 days of their occurrence. This would permit the timely detection and resolution by the elections commission of any irregularities.

The actual disbursement of Federal funds by the dialog committee should be on a time-phased basis. That is, each political party should receive an equal monthly allocation, starting on January 1, 1991, and on the first of each month thereafter until the referendum.

Subsection (c) would apply Puerto Rican election laws to the referendum.

The laws which would apply by virtue of this provision would include, but not be limited to, a law that Puerto Rico would have to enact to conduct the referendum, since there is no provision in Puerto Rico's law now for the referendum that this bill contemplates. We understand that Puerto Rico's legislative assembly intends to consider legislation for this purpose next year.

We also understand that Puerto Rico has a tradition of trying to amend its election laws pursuant to a consensus of the three parties and we hope that this approach will be followed in the enactment of an insular law on the referendum.

Subsection (d) would also apply appropriate Federal election laws to the referendum.

The Federal laws which are intended to apply are some of those which apply to the election of Federal elected officials, including Puerto Rico's Resident Commissioner. The purpose of applying these laws is to provide the utmost integrity for the referendum process with the fullest possible protection for the rights of voters. The laws that would apply would facilitate voting, provide for various substantive and procedural voter rights, define a variety of wrongful activities, and establish penalties for the commission of any of those activities.

They are: laws which are listed in the "U.S. House of Representatives Election Law Guidebook, 1988" (H. Doc. 100-208); the Voting Rights Act of 1965, as amended (42 U.S.C. 1973); the Civil Rights Act of 1968, as amended (18 U.S.C. 245(b)(1)(A)); mail and wire fraud statutes (18 U.S.C. 1341, 1343, 1346); and the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee). Laws which would not apply are: the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431 to 456, except for 41b) and the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff).

The Uniformed and Overseas Citizens Absentee Voting Act is not intended to apply because we understand that Puerto Rico's election laws already include some provisions for absentee voting by Armed Forces personnel and because the government of Puerto Rico would be granted broad authority under subsections (b) and (c) of section 3 to enable Puerto Ricans abroad to vote in the referendum.

We expect that the law that the government of Puerto Rico would have to enact to conduct the referendum would facilitate voting by members of the military and their dependents to the greatest possible degree. Whatever opportunities it may provide for nonresident Puerto Ricans to vote under subsections (b) and (c) of section 3, if any, should be provided without regard to where a nonresident lives.

References in the Federal laws that would apply to elections of any kind would be deemed to include the referendum, and references to candidates for office would be deemed, where practical, to be references to the status options.

This section is not intended to make inapplicable any Federal laws that might apply of their own force to the referendum.

Section 3(a) would recognize that many people of Puerto Rican descent now live outside of Puerto Rico. It would also recognize that the government of Puerto Rico has some legislative authority under current law to expand the current electorate of Puerto Rico to include some individuals who do not now reside in Puerto Rico.

The recognition of the insular government's authority is not intended to grant any authority which does not exist under current law nor is it intended to validate any specific claims of authority.

We simply understand that the current electoral laws of Puerto Rico regarding absentee voting are very limited in comparison to absentee ballot laws in many States. We also do not intend to supersede any authority Puerto Rico's government may already have to act on this matter.

Subsection (b) would authorize the government of Puerto Rico to amend its laws to enable Puerto Ricans who do not reside in Puerto Rico to register and vote in the referendum and to do so without being physically present in Puerto Rico.

This authorization would be contingent upon approval by the government of Puerto Rico of the plan referred to in subsection (c). It would authorize the government to extend the franchise to only those nonresident Puerto Ricans determined to be eligible under the plan.

Language is included to clarify that the authorization can be effectuated by the plan to apply to all persons either born in Puerto Rico or who have one parent who was born in Puerto Rico. It could also apply to subsets of these classes of individuals.

This subsection is not intended to by itself grant any rights to vote in the referendum. Nor is it intended to circumscribe any and/or all powers that the government of Puerto Rico may have to extend the franchise to persons currently not eligible to vote under Puerto Rican law nor to convey or confirm such powers or claims thereof.

Subsection (c) would authorize the Dialogue Committee to submit a plan to enable nonresident Puerto Ricans to vote in the referendum, if approved by two of its three party members, to the Puerto Rico Legislative Assembly. It also would provide that the plan will become law in Puerto Rico if ratified by the legislative assembly and signed by the Governor.

The Legislative Assembly would be able to accept or reject the plan; but not to amend it. Any authorization for nonresident voting contained in an act of the assembly not based upon agreement of at least two of the three parties would only be able to be effective based on authority which may exist outside of the scope of this legislation.

As I noted earlier, we understand that Puerto Rico has a tradition of generally changing election laws by multiparty agreement which we hope will be maintained in this matter. We expect that the parties will make a sincere effort to develop a plan to expand the electorate as authorized in subsections (b) and (c) of this section.

Subsection (d) would provide that a finding by a court that any provision of this legislation is constitutionally infirm will not invalidate any other provision, so that the other provisions can continue in effect. It is also intended to provide that a failure of the dialog committee to submit a plan for non-resident voting or of the legislative assembly to approve such a plan 120 days before the referendum would not prevent other provisions of this act from continuing in effect, preventing, for example, the referendum from being conducted. This provision is included in recognition of the controversial and complex nature of proposals for nonresident Puerto Ricans to vote in the referendum and of the likelihood of litigation on this and other matters.

Section 4 (a) would require the House Committee on Interior and Insular Affairs and the Senate Energy and Natural Resources Committee to draft legislation to implement a status that receives a majority of votes cast in the referendum addressing the matters listed below. The bills would be required to be drafted in consultation with Puerto Rico's political parties, the President, and any other appropriate persons or groups.

This subsection would also express the intent that the Congress consider the basic elements of whatever status is selected in the referendum as it

would have considered the elements of any of the other statuses.

It is intended that the committees would try to work out the provisions of the legislation with representatives of the party advocating the status that received a 50 percent plus one majority in the referendum. In doing so, the committees would be expected to receive opinions on the issues involved from the parties which advocated other status options, the executive branch, or any other appropriate groups or persons.

The purpose of consulting with the parties which did not advocate the selected status would not be to frustrate implementation of the majority will in Puerto Rico. Instead, it would be to ensure that all views in Puerto Rico on specific aspects of the selected status—rather than the status as a whole—are considered.

Examples of other groups or persons that it might be appropriate to hear from would include recognized organizations in Puerto Rico, representatives of Puerto Ricans who do not reside in Puerto Rico, and others with an important connection to Puerto Rico.

The President would be represented in the consultation process by staff from the Executive Office of the President as well as by officials from various agencies.

The requirement to consult with representatives of the parties is intended to facilitate consultation with leaders in Puerto Rico and would not limit contact with public or party officials in the drafting process solely to the principal representatives of the parties. It is included in recognition of the leading role that the parties play in the debate on the future political status of Puerto Rico.

The matters which the committees would be required to address in drafting the legislation are described by status option as follows:

(1) INDEPENDENCE.—(A) Puerto Rico would establish a republican form of government through a constitution that would guarantee the full protection of human rights. The United States would act on providing a reasonable and fair transition of at least ten years for the economy of Puerto Rico under independence. Measures would involve such matters as—

(i) annual block grants based on the present total amount of Federal spending in the Commonwealth;

(ii) continued preferential entry of Puerto Rican products into the United States market;

(iii) incentives for United States investment in the private and public sectors of Puerto Rico and the market for loans originating in Puerto Rico that would make available incentives similar to those presently provided by law; and

(iv) the continued use in Puerto Rico of United States currency. The eventual demilitarization of Puerto Rico would also be considered.

(B) The grant of independence would not impair the rights of individuals in Puerto Rico to benefits acquired by virtue of services rendered or contributions made to the United States nor impair the United States citizenship of persons born before the date of independence.

(C) The President of the United States would be authorized to negotiate a treaty and other bilateral agreements with the government of the republic that would further detail the relationship between the two countries.

(2) STATEHOOD.—(A) The Commonwealth of Puerto Rico would be admitted into the Union permanently as a sovereign State on an equal footing with the other States. The current constitution and the laws of Puerto Rico would be accepted as the constitution and laws of the New State, and the Constitution and laws of the United States would be extended in full to Puerto Rico.

(B) The United States citizenship of persons born in Puerto Rico would be constitutionally guaranteed and equal in all respects to the citizenship of persons born in the other States. Citizens of the new State would be entitled to vote for the President and Vice President of the United States and would elect the apportioned number of Members of the House of Representatives and two Members of the Senate of the United States.

(C) Residents of the new State would be treated equally with residents of the other States in all Federal programs and would assume all obligations of residents of the States of the Union. The Congress would act on providing a reasonable and fair transition for the economy of Puerto Rico under statehood.

(3) A NEW COMMONWEALTH RELATIONSHIP.—(A) The new Commonwealth of Puerto Rico would be joined in a union with the United States that would be permanent and the relationship could only be altered by mutual consent. Under a compact, the Commonwealth would be an autonomous body politic with its own character and culture, not incorporated into the United States, and sovereign over matters governed by the Constitution of Puerto Rico, consistent with the Constitution of the United States.

(B) The United States citizenship of persons born in Puerto Rico would be guaranteed and secured as provided by the Fifth Amendment of the Constitution of the United States and equal to that of citizens born in the several States. The individual rights, privileges, and immunities provided for by the Constitution of the United States would apply to residents of Puerto Rico. Residents of Puerto Rico would be entitled to receive benefits under Federal social programs equally with residents of the several States contingent on equitable contributions from Puerto Rico as provided by law.

(C) To enable Puerto Rico to govern matters necessary to its economic, social, and cultural development under its constitution, the Commonwealth would be authorized to submit proposals for the entry of Puerto Rico into international agreements or the exemption of Puerto Rico from specific Federal laws or provisions thereof to the United States. The President and the Congress, as appropriate, would consider whether such proposals would be consistent with the vital national interests of the United States on an expedited basis through special procedures to be provided by law. The Commonwealth would assume any expenses related to increased responsibilities resulting from the approval of these proposals.

The matters that I have just described are modified versions of proposals submitted by the presidents of Puerto Rico's three principal political parties to a Subcommittee on Insular and International Affairs hearing on June 28. Modifications were made for reasons of form and policy; but are consistent with our understanding of the intent of the proposals.

The incorporation into this legislation of these descriptions is intended to commit the Congress to consider in good faith those matters contained in the description of the status selected in the referendum.

The differences between the descriptions contained in the report language incorporated into this bill and what the party presidents initially proposed indicate how seriously these descriptions have already been considered. They were, as I have explained, developed through and agreed to after exhaustive negotiations with the parties in Puerto Rico, representatives of the President and on a bipartisan basis in the Interior and Insular Affairs Committee.

Thus, the enactment of this legislation would impose moral obligations on the executive branch as well as the Congress for a serious response to the proposals related to the status selected in the referendum. These descriptions cannot, therefore, be fairly termed wish lists.

They would not, however, predetermine the precise content of the implementing legislation as the committees would retain their institutional flexibility in responding to elements of the description related to the selected status as advocated by adherents of that status.

Instead, this section would obligate the committees to seriously and fully review and respond to the proposals. The enactment of this section would, therefore, provide a conceptual framework from which to undertake the process of developing legislation to implement the status selected in the referendum.

It is intended that the Committee on Interior and Insular Affairs would also work out provisions of the implementing legislation with any other committees of jurisdiction in the House. For the purposes of what would essentially be negotiations, the Committee on Interior and Insular Affairs would presumably be represented by the Subcommittee on Insular and International Affairs—or its equivalent—and staff.

Subsection (b) would authorize the appropriation of funds to enable the consultations to be conducted and the implementing legislation to be drafted.

Section (5)(a) would require the chairman of this House's Committee on Interior and Insular Affairs and the chairman of the Energy and Natural Resources Committee of the Senate to introduce the legislation provided for in section 4(a) by March 6, 1992.

Subsection (b) would authorize any member of the House or Senate to move that the legislation be discharged from a committee 181 or more calendar days after the legislation was introduced. It would make such motions in order at any time. Such mo-

tions would be debatable for a maximum of 2 hours; but would not be subject to amendment or to motions to reconsider.

Subsection (c) would authorize any Member to move that the full House or Senate consider the legislation 15 or more legislative days after the legislation is reported or discharged from all committees to which it was referred. It would make such motions in order at any time and provide that they would not be debatable, amendable, or subject to reconsider.

Subsection (d) would state the Congress' commitment to vote on legislation which would set forth the process for implementing the status selected by the Puerto Rican people in the referendum.

The various provisions of this section are a joint product of the committees on Interior and Insular Affairs and Rules with the active involvement of the bipartisan leadership of the House and I want to note the work on them of Chairman MOAKLEY of the Rules Committee as well as Speaker FOLEY and Minority Leader MICHEL.

The provisions of this section are intended to provide assurance that the implementing legislation will be developed and considered and that both Houses will act on it. Subsection (a) would require the legislation to be introduced. Subsection (b) would provide for a 180 calendar day time limit on committee consideration. Subsection (c) would provide for consideration by the full House—or Senate—after 14 legislative days after the end of committee consideration. Subsection (d) would state the Congress' intent to vote on the legislation.

In sum, the expedited procedures contained in this section would obligate committees to act on the legislation and commit both Houses to act on it. They would not, however, prevent either House from amending the legislation; commit either House to approve it; or commit that the legislation will be enacted into law.

These commitments represent moral—rather than legal—obligations since one Congress cannot constitutionally bind its successors in matters of this nature. They would, however, constitute solemn political obligations. Their not being honored is inconceivable to us.

We believe that the assurances that this section would provide the people of Puerto Rico that the Federal Government will respond to their status decision are an essential part of this legislation's approach to the status issue. Puerto Ricans have been disappointed in the past by the Federal Government's failure to act on their status preference—even after encouraging such a determination. Their leaders could not support the approach to the status problem proposed by this bill—as opposed to the automatic implementation approach of the Senate bill—without such assurances.

We also note that it is unlikely that the expedited procedures provided for in this section will ever be used. We fully expect that legislation to implement the selected status will be expeditiously acted upon by committees and both Houses. We have no doubt tha enactment of this legislation will represent a sincere commitment to Puerto Rican self-determination that the next Congress and the President will honor.

Section 6(a) would require that legislation drafted pursuant to section 4(a) that is enacted into law be submitted to the people of Puerto Rico in a second referendum. This referendum would be required to be held not more than 60 calendar days after the law is enacted. This subsection would also provide that the legislation will not take effect unless approved in that referendum. Finally, it would provide that the law will become effective on the date and subject to such other terms as that legislation might include.

Subsection (b) would authorize appropriations for the second referendum, including funds for public education and the actual conduct of the vote.

Section 7 would require the Committee on Interior and Insular Affairs and the Senate Energy and Natural Resources Committee to make further recommendations on Puerto Rico's political status development if none of the three statuses receives a majority in the first referendum; if the implementing legislation is not enacted into law; or if the implementing law is not approved in the second referendum.

The recommendations would be required to be developed in consultation with representatives of Puerto Rico's principal political parties, the President, and other appropriate groups or persons. This would be a consultation requirement similar to that contained in Section 4(a).

The contemplated recommendations could be either of a procedural or substantive nature.

Mr. Speaker, I introduced H.R. 4765 on May 9 along with the ranking minority member of the Subcommittee on Insular and International Affairs, ROBERT J. LAGOMARSINO; Chairman MORRIS K. UDALL and ranking minority member DON YOUNG of the Committee on Interior and Insular Affairs; Chairman JOHN JOSEPH MOAKLEY and ranking minority member JAMES H. (JIMMY) QUILLEN of the Committee on Rules; Resident Commissioner JAIME B. FUSTER of Puerto Rico; and our colleagues JAMES MCCLURE CLARKE, JOHN LEWIS, GEORGE (BUDDY) DARDEN, ENI F.H. FALEOMAVAEGA, and BEN GARRIDO BLAZ, who are all members of the Subcommittee on Insular and International Affairs.

As I indicated the bill was introduced with the expressed support of the Speaker THOMAS S. FOLEY and the minority leader, ROBERT H. MICHEL. It was subsequently sponsored by our colleagues EDWARD J. MARKEY, WAYNE OWENS, STEPHEN J. SOLARZ, E. THOMAS COLEMAN, ROBERT K. DORNAN, PETER H. KOSTMAYER, JOHN MILLER, JON L. KYL, and BEN JONES.

Hearings were held by the Subcommittee on Insular and International Affairs preceding the bill's introduction on March 2 in Washington, DC, and March 9, 10, and 12 in San Juan, Ponce, and Mayaguez, PR, respectively. Hearings were held after the bill's introduction on June 25 in New York, NY., and June 28 in Washington, DC. The subcommittee also conducted a formal briefing on this matter January 30.

The bill was favorably reported with an amendment in the nature of a substitute that I sponsored along with Congresmen LAGOMARSINO, UDALL, and FUSTER by the Subcommittee on Insular and International Affairs on August 3 by a recorded vote of 10 yeas and 0 nays. It was favorably reported with an amendment in the nature of a substitute sponsored by Congressmen DE LUGO, LAGOMARSINO, UDALL, DON YOUNG, GEORGE MILLER, and FUSTER by the Committee on Interior and Insular Affairs September 19 by a recorded vote of 37 yeas and 1 nay.

An identical substitute was also favorably reported by the Subcommittee on Rules of the House on September 27 and the Committee on Rules on October 2 by voice votes.

It is our hope that this legislation will make it possible for the debate on Puerto Rico's ultimate political status to be concluded.

H.R. 4765 is a bill that is consistent with the longstanding Federal policy that holds that the ultimate political status of Puerto Rico is a matter for the people of Puerto Rico to decide and that all status options are open to the people of Puerto Rico, although the debate of a future relationship with the United States is a matter that has to be mutually determined.

This carefully crafted compromise would provide the fullest possible response to the request of Puerto Rico's people for the Federal Government to authorize a referendum among the status options and commit to respond to a status that receives majority support. It contains the strongest commitment to respond to their will possible and incorporates the clearest and descriptions of the statuses on which this House can reach agreement.

Like many compromises it may not be the bill any individual Member of Congress would have drafted as their own idea of the perfect process for Puerto Rican self-determination. It is, though a bil supported by both sides in this House, the President and, very importantly, all sides in Puerto Rico and it proposes a process that all agree is fair.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. MOAKLEY], chairman of the Committee on Rules.

Mr. MOAKLEY. Mr. Speaker, I congratulate the gentleman from the Virgin Islands [Mr. DE LUGO], the gentleman from California [Mr. LAGOMARSINO] and the gentleman from Puerto Rico [Mr. FUSTER] for their leadership in bringing this historic bill before the House.

Mr. Speaker, I was pleased to be an original cosponsor of H.R. 4765, along with our ranking minority member, Mr. QUILLEN.

This bill was jointly referred to the Committees on Interior and Insular Affairs, and Rules. It was approved by both the Subcommittee on Rules of the House and the full Rules Committee, by voice vote without opposition.

The Committee on Rules has original jurisdiction over this bill because it contains various procedural provisions affecting the rules of the House. Several sections of H.R. 4765 as introduced and as amended by the Interior Committee mandate certain actions by Congress and its committees in the consideration of legislation in the 102d Congress to implement the results of the Puerto Rican referendum.

H.R. 4765 contains expedited procedures to implement the status option—a new commonwealth relationship, statehood or independence—freely selected by the people of Puerto Rico.

While the Rules Committee is not enamored of expedited procedures or other procedures which function outside the normal rules of the House, in this case their inclusion in the bill will serve to reassure the people of Pureto Rico that Congress will indeed act if Puerto Rico votes by a majority for one of the status options.

Mr. Speaker, I strongly urge the House to give overwhelming approval to this historic legislation.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, the Puerto Rico Self-Determination Act, H.R. 4765, is a significant measure which will advance the fulfillment of Congressional obligations under the Constitution and the Treaty of Paris. The legislation provides a two-stage process for the resolution of the political status of Peurto Rico. The first stage authorizes a referendum in Puerto Rico next year in which the people will vote for either an Independence, Statehood or Commonwealth relationship. If a majority of the people vote for one of the options, it will be up to the Congress to draft the terms of that particular status.

The origins of this legislation began over nine decades ago. The current relationship between the United States and Puerto Rico began in 1898 with the Spanish-American War.

The United States entered into a fierce war with Spain to defend the self-determination of the people of Cuba. Cuba was at that time a colony of Spain and was seeking to become a fully self-governing sovereign state. On April 20, 1898, the United States recognized the people's aspirations with the enactment of Joint Resolution No. 24 entitled:

Joint Resolution For the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the Island of Cuba, and to withdraw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to carry these resolutions into effect. Resolved by the Senate and House of Representatives of the United States of America in Congress assembled. First. That the people of the Island of Cuba are, and of right ought to be, free and independent. Second. That it is the duty of the United States to demand, and the Government of the United States does hereby demand, that the Government of Spain at once relinquish its authority and government in the Island of Cuba and withdraw its land and naval forces from Cuba and Cuban waters. Third. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several States, to such extent as may be necessary to carry these resolutions into effect. Fourth. That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said Island except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the Island to its people.

Five days later the Congress declared war on Spain. The United States put human and economic resources at risk to champion and protect the principles of democracy that we cherish. The outcome, of course, is history. The United States won the war and achieved its objective with Cuba's emergence as an independent state. As part of the Treaty of Paris with Spain, the United States became the sovereign power over the vast Philippine archipelago, Guam, and Puerto Rico and its adjacent islands. Article IX of the treaty specifically charged Congress with responsibility for the lives of the territorial residents:

The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.

This was consistent with the Constitution's territorial clause which provides Congress with the exclusive authority and direct responsibility over territories and possessions.

Ths Congress has acted on the self-determination aspirations of a number of our territories. The Philippine people decided that their political status destiny was as a separate sovereign nation. The Congress acted in 1934 to provide for the eventual transfer of power to the Philippines. Part of that process was the establishment of the Commonwealth of the Philippines with two resident commissioners, and the very explicit acknowledgment by the Congress that the Philippines would become an independent sovereign nation with its own citizenship in 10 years. Sovereignty was indeed transferred to the Philippines after World War II, and the territorial clause ceased to apply.

Before the start of the 1960's, the people of the territory of Alaska and the territory of Hawaii, voted to become full members of the United States as States of the Union. Alaska and Hawaii's attainment of a full measure of self-government was formally acknowledged in United Nations resolutions as they had met the United Nation's recognized principles for achieving full self-government. They had achieved the right to govern themselves as sovereign States of the Union under the 10th amendment of the Constitution, and were no longer subject to the territorial clause of the Constitution.

Once again, the Congress is faced with a question regarding the future relationship of a people under its responsibility. President Bush raised Puerto Rico self-determination in his first address to a Joint Session of Congress on February 9, 1989. Although his message was billed as a budget address, the President felt compelled to bring this burning issue regarding Puerto Rico before the Congress and the people. The President expressed his strong personal support for Puerto Rico statehood and yet asked the Congress to take the necessary steps to let the people of Puerto Rico decide in a referendum. The legislation before us today fulfills the President's request. The Puerto Rico Self-Determination Act authorizes a referendum in Puerto Rico on September 16, 1991 to let the people express their desire as to which of the three status options they prefer, or none, if none of the statuses are what they wish. When I joined Congressman DE LUGO and others in introducing H.R. 4765 in May, I stated that one of my objectives with regard to this legislation was to provide the people of Puerto Rico with an opportunity to vote, and to vote with the knowledge of what each status means.

The different definitions for the three status options have been developed to address and accommodate the many aspirations of the different parties while attempting to keep within constitutional constraints. There are certain things under some of the status options that the Congress cannot grant. I certainly hope the legislation and report language will not be intentionally misrepresented to the people of Puerto Rico. Some of the most important factors defining a status relationship is sovereignty, applicability of the U.S. Constitution, nature of U.S. citizenship, political representation, voting enfranchisement, and economic benefits and responsibilities.

Sovereignty varies under the three different statuses. An independent Puerto Rico would be a separate sover-

eign nation. Under Statehood, the United States would be the sovereign power and Puerto Rico would be a sovereign State of the Union according to the 10th Amendment of the Constitution. Under a commonwealth relationship, Puerto Rico would be locally self-governing under the Constitution of Puerto Rico consistent with article IV, section 3, clause 2 of the U.S. Constitution, also known as the territorial clause, and the United States would remain as the sovereign power.

While the U.S. Constitution would cease to apply under Independence, the Constitution would be extended in full to Puerto Rico as a State, but only in part under a commonwealth relationship.

Supreme Court decisions regarding the applicability of the U.S. Constitution to U.S. territories, called the Insular cases, affirm a different degree of protection for Puerto Ricans than for other U.S. citizens residing in the 50 States. This apparent anomaly in our democratic society is due to the constitutional prerogative of the Congress under the territorial clause, to make all needful rules and regulations respecting the territory and possessions of the United States. The Supreme Court has upheld congressional action of selectively extending the Constitution to territories and in varying degrees. The Constitution was extended in full to the territories of Alaska and Hawaii many decades before their admission into the Union. In Puerto Rico's case, Congress has not fully extended the Constitution. The Insular cases asserted that the guarantees of certain fundamental personal rights declared in the Constitution did protect the residents of unincorporated territories, including Puerto Rico; however, some provisions of the Constitution did not apply.

Thus, the Supreme Court and other courts have held applicable and applied in the case of residents of Puerto Rico first, the first amendment speech and press and religion clauses, including the "right of association" protections afforded political activity; second, the fourth amendment protections against unreasonable searches and seizures; and third, the fifth amendment. While the Supreme Court has remained silent on the applicability of other amendments and parts of the Constitution not specifically extended by statute to Puerto Rico, the only such rights of individuals against the States that have been held not to be applicable in Puerto Rico were the sixth amendment right to a jury trial in criminal cases and the seventh amendment right to a jury trial in civil cases.

It appears, therefore, that all those provisions of the Bill of Rights that have been incorporated against the States as fundamental under the 14th amendment, as well as such protections as those against ex post facto laws, bills of attainder and takings without just compensation, do apply to Puerto Ricans. Puerto Ricans then, with the possible exception of the criminal jury trial guarantee, have all the fundamental personal rights that citizens residing in the 50 States and the District of Columbia have.

Under an independent Puerto Rico, U.S. citizenship would be retained, most likely, only by those who held U.S. citizenship or were born in Puerto Rico prior to the date of independence. U.S. citizenship under statehood would be guaranteed and constitutionally irrevocable under the 14th amendment of the Constitution. Under a commonwealth relationship, U.S. citizenship would be protected by the fifth amendment of the Constitution.

This last point regarding the difference in citizenship needs further clarification, as there has been extensive debate during the development of H.R. 4765 as to the source and nature of the citizenship one possesses under statehood versus what one possesses under a commonwealth relationship.

It is clear that the nature and source of the citizenship of persons within the several States and of persons residing in Puerto Rico is different, and to some, the difference with respect to the irrevocability of citizenship is understandably extremely important. The citizenship of persons residing within the 50 States has been acquired by birth in or naturalization in the United States, as provided in the first sentence of section 1 of the 14th amendment which states: "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States wherein they reside." Congress may not take away the citizenship of any 14th amendment citizen.

The citizenship, on the other hand, of persons residing in Puerto Rico was conferred by statute, beginning with the 1917 Organic Act and culminating in the 1940 Nationality Act and the 1952 Immigration and Nationality Act. Because of the decisions of the Supreme Court in the Insular cases, it seems most likely that persons born in Puerto Rico or naturalized there by statute were not "born or naturalized in the United States" for purposes of inclusion in the first sentence of section 1 of the 14th amendment.

Congress is not forbidden by the 14th amendment from revoking the citizenship of Puerto Ricans while the island remains in a commonwealth relationship status. However, Congress is not entirely free to revoke such citizenship.

There are possible future scenarios which could provide a National basis for Congress revoking the citizenship of Puerto Ricans in a commonwealth relationship. However, the due process clause of the fifth amendment would remain a factor in any wholesale revocation of U.S. citizenship. The law granting blanket U.S. citizenship to the residents of the former Spanish colony of Puerto Rico provided an exception for individuals not wanting to become U.S. citizens by completing a sworn statement. Undoubtedly, Congress would protect U.S. citizens by providing fifth amendment due process in any action affecting U.S. citizenship of residents of areas not incorporated into the United States.

Political representation of the people of an independent Puerto Rico in Washington would be through an ambassador, according to the Vienna Convention on Diplomatic Relations, and without representation in Congress. As a States of the Union, the people of Puerto Rico would be represented in the Congress by two Senators and six or more voting Members in the House of Representatives. Under a commonwealth relationship, Puerto Rico would continue to be represented in the House by a nonvoting resident commissioner.

Only under statehood would the people of Puerto Rico be enfranchised to vote for the President and Vice President of the United States. They would exercise this right of franchise as is done by all States of the Union through a number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress.

Economically, there would be an orderly transition under all three options. However, the level of benefits and the obligations would vary among statuses. Financial obligations by the people of Puerto Rico to the Federal Government under independence would be limited. Federal programs, assistance, and benefits would be reduced over time, although earned benefits would continue. U.S. citizens under statehood would be required to share the responsibilities as their fellow citizens in the other States of the Union but with equal benefits, grants, assistance and opportunities. Any increased benefits under commonwealth would be contingent upon equitable contributions from Puerto Rico. Those contributions could be in the form of decreased Federal rebates, lower Federal credits, or other direct payments of taxes.

The referendum is to be conducted in an open and fair manner according to the electoral laws of Puerto Rico. If one of the three status options, independence, statehood or a commonwealth relationship, receives a simple majority of 50 percent plus 1 of the votes cast by registered voters, then Congress will act to draft the terms of that option. Congress will endeavor to draft the legislation in consultation with all interested parties both in and outside of Puerto Rico. The House will develop the terms within the parameters of the definitions in the House report regarding Puerto Rico. However, no one should expect the enabling legislation to necessarily encompass all of the provisions and in the manner described therein of the definition of the prevailing status. The enactment of H.R. 4765 represents a moral com-

mitment by the Congress to provide the people of Puerto Rico with enabling legislation.

The Puerto Rican born, and U.S. educated physician, Dr. Jose Celso Barbosa, began the current quest for equality in Puerto Rico with the establishment of a statehood movement in 1899. He traveled to the States to petition for equality for the people of Puerto Rico through statehood.

His efforts contributed to the establishment of the position of Resident Commissioner of Puerto Rico in Washington and the bestowal of U.S. citizenship in 1917. Dr. Barbosa believed the grant of citizenship also meant a promise of statehood. However, he died before the U.S. Supreme Court declared in 1922 that the Congress had neither extended the Constitution in full to Puerto Rico nor promised statehood.

Over 60 years later, another Puerto Rican medical doctor traveled to Washington to seek equality for the people of Puerto Rico. In 1985, Dr. Miriam Ramirez de Ferrer, president of a nonprofit, nonpartisan civic group, Puerto Ricans in Civic Action, delivered the first batch of over 350,000 first amendment petitions to Congress. The individually signed petitions were so voluminous, carts had to be used to transport the neatly bundled petitions.

This plea of U.S. citizens for equal participation in our Government, so moved me, as well as other Members of Congress, that I began considering legislation to provide a referendum in Puerto Rico on statehood. After consultations with then San Juan mayor, and former colleague of 8 years, Baltasar Corrada del Rio, former Governors Luis A. Ferre and Carlos Romero Barcelo, and after discussing the subject with then Vice President George Bush, I introduced H.R. 2849, "To provide for referenda and the development of enabling legislation regarding incorporation of the Commonwealth of Puerto Rico into the Union as a State." Joining me in a bipartisan effort as sponsors were AUSTIN MURPHY, E. THOMAS COLEMAN, and IKE SKELTON.

I was later approached by RON DE LUGO of the Virgin Islands and chairman of the Subcommittee on Insular and International Affairs regarding possible revisions to H.R. 2849. Changes considered included expanding the status options from statehood to include free association, commonwealth relationship and independence. Due to the 1988 elections, no legislation advanced through the Congress.

In 1989, I introduced the Johnston-McClure-Simon bill in the House, H.R. 3536, "To provide for a referendum on the political status of Puerto Rico." I want to thank all of the cosponsors who joined me in the bipartisan initiative: AUSTIN J. MURPHY, E. THOMAS COLEMAN, IKE SKELTON, BILL GREEN, ALBERT G. BUSTAMANTE, BENJAMIN A. GILMAN, JOEL HEFLEY and JON L. KYL.

The House Republican Research Committee has been extremely supportive of matters affecting Puerto Rico. Research Committee Chairman DUNCAN HUNTER responded positively and quickly in early 1989 to the need to address Puerto Rico issues with the formation of a Puerto Rico Task Force. It has been my pleasure to Chair the Puerto Rico Task Force with: BEN BLAZ, E. THOMAS COLEMAN, JIM COURTER, ROBERT K. DORNAN, BENJAMIN A. GILMAN, BILL GREEN, FRANK HORTON, JIM LIGHTFOOT, LYNN MARTIN, BILL MCCOLLUM, ILEANA ROS-LEHTINEN and LAMAR S. SMITH. I want to thank my colleagues for their support and involvement regarding matters affecting Puerto Rico.

I want to commend Speaker FOLEY and House Republican Leader MICHEL for their support of this legislation. The Republican leader designated Mr. Walter Kennedy to represent his office regarding the development of Puerto Rico legislation. I want to commend Walter for his intense and devoted participation and many contributions to the legislative process.

The chairman of the Committee on Interior and Insular Affairs, MORRIS UDALL, and the vice chairman, DON YOUNG, have been most supportive. DON has a special insight to this particular self-determination issue, as he is one of the few Members of Congress who experienced first-hand the trials of territorial evolution and self-government. DON'S home State of Alaska changed from territory to State just over three decades ago.

I want to thank my colleagues who participated in the congressional hearings in Puerto Rico or New York: Resident Commissioner FUSTER, Delegates BLAZ, DE LUGO and FALEOMAVAEGA and Representatives CLARKE, GREEN of New York, LEHMAN, RANGEL, RHODES, RICHARDSON and SERRANO. Their presence and efforts sent a strong message to the people of Puerto Rico of the interest in Congress regarding the future relationship with Puerto Rico, in spite of busy and conflicting schedules.

President Bush has designated two of his top assistants, Andrew Card and Chase Untermeyer, to handle all matters referred to the Executive Office of the President related to Puerto Rico. Both of these individuals have spent an inordinate amount of time on matters related to Puerto Rico. I want to commend Mr. Card and Mr. Untermeyer for their consistent cooperation on legislation providing a referendum in Puerto Rico. Their efforts were augmented by Mark Pestal of the Department of Justice and Frances Norris, White House Liaison.

There are many individuals who have contributed substantially to the development of this legislation. In particular, I want to acknowledge the statesmanship shown by the Presidents of the three parties, Rafael Hernandez-Colon of the Popular Democratic Party, Reuben Berrios-Martinez of the Independence Party, and Carlos Romero-Barcelo of the New Progressive Party, as well as former Governor Luis A. Ferre. He is one of the few whose life has spanned nearly the entire time since the United States flag has flown over Puerto Rico. His efforts and perseverance will enable the people to voice whether they are ready to share his vision of equality. This is truly a historic event which I hope will result in the final resolution of Puerto Rico's quest for self-determination, regardless of whether that is independence, statehood, or commonwealth.

With the enactment of H.R. 4765, the Federal Government will authorize a referendum on status in Puerto Rico for the first time since the United States flag was raised in 1898. The enabling of the people of Puerto Rico to exercise self-determination is one of the most important actions of the 101st Congress. It will be as monumental an event as any act of self-determination which has occurred in the past 2 years in Eastern Europe. However, this act of self-determination will be on this side of the Atlantic and will involve fellow U.S. citizens. Therefore, our enthusiasm and support for the expression of the will of the people of Puerto Rico should be strong and broad. The enactment of the Puerto Rico Self-Determination Act will allow the people to vote and will demonstrate our active commitment to democratic principles within our society.

The Committee on Interior and Insular Affairs has been fortunate to have been assisted by a capable cadre of staff, Rick Agnew, Chris Kennedy, Cherie Girard, and Cathy Wilson all assisted Republican members in the conduct of hearings either in Puerto Rico or in New York. Special thanks to Roy Jones and Jeff Farrow for their work on the majority side.

I believe it is appropriate to acknowledge the contributions of the Republican adviser on Insular and International Affairs, Mr. T.E. Manase Mansur, to the development of Puerto Rico status legislation. For over 5 years, Mr. Mansur has devoted immeasurable time to the problems confronting Puerto Rico and recommending various solutions. He has conducted extensive research both in Puerto Rico and Washington to determine what Congress should do to resolve the many challenges facing the people of Puerto Rico. His advice has been sound and most helpful in providing a basis for legislative action.

Last week, I received a letter from President Bush urging the Congress to act quickly on legislation providing a referendum on Puerto Rico's political status. The President's words reflect his genuine and stalwart support of the right of the people of Puerto Rico to choose their preferred relationship with the United States:

THE WHITE HOUSE,
Washington, October 5, 1990.

DEAR BOB: I applaud everything you have done to give the people of Puerto Rico the chance to declare what they want their political future to be. Your subcommittee performed truly historic labor, and now your bill is about to come to the House floor.

As you know from my first address to Congress, this issue is important to me, and not just because of my long-standing interest in Puerto Rico. As President in a time of democratic growth and vibrancy throughout the world, I strongly believe it is past time that we guarantee the residents of the Island a voice in resolving the political status of Puerto Rico. American territory for 92 years. We owe this to them, and we owe it to a world that watches to see whether the United States of America believes as much in the consent of the governed now as it did in 1776.

I would urge the entire Congress to act affirmatively and rapidly on whatever responsible measure comes before them to call for a referendum on Puerto Rico's political status. And I stand ready to sign such legislation wien it reaches my desk.

Sincerely,

GEORGE BUSH.

I urge my colleagues to support legislation providing the 3.6 million U.S. citizens of Puerto Rico with the opportunity to decide their future relationship with the United States. The enactment of such measure will be a testament to the democratic principles upon which this Nation was founded. "We the People," including the U.S. citizens of Puerto Rico, have a right to participate in the governance of the country in which they reside.

□ 1430

Mr. DE LUGO. Mr. Speaker, it is my great pleasure to yield 5 minutes to the Resident Commissioner of Puerto Rico, Mr. FUSTER, the distinguished gentleman who has played such a key role in shaping this package.

(Mr. FUSTER asked and was given permission to revise and extend his remarks.)

Mr. FUSTER. Mr. Speaker, today you are being asked to vote on a historic piece of legislation. The bill you are about to consider, summons my constituents to a further exercise of their most fundamental right as a people—their right to self-determination. It calls upon them to ponder and declare what kind of ties they ultimately want to have with the United States. It sets in motion a process, whose final results no one can surely predict, except to say, that it will deeply affect fundamental aspects of life of my constituents, and in time transform the relationship between the United States and Puerto Rico.

During the markup of this bill, in both the Insular Affairs Subcommittee and the full Interior Committee, I pointed out that it had serious shortcomings. Its terms certainly fall short of what it purports to be. The options through which the people of Puerto Rico are asked to decide their collective future, are not defined as broadly as their advocates wanted them defined; these options are not presented to the people as prominently as they could have been; the need to preserve and protect the Spanish language and Puerto Rican culture under the statehood option, has not been addressed at all; the commitment of Congress to honor the results of the referendum is not as compelling as it should be; and the whole nation of Puerto Rico is not decidedly enfranchised for this referendum. It is clearly an imperfect bill, and it is so, not only because traditional paternalistic and conservative attitudes about insular self-determination still prevail in some circles of the Washington power structure, but also because H.R. 4765 is the result of an intense and complex process of negotiations that have tried to reconcile and accommodate dramatically different notions on how self-determination for Puerto Rico should be structured. The White House and part of the Republican leadership in this body would like Puerto Rico to become a State of the Union and they have marshalled their strong views about how the self-determination process should develop. The government of Puerto Rico and the main party in the island, prefer a new Commonwealth relationship, and we have insisted on our own vision of self-determination. The leadership in the House is reportedly neutral as to the three choices to be presented to the people of Puerto Rico, but they have pressed their ideas about self-determination, ideas that do not fully coincide with the ones I have already alluded to. And then we have the statehood and independence parties of Puerto Rico, whose own conflicting views have also been strongly asserted in the process. Out of these very disparate perspectives a difficult compromise has been contrived, and the result unavoidably, is a very imperfect bill.

These realities notwithstanding, Mr. Speaker, I do support this bill and I do ask my colleagues in the House to approve it. Imperfect as it is, the bill has the potential to open up a path, that in time, will bring to an indisputable end the United States' imputed colonialistic rule of Puerto Rico. It has the potential to put to rest the seemingly endless, agonizing and debilitating political debate that has consumed so much of the peace of mind and of the creative energies of my constituents for almost a century now.

H.R. 4765 will allow the residents of Puerto Rico to express their choice among three options, as they have been defined by Congress in the report of the bill. These definitions appearing in the report are an essential part of the Congressional plan for the referendum. They encompass precisely the matters to be presented to my constituents for them to vote on. They were the central object of the long and complex deliberations and negotiations that led to the approval of this bill at the subcommittee and committee levels. They are meant to appear on the ballots so that the people of Puerto Rico can make the free and informed choice without which the referendum would not be legitimate. So through this process, Congress does offer Puerto Ricans a true choice among three clearly defined alternatives. This bill also commits Congress to a good faith effort to enact the broad principles of the winning option into law. Congress is duty bound to seek to incorporate all the essential elements of the definition of the winning option into the implementing legislation. In these new times, when the right to self-determination prevails as never before throughout the world, the history, content and intent of the bill permits us to be fairly confident that Congress and the leaders of a nation which was founded upon the principles of self-determination and government by consent will honor the results of the referendum; that the will of the people of Puerto Rico, as expressed in the referendum will be respected; that legislation will be finally enacted that faithfully incorporates the principles of the winning option, as they appeared in the ballots. Because I believe this to be true, I support this bill. Because I believe you share these views, I ask that you approve it.

Mr. Speaker, 92 years ago, the commander of the American Army that landed in Puerto Rico to occupy the island told the people there that the military forces led by him had come:

> • • • bearing the banner of freedom • • • They bring you the fostering arm of a nation of free people whose greatest power is in justice and humanity to all those living within its fold • • •

After almost 100 years of tears and toil, of strife and struggle, of persevering in our quest for self-determination, even in the face of great frustrations, the promise of General Miles seems close to being decidedly fulfilled even if only through the means of an imperfect bill. Let us accept it, because it is the only one we have been able to agree upon through a fragile consensus between the leadership of Puerto Rico's political parties, Congress, and the White House; let us accept it because it will spark the people of Puerto Rico into a new liberating experience, and their resolute will, once it is formed, shall eventually prevail.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON], a member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, as the ranking Republican on the Committee on Rules' subcommittee that has dual jurisdiction on this legislation, I am pleased to join with my friend, the gentleman from Massachusetts [Mr. MOAKLEY], the gentleman from the Virgin Islands [Mr. DE LUGO] and other Members, including the gentleman from California [Mr. LAGOMARSINO] in urging support for this legislation.

Mr. Speaker, H.R. 4765 represents the next logical step in the ongoing development of the relationship be-

tween the United States and the Commonwealth of Puerto Rico.

H.R. 4765 will provide an important opportunity for the citizens of Puerto Rico to decide the future political status of their island. I am convinced that the continued economic development of Puerto Rico, including the maintenance of a favorable climate for private investment, is critically dependent on a clarification of the island's political status.

But there is something which is even more important at stake here: Namely, the right of Puerto Rico's people—who, let Members not forget, are American citizens—to determine their own future. This bill will permit them to do that. I personally have no preference among the three alternatives which will be listed on the ballot. So long as the process is fair, and each of the alternatives competes on a level playing field, Congress will be satisfied with the results. H.R. 4765 will, I believe, provide that free, fair, level playing field.

American foreign policy supports self-determination for all countries, and human rights for all people. In recent years, the foreign policy backed by the American people has resulted in democracy and self-determination spreading throughout all of Europe and throughout the world.

Mr. Speaker, freedom is spreading throughout the world, and that is the reason why we and our American troops are in Saudi Arabia promoting self-determination for all people.

The right of the people of Puerto Rico to exercise their free choice of self-determination must be respected. And I look forward to working with the Members here on the necessary implementing legislation which will follow whatever the referendum brings out.

□ 1440

Mr. DE LUGO. Mr. Speaker, it is my great pleasure to yield 2 minutes to my friend, the gentleman from New York [Mr. RANGEL], who has represented his constituents so aggressively and well in this matter.

(Mr. RANGEL asked and was given permission to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, first let me thank the gentleman on behalf of the citizens of Puerto Rico, and more particularly the citizens in New York and in my congressional district for the historic event that is taking place today and the expertise with which the gentleman from California [Mr. LAGOMARSINO] and the chairman of the committee, the gentleman from the Virgin Islands [Mr. DE LUGO] were able to steer this piece of legislation through the controversial waters of the questions of the politics of Puerto Rico as it relates to three parties that certainly have different views, the politics of the White House and, yes, at times the politics of the city of New York, to bring people together who have different views to make certain that even though they are not in complete accord, that they support this piece of legislation.

The question of who should vote and can vote, expanded franchises, very controversial issues, but certainly everyone believes that this committee has done an outstanding job in making certain that a piece of legislation is passible and acceptable to both parties and the Senate.

I am really pleased that this issue is going to be resolved once and for all. The question of the rights of Puerto Ricans was never in doubt when there were times for us to call on them to serve our country, in times of crisis and times of combat; but let the question come up as to economic development and entitlements and assitance, then some of the Members want to know who is the Ambassador to Puerto Rico, what is the exchange rate in Puerto Rico, and just what is the politics of Puerto Rico.

I think that we, too, will never be embarrassed again by questions being raised in the United Nations about our dedicated citizens there, that the question of what their status is once and for all will be decided by the people, our citizens, in Puerto Rico.

So often when this controversial question has been raised to us, we have always said let the people in Puerto Rico decide, as though this question would never, never come up.

Well, Mr. Speaker, my colleagues and my friends, the question is here and I think the House should be honored that we have been a partner in playing a role to make certain this question is finally resolved.

Mr. LAGOMARSINO. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. GREEN], who has been very helpful in the development of this legislation.

Mr. GREEN. Mr. Speaker, I thank the gentleman from California for yielding this time to me.

Mr. Speaker, I rise in strong support of H.R. 4765, the Puerto Rico Self-Determination Act, and commend the gentleman from California and the gentleman from the Virgin Islands for bringing it to us.

I have long advocated legislation to address the issue of self-determination for Puerto Rico. I have been close to the Puerto Rican situation for much of my career in public service. When I was Housing and Urban Development Regional Adminstrator from 1970 to 1977, I worked closely with successive Governors of Puerto Rico and many of the mayors there.

Ever since I was elected to Congress, I have represented a significant number of Puerto Rican Americans.

Although I support this legislation, like the gentleman from Puerto Rico I might have written it somewhat differently. For one thing, many of my constituents are concerned that there is some ambiguity as to whether or not they will be permitted to participate in the plebiscite process. Like many other Americans, those of Puerto Rican origin are highly mobile. Many who live in New York and elsewhere on the mainland expect—or at least want to keep open—the option to return to Puerto Rico. Many have close relatives in Puerto Rico or have economic ties of one sort or another to Puerto Rico.

The plebiscite legislation and the outcome of the plebiscite could affect them in many ways, such as taxation, limitations on immigration, difficult choices as to citizenship, and the like, depending on the outcome of the referendum and whether they remain on the mainland or return to Puerto Rico.

The Interior Committee, faced with a difficult problem, in essence created an ad hoc political mechanism to be exercised in Puerto Rico to try to deal with this issue. I understand the problems the committee faced, and I respect the compromise that it struck.

Similarly, on the question of implementation of the outcome of the plebiscite, I should have preferred to see the legislation provide for self-execution. That however, would have required spelling out in this legislation in great detail what the consequences of each of the three choices would be, and, frankly, I think the distinguished chairman and ranking minority member reached the right conclusion, that it was simply not going to be possible to do that before this session of the Congress reached its end, whenever that is going to be. At the very least, in view of the important tax issues involved, it would certainly have required consideration by the Ways and Means Committee; and we are all aware that the chairman and the ranking minority member of the Ways and Means Committee have been deeply involved on other issues, notably the budget summit, and there is certainly not much opportunity for the Ways and Means Committee to consider this issue in the days that lie ahead.

I think the Interior Committee and the Rules Committee have crafted an alternative which does offer significant assurance to the people of Puerto Rico that their wishes will be accepted. That is the expedited procedure that the Rules Committee has agreed to, if there is a majority for any one of the three choices in the plebiscite.

I think we can safely say today to the people of Puerto Rico that that expedited procedure will mean that their wishes on this matter will be respected.

I can think of nothing more disastrous than to put the people of Puerto Rico through this process if the Congress is not prepared to abide by the outcome. It is going to be a very heated and emotional process in Puerto Rico, and if we put them through that and then do not respect their choices, I see that as an absolute disaster, not only for the people of

Puerto Rico, but also for the United States in the conduct of its international affairs.

So I think we all ought to understand as we vote on this legislation today that, while it may not be self-executing, nonetheless we are making a real commitment and one that we must live up to when the people of Puerto Rico express their choice.

In conclusion, Mr. Speaker, I think that the subcommittee and the full committee and the Rules Committee have done an excellent job of dealing with a difficult piece of legislation. I think the fact that no one is speaking against it today when it involves such emotional issues proves what a fine job they have done. I commend them on it, and I urge all my colleagues to vote for the bill.

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. HORTON].

(Mr. HORTON asked and was given permission to revise and extend his remarks.]

Mr. HORTON. Mr. Speaker, I rise in support of H.R. 4765.

As chairman of the New York State congressional delegation, I would like to offer my strong support of H.R. 4765, the Puerto Rican Self-Determination Act of 1990.

As you will recall, during last year's State of the Union Address President Bush urged the Congress to pass legislation allowing for Puerto Rican self-determination. As I sat on the House floor during that speech I was greatly pleased by the President's remarks and pledged to assist with passage of this measure in any way possible.

Since 1952, Puerto Rico has been under the status of "commonwealth in free association." To this day, Puerto Ricans have been denied the ability to vote in Presidential elections. Their Delegate in Congress is permitted to vote in committee, but Puerto Ricans are not represented on the floor of the House of Representatives. As many of my colleagues will attest, this is an important aspect of the legislative process.

H.R. 4765 calls for expedited procedures whereby the Congress can consider legislation to implement the decision made in the Puerto Rican referendum. I applaud this effort to speed up the referendum process and at last resolve the status of Puerto Rico. I call upon the House and Senate conferees to quickly work out differences between their respective versions of the Puerto Rican Self-Determination Act of 1990 and allow the President to sign the legislation into law. Mr. Speaker, the citizens of Puerto Rico have waited long enough for the opportunity to decide their fate, let us not make them wait any longer.

Mr. DE LUGO. Mr. Speaker, I yield such sime as he may consume to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, this bill is about self-determination for people who have been citizens of this country since 1917.

The 14th amendment:

The right of citizens of the United States to vote shall not be de: ed or abridged on account of race, color, or previous condition of servitude.

Today, in this country we still have American citizens whose right to vote must be approved by this body.

It is quite interesting that in 1916 Woodrow Wilson, stated that "Every people has a right to choose the sovereignty under which they shall live".

The people of Puerto Rico, through the referendum, simply want that opportunity to choose their own destiny.

President Wilson stated so eloquently before this body in February 1918 that "Self-determination is not a mere phrase. It is an imperative principle of action, which statesmen will henceforth ignore at their peril."

Therefore, I urge my colleagues to take action and support the citizens of Puerto Rico in their quest to determine their destiny; vote for H.R. 4765.

Mr. DE LUGO. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. KILDEE].

(Mr. KILDEE asked and was given permission to revise and extend his remarks.)

Mr. KILDEE. Mr. Speaker, I rise in strong support of the Puerto Rican Self-determination act. I want to commend the chairman of the subcommittee, Mr. DE LUGO, for his commitment to bringing this important legislation to the floor.

Mr. Speaker, for 10 years now, I have been a member of the House Committee on Interior and Insular Affairs. Throughout my tenure on the committee, I have always been an unwavering supporter of the Puerto Rican people, and I have always supported the right of self-determination of the Puerto Rican People.

Mr. Speaker, H.R. 4765 is an important piece of legislation for the people of Puerto Rico and the United States. For several years now, the status of Puerto Rico has consumed the commonwealth and its 3.6 million inhabitants. While there are strong differences of opinion on what the outcome of the referendum should be, one thing is clear—all sides agree that the referendum should take place.

Mr. Speaker, I believe that the U.S. Congress should abide by the wishes of the Puerto Rican people and pass this important piece of legislation. I urge my colleagues to support this bill.

Mr. DE LUGO. Mr. Speaker, it is a pleasure to yield 2 minutes to the other gentleman from New York [Mr. SERRANO] who played a key role in molding this legislation. He is a new Member of this House, and believe me, he had his baptism of fire and he has conducted himself with distinction.

Mr. LAGOMARSINO. Mr. Speaker, I yield an additional 2 minutes to the gentleman from New York [Mr. SERRANO].

The SPEAKER pro tempore. The gentleman from New York is recognized for a total of 4 minutes.

(Mr. SERRANO asked and was given permission to revise and extend his remarks.)

Mr. SERRANO. Mr. Speaker, I would like to thank the chairman and the ranking member for yielding me this time.

Mr. Speaker, this is a very historic moment for me as a new Member of Congress, as a Puerto Rican, and as an American citizen to bring to the floor today, as these gentlemen have done, this bill which has the unanimous support of all three parties in Puerto Rico. No one should take too lightly that statement, to have the three parties in Puerto Rico who very strongly oppose each other on their views of where the island should be heading in the future, to support this legislation is quite an accomplishment, and it is to the credit of the committee in this House that we have that kind of agreement here today.

As has been said, since 1898 Puerto Rico has been a part of the United States, and during that time the Puerto Rican people, in my opinion, have waited patiently for an opportunity to fully express themselves as to this issue.

□ 1450

In the past there have been a couple of occasions when that expression has been put forth. But in the opinion of many, and certainly in my opinion, that expression was never formulated in the way it is formulated in H.R. 4765.

As an American citizen and as a Member of this body, this legislation is of special interest to me because I realize the importance it places on how the world looks at us.

After all, we were involved in Nicargua, for better or worse; we were involved in Panama, for better or worse; we told the Soviet Union how to behave; we were part of bringing down the Berlin Wall through our foreign policy and our statements overseas. Yet, for 92 years we have had a relationship which at best is not equal. Even the governing party, which supports the present status, supports enhancing that present status. Therefore, as it is it cannot remain.

This legislation would then allow us certainly on the international level to say to the rest of the world "what we preach is what we practice, what we have said to you to do we are doing ourselves."

And so it is important today that we put forth this bill. It is important that we lobby in every way we can with the Senate to make sure that they approve legislation in the remaining days and reamining hours of this legislative session so that the people in Puerto Rico will have an opportunity to determine their future.

Let me cover another point: In this bill there is a part that I have been working on very strongly with Congressman GREEN of New York and Congressman RANGEL and other Members, which would allow the dialog committee in Puerto Rico and the legislature in Puerto Rico, through its approval, to allow people like myself, those who were born on the island but are no longer residing on the island,

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the opportunity to vote in this plebiscite.

This is important because it is the strong belief of many, including myself, that we came to this country which we love, we came to this country which we honor, we came to this country which we participate in, but we came through Federal policies and situations which forced a lot of people out of Puerto Rico in the 1940's, 1950's, and early 1960's.

Therefore, it is our belief that when this final decision is made, those of us who are indeed children of the Commonwealth, children of the territory, if you will, should participate fully.

But with or without participation, the plebiscite should go forth. The plebiscite should take place next year. The Senate and this House should make sure that it is signed into law this year, and then we can truly stand up as American citizens, we can truly stand up as a body with pride and say that we have allowed all of our citizens throughout the land the self-determination right, the right to establish what it is that they want for their future.

Mr. Speaker, I thank the chairman of the committees again for this opportunity to speak.

I can tell you that today will go down in my life as an extremely important day because on March 20 I never realized that only 6 months after coming to this body that my homeland would be discussed on this floor in a way which will allow all of my brothers and sisters on the island and, hopefully, myself the right to the self-determination and to allow the country that I reside in, the country where my children have been born, the right to say to the world we are indeed a democracy and we allow all our children to express themselves.

Mr. LAGOMARSINO. Mr. Speaker, I reserve the balance of my time.

Mr. DE LUGO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. TOWNS].

(Mr. TOWNS asked and was given permission to revise and extend his remarks.)

Mr. TOWNS. Mr. Speaker, I rise in support of the bill.

Mr. Speaker, I rise today to encourage my colleagues to give their immediate approval to H.R. 4765, the legislation authorizing a 1991 plebescite on the future status of the island of Puerto Rico. Puerto Ricans, both on the island and here in the 50 States, have waited months while this legislation moved through the committee and languished during negotiations over the bill's language. Any delay in House passage of this bill means that we delay the right of millions of Puerto Ricans to decide their future and the fate of Puerto Rico.

Congressional approval is long overdue. My constituents do not understand why, after years of discussion, the referendum on Puerto Rico's status might be pushed back, perhaps into 1992, because of congressional haggling. Many Puerto Ricans have waited years for the opportunity to reaffirm their familial, cultural, and economic ties with the island, and to be heard on the issue of the island's future status.

After long negotiations, the Committee on Interior and Insular Affairs passed language that ensures that all Puerto Ricans, whether they reside on the island or within the 50 States, will also have a voice in Puerto Rico's future. Among my own constituents, I can attest to the strong desire of mainland Puerto Ricans to help decide the fate of the island. This legislation affords them the opportunity they deserve to acknowledge their heritage and to shape the future of their native Puerto Rico.

It is crucial that Congress enact referendum legislation before the close of this session, so that Puerto Rican electoral officials have adequate time to prepare for the plebescite, which is scheduled to be held in September 1991. The longer we delay in enabling Puerto Rico to determine, once and for all, its future status, the longer Puerto Ricans must wait to address the serious social and economic issues affecting the island of Puerto Rico.

Mr. DE LUGO. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER], one of the senior members of the Committee on Interior and Insular Affairs, a gentleman whose support was critical in this matter. I am glad to count him as both a friend and one who supported this bill.

(Mr. MILLER of California asked and was given permission to revise and address his remarks.)

Mr. MILLER of California. Mr. Speaker, I rise in support of H.R. 4765, a bill to enable the people of Puerto Rico to conduct a plebiscite on their future political status. The bill also sets out a course of action for the Congress to develop and consider legislation implementing the decisions of the people of Puerto Rico.

This is truly an historic moment in the House of Representatives and for the people of Puerto Rico. It is my hope that the Senate will act quickly to approve this legislation so that the election—which so many people in Puerto Rico have wanted for so many years—will actually occur next year.

People around the world have been expressing their desire and their right to determine their own form of government. The very least the Congress can do is affirm the right of the people of Puerto Rico to determine their own political future—and to make a commitment to take steps to make that decision a reality.

I don't know which option the Puerto Rico will choose—statehood, commonwealth, or independence. I have no strong bias about which option Puerto Rice should choose. That is a decision for them to make.

I do have strong feelings, however, that the Puerto Rican people should have the option of making that choice. Puerto Rico should have the right of self-determination.

This bill is a straightforward bill. It is a bill which does not favor one outcome of the election over another. It establishes a process for the election and for subsequent congressional action. It is a bill the three political parties in Puerto Rico will accept, and it is a bill which I urge you to support.

I would like to commend Chairman RON DE LUGO for his leadership and hard work in developing this bill. It was a long and difficult process, but Chairman DE LUGO persevered. Lengthy hearings were held here, in Puerto Rico, and in New York City. Hundreds of witnesses were heard. All views were carefully weighed and considered. And, in the end, this bill reflects the hard work of the chairman. They deserve our thanks for taking on this difficult issue and for sending us a bill we should be proud to endorse and support.

Mr. DE LUGO. Mr. Speaker, I yield 1 minute to my good friend who presided over one of the key hearings of the subcommittee and has been a supporter of this legislation from day one, the gentleman from the North Carolina [Mr. CLARKE].

Mr. CLARKE. Mr. Speaker, I want to congratulate RON DE LUGO, chairman of the Insular and International Affairs Subcommittee, BOB LAGOMARSINO, the ranking minority member, and Mr. FUSTER, the Resident Commissioner for their hard and effective work on this bill.

H.R. 4765 gives the Puerto Rican people a chance to decide their future. Their feelings run very deep on this matter. When we were in Ponce for a hearing this spring 150,000 people marched beside the building we were in.

The bill schedules the referendum for September 1991. If one of the three status options receives a majority, Congress must vote on a bill to implement that status. If Congress approves it, the bill will be effective provided the Puerto Rican people ratify it within 60 days.

The decision in the referendum won't be easy. Most industries in Puerto Rico are exempt from Federal income tax. Statehood would eventually deprive them of this benefit. On the other hand under present Commonwealth status thousands of Puerto Ricans face low caps on AFDC and Medicaid, have no SSI and get less nutrition assistance than other Americans who receive food stamps. Puerto Ricans are simply not full U.S. citizens.

H.R. 4765 will give them a chance to decide. It deserves our strong support.

Mr. DE LUGO. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. LEHMAN], a member of the full committee, who traveled with us to Puerto Rico and participated in three historic hearings that we had.

(Mr. LEHMAN of California asked and was given permission to revise and extend his remarks.)

Mr. LEHMAN of California. Mr. Speaker, I commend the gentleman from the U.S. Virgin Islands [Mr. DE

LUGO] and congratulate Mr. FUSTER and recognize the hard work and effort by the gentleman from California [Mr. LAGOMARSINO] to make this moment a reality.

Mr. Speaker, if I learned anything during my stay in Puerto Rico, it is that the status issue absolutely dominates life on the island and the Puerto Ricans are eminently capable of making an intelligent and informed and rational decision.

Mr. Speaker, it is time we once and for all resolve Puerto Rico's permanent status.

This legislation would allow Puerto Ricans to choose whether Puerto Rico becomes a State, a new Commonwealth, or an independent nation.

Each of those options has been supported by a major political party in Puerto Rico. In fact, the island's relationship with this country has dominated elections in Puerto Rico for many years.

Whatever option is chosen, it is going to have serious ramifications on Puerto Rico's economy. The outcome is hard to predict with confidence. But the provisions of this bill, carefully crafted, will provide for an orderly transition to whatever status is chosen.

I certainly agree with the comments of the gentleman from New York [Mr. GREEN] a few moments ago that we should accept the choice made in Puerto Rico. The worst thing we can do is dangle the carrot of statehood or independence or of commonwealth status before the people there and then yank it back at the last moment when it might become a reality.

This is a good bill, well crafted, deserving of the support of everyone in this House

Mr. DE LUGO. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. LEWIS], a valued member of the subcommittee and of the full committee, who actively participated in this effort was a great help.

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Mr. LEWIS of Georgia. Mr. Speaker, I rise to urge my colleagues to support H.R. 4765, the Puerto Rico Self-Determination Act.

This measure has received wide bipartisan support from members of the Interior Committee. It has been endorsed by Speaker FOLEY and minority Leader MICHEL.

But most of all, it deserved the support of this body because it is the right thing to do.

We have seen the winds of change blowing over Eastern Europe. We have heard the voices of self-determination even in South Africa. Surely, we can support our brothers and sisters in Puerto Rico and ask only that they have an opportunity to vote on their future.

The days of colonial powers have ended. The future lies in equal partnerships, equal opportunity, and equal justice.

Three million three hundred thousand natural born citizens of the United States are being denied the basic right of self-determination.

I urge my colleagues to support this important measure.

In closing, I want to thank my good friends, Congressman FUSTER, Chairman LAGOMARSINO for their tireless efforts on behalf of the people of Puerto Rico.

Mr. DE LUGO. Mr. Speaker, I yield 1 minute to another gentleman from Georgia [Mr. DARDEN]. We have a lot of help from Georgia on our committee, and this gentleman from Georgia is a member of my subcommittee by special request, he has played a very crucial role in this legislation.

Mr. DARDEN. Mr. Speaker, as a member of the Subcommittee on Insular and International Affairs, I want to commend our chairman, the gentleman from the Virgin Islands [Mr. DE LUGO], for his strong leadership in bringing this matter to the floor. I also want to say quite frankly that, had it not been for the work and dedication of the gentleman from Puerto Rico [Mr. FUSTER], I would not be here today in support of this legislation. He is the one who won me over to support his point of view because, quite frankly, I think statehood is a bad idea, but this is not a statehood bill.

Personally, Mr. Speaker, I look forward to the day in 1996 when the Olympics come to Atlanta. If there is statehood in Puerto Rico, there will not be a separate team, so Puerto Rico loses its identity.

Second, under section 936 of the Internal Revenue Code Puerto Rico has a good deal, because of very liberal tax incentives, designed to attract industry to Puerto Rico.

The people of Puerto Rico, by the way, do not have to pay tax to the U.S. Government, even though they pay comparable tax rates to the Commonwealth. I might add that, if they think that Hurricane Hugo was rough and devastating, wait until they have the IRS on their back if they become a State.

Finally I would like to state, Mr. Speaker, in the case of statehood that it was determined about 125 years ago that statehood is forever, so I say to the people of Puerto Rico, "If you become a State, you'll never get out. If you don't believe it, ask the people of Georgia." We certainly do not want to leave, but we lived it once and the results were disasterous.

Mr. Speaker, I am honored to be able to participate in this historic vote.

Today we have crafted legislation which speaks to the issue of self-determination by providing for a clear choice for Puerto Ricans among statehood, independence, and commonwealth status. The bill enunciates clear distinctions between the parties, and provides for a complete understanding of the consequences of this decision for Puerto Ricans now and in the future. Steps were taken to assure Puerto Ricans that this vote will be more than symbolic; this plebiscite will result in congressional action. However, for those unwilling to commit to a future status without further consideration, the bill provides for a two-tiered process. Should statehood prevail, we retain the right to further inquiry.

Most importantly, the bill we consider today is not weighted toward one result; it is not a statehood bill. In fact, if I were choosing today, I would not support statehood. Puerto Rico has made great strides on the basis of their commonwealth status. The tax incentives provided under section 936 of the Internal Revenue Code to large corporations for investing in Puerto Rico would not be possible if Puerto Rico were but 1 state of 51. As a commonwealth, Puerto Rico can continue to tailor economic policies to their unqiue needs.

Additionally, the costs of statehood could become prohibitive for our Government. The average per capita annual income in Puerto Rico is about half that of Mississippi, our poorest State measured in these terms. Accordingly, statehood for Puerto Rico would mean access to all Federal assistance programs. Because these programs are administered on the basis of population, Puerto Rico would receive a far larger share of the Federal expenditures than would other States.

I have visited Puerto Rico, and was impressed by the Commonwealth's economic progress and touched by the people's desire to define their relationship with the mainland. Many intangibles will be instrumental in the final decision reached through this process. Cultural pride, Hispanic heritage, and official language requirements will all be considered.

Again, as an example of such an immeasurable yet influential concern, Atlanta has been selected as the site for the 1996 Summer Olympics. Puerto Rico has fielded their own Olympic team, and this effort has been the focus of great pride among Puerto Ricans. While we in Georgia welcome all who participate in the games, under statehood, Puerto Rico's team will be assimilated into that of the United States. Similarly, Puerto Rican culture would be sublimated to that of the United States.

In any event, the bill before us is important for the assurance of Puerto Rican rights, and for a final determination of our unique and mutually beneficial relationship. It is for the Puerto Ricans themselves to choose among statehood, independence, and commonwealth. I support the chairman and Mr. FUSTER in their efforts to provide for a timely, fair and meaningful plebiscite, and I urge my colleagues to join us in extending this opportunity.

Mr. DE LUGO. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON], who chaired a very important hearing regarding this bill in New York at the chairman's request.

(Mr. RICHARDSON asked and was given permission to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, the Island of Puerto Rico stands ready to hold a plebiscite on the issue of its political status. This referendum will allow Puerto Ricans to engage in an activity which is at the core of American values—self-determination.

There is no issue of greater importance to the people of Puerto Rico. The committee hearings and consideration of this legislation was followed by every television station and newspaper on the island.

When members of the Interior Committee traveled to the island for field hearings they were met by tens of thousands of enthusiastic supporters of the three status-based political parties.

This enthusiasm was matched at the daylong field hearing I chaired in New York City this past June.

This legislation responds to a proposal from the presidents of Puerto Rico's three status-based parties.

The negotiations on several contentious issues have been hard fought but have yielded a strong bill.

The issue of whether to include franchise to Puerto Ricans not residing on the island was particularly difficult. The compromise reached will allow the parties and legislature of Puerto Rico to decide how to include their mainland brethren. Other compromises included the date of the plebiscite and definition of status.

Congress should not be the obstacle to the plebiscite, nor should Congress back any particular option. All three options are viable and meritorious. Congress should allow the Puerto Rican people to decide for themselves.

Diremos a la gente de Puerto Rico, su destino esta en sus manos y en sus votos. El Congresso debe honrar su decision. (Let us say to the people of Puerto Rico, your destiny is in your hands and in your votes. Congress intends to honor your decision.)

La gente de Puerto Rico an mostrado pasiencia, su liderasco flexibilidad y empeno. Deremos nuestro apoyo a este proceso critico y historico. (The people of Puerto Rico have demonstrated patience, its leadership flexibility and hard work. Let us give our support to this critical and historic process.)

Mr. LAGOMARSINO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I think it is very appropriate that you are in the chair at this historic moment, and I want to commend you, not only for your help in moving this legislation along, but your courage in making some very difficult compromises that needed to be made to move this bill forward. You, and the gentleman from New York [Mr. RANGEL] and the gentleman from New York [Mr. GREEN] are all in that category, and I cannot express how strongly I feel about the contributions of the gentleman from the Virgin Islands [Mr. DE LUGO].

As my colleagues know, some who are watching this debate this afternoon might say, "Ho hum, big deal," because it does not look like it is very controversial. There in no one rising that this is a bad deal and that we should not vote for this.

However, Mr. Speaker, I can tell my colleagues that it took a lot of time, and a lot of work, and a lot of sweat and toil to get to this point, and the gentleman from the Virgin Islands [Mr. DE LUGO] not only has worked very hard, but he did it under some very difficult circumstances. Twice he was in the hospital during critical periods in the development of this legislation. That did not stop him. He continued to move forward.

Mr. Speaker, this bill is not about statehood, and it is not about commonwealth, and it is not about independence. What it is about is self-determination for 3.6 million American citizens living on the Island of Puerto Rico.

I urge my colleagues to adopt it, and I yield back the balance of my time.

Mr. DE LUGO. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I will not use the entire time remaining because we have worked so long, and we want to get to this moment. However, Mr. Speaker, I want to thank the gentleman from California [Mr. LAGOMARSINO] for his graciousness. I will be submitting a statement from the great gentleman from Arizona [Mr. UDALL], the chairman of the full Committee on Interior and Insular Affairs.

Mr. Speaker, the United States took Puerto Rico 92 years ago and with it responsibility for its status.

Our Nation has been committed to further self-determination for Puerto Rico ever since the current Commonwealth was established 38 years ago. However, until today we have failed to explain how such a decision can be made and put into effect.

This history has frustrated those who believe in commonwealth, convinced others that statehood is the answer, and strengthened the convictions of still others who want independence.

H.R. 4765 would establish the necessary process at a time when the process of self-determination is accelerating throughout the world.

This substitute is the product of compromises that balance conflicting interests and have made the broad support for this legislation possible. It proposes the strongest commitment possible and incorporates the most precise descriptions of the status options on which agreement can be reached. Any changes could cause a fragile consensus to break apart and prevent any bill on this issue from becoming law.

I thank Speaker FOLEY and the gentlemen from California and Puerto Rico respectively, BOB LAGOMARSINO and JAIME FUSTER, for their cooperation and I now urge the House to approve this historic bill.

I cannot say too much about what these gentlemen have done to make this legislation possible. History should record that the leadership, judgment, and dedication to the cause of resolving the status debate in Puerto Rico of these three men has been essential to the development of a bill that has a realistic chance of becoming law.

A number of other Members should also be recognized for their contributions to further self-determination for the people of Puerto Rico.

Outstanding contributions were made by the chairmen of the Committees on Interior and Insular Affairs and Rules, our colleagues MO UDALL and JOE MOAKLEY.

Important contributions were also made by other leaders on the other side of the aisle: the minority leader, BOB MICHEL; the ranking minority members of the Committees on Interior and Insular Affairs and Rules, DON YOUNG and JIMMY QUILLEN; and the ranking minority member of the Subcommittee on Rules of the House, GERRY SOLOMON.

I want to further note the help of members of the Subcommittee on Insular and International Affairs on this matter. The work of the gentleman from North Carolina, JAMIE CLARKE, is particularly noteworthy in this regard. The active involvement of the gentlemen from Georgia, BUDDY DARDEN and JOHN LEWIS; and the gentleman from American Samoa, ENI FALEOMAVAEGA, must also be mentioned. The cooperation of the gentlemen from Guam, BEN BLAZ, and from California, ELTON GALLEGLY, also cannot be overlooked.

I also must single out several members of the full Committee on Interior and Insular Affairs for their work on this legislation. They include the gentleman from California, GEORGE MILLER, and the gentleman from New Mexico, BILL RICHARDSON. The involvement of other members of the committee, including the gentleman from California, RICK LEHMAN, and the gentleman from Arizona, JAY RHODES, was also helpful.

Still other members of the Committee on Interior and Insular Affairs who should be mentioned are the gentleman from Massachusetts, ED MARKEY; the gentleman from Utah, WAYNE OWENS; the gentleman from Pennsylvania, PETER KOSTMAYER; the gentleman from Minnesota, BRUCE VENTO; the gentleman from Pennsylvania, AUSTIN MURPHY; and the gentleman from West Virginia, NICK RAHALL.

Among other Members of this House who should be mentioned are the gentleman from New York, STEVE SOLARZ; the gentleman from Missouri, TOM COLEMAN; the gentleman from Washington, JOHN MILLER; the gentleman from Arizona, JON KYL; the gentleman from Georgia, BEN JONES; and the gentleman from California, BOB DORNAN.

I have not yet recognized the substantial contributions to this legislation of three other distinguished Members of this House from New York and I want to thank them at this time for all that they have done. They are CHARLIE RANGEL, JOSE SERRANO, and BILL GREEN and they are the last of the Members who have helped make this legislation possible that I

will note although their contributions to it are certainly not the least in importance.

While this legislation would not be possible without the support and cooperation of my colleagues, there are many people who have worked day and night behind the scenes to make this bill a reality. Although it is not possible to name all those individuals who deserve recognition, I do want to acknowledge some of them.

In particular, I want to commend the staff of the Subcommittee on Insular and International Affairs who have dedicated themselves to this legislation in this Congress.

First and foremost, I wish to single out my subcommittee's able staff director, Jeff Farrow. His knowledge of the insular areas is, in my judgment, unmatched on this Hill or for that matter in our Government today. Jeff's tireless and total commitment to the success of this legislation has been indispensable.

And in concert with Jeff's efforts, Gail Mukaihata, and our newest staff member, Virginia Sablan, Daisy Minter and Pat Krause have demonstrated their dedication and commitment to making it possible for the people of Puerto Rico to end the divisive status debate and exercise self-determination through endless hours of work. Each and every one has done a superb job and deserves the thanks of all concerned here and in Puerto Rico.

While the work of these five individuals have been essential to the process, if we did not have the cooperation and similar dedication of the subcommittee's minority staff of Manase Mansur and another new staffer, Cherie Girard, we would not be here today considering this bill.

Both the majority and minority subcommittee staff have worked on a daily basis with the delegates of Puerto Rico's party presidents to the dialog committee on the status of Puerto Rico and other representatives of the parties. These patriotic individuals have represented and served their parties and the interests of the people of Puerto Rico well and have done so with keen intellect and admirable ability and with a sense of the greater good. They include dialog committee delegates Senator Fernando Martin Garcia of the Puerto Rican Independence Party, Benny Frankie Cerezo of the New Progressive Party, and Jose Berrocal of the Popular Democratic Party, as well as Manuel Rodriquez-Orellana, the alternate delegate of the Puerto Rican Independence Party and others who have assisted them.

All of these individuals have worked tirelessly with the presidents of the parties who have put aside personal priorities time and time again to reach agreement on this matter. History should record their patriotic dedication to Puerto Rican self-determination, as well as their forceful and effective advocacy of their own vision of Puerto Rico's future status. They are, again, former Senator Ruben Berrios Martinez of the Puerto Rican Independence Party, former Gov. Carlos Romero Barcelo of the New Progressive Party, and Gov. Rafael Hernandez Colon of the Popular Democratic Party. One other statesman in Puerto Rico deserves equal recognition with these gentleman. He is someone all of us involved with this legislation have come to respect and appreciate and someone who has dedicated his life to improving Puerto Rico's status: Former Gov. Luis A. Ferre.

I also want to thank both the majority and minority staff of the Committee on Interior and Insular Affairs for the support they have given the subcommittee that I am privileged to chair. It is because of them that we were able to have productive hearings not only in Washington, DC, but Puerto Rico and New York City. Their cooperation was also reflected in the 37 to 1 vote that we witnessed in full committee. In particular, I would like to thank Stanley Scoville, the staff director; Roy Jones, the associate staff director; Lee McElvain, general counsel; as well as Dan Beard, for their wise counsel. I would also like to thank Charlene Dougherty, Ken Burton, Marie Howard, Joan Jaseph, Linda Stevens, Miriam Waddell, Ed Hartzog, Tobey Peterson, Elizabeth McMillan and former staff member Richard McKee for their hard work.

From the minority side, I also received valuable advice from Richard Agnew, chief minority counsel; and Dan Kish, natural resources director; as well as tremendous work from Chris Kennedy, Cathy Wilson, and Deborah Callis.

As I have indicated, the involvement of the leadership of the House on this legislation has been crucial to its development. The Speaker has been well represented in this regard by press secretary, Jeff Biggs, and the minority leader by minority Sergeant at Arms, Walter Kennedy. Both have been key players in helping to put this legislation together and win agreement on it. Their advice and efforts are very much appreciated.

In addition, the Committee on Rules staff has proven to be invaluable in their constructive comments and willingness to move the bill in an expeditious manner. They helped draft it with my subcommittee staff and staff of the bipartisan leadership and our full committee. I want to thank Rules full committee staff director, Jack Dooling; Subcommittee on Rules of the House staff director, Matt Pinkus, in particular and also John Daniel and Mitchell Bennett.

In addition, there are a number of other congressional staff that have been most helpful, including my own able administrative assistant, Sheila Ross; my soon-to-be-missed press secretary, Jonathan Glass; Wade Ballou of the Legislative Counsel Office; deputy doorkeeper, Bob O'Malley; Matt James, the administrative assistant to Mo Udall; administrative assistant, Carmen Votaw, and Nelson Colberg of Jaime Fuster's staff; Emile Milne, Miriam Lopez, and Juanita Alago of Charlie Rangel's staff; Idalia Marty of Jose Serrano's staff; two of my former staffers, Bill Geddes and Wendy Cohen; and Bill Waters of John Kyl's staff.

I also want to thank some of the people in congressional and other governmental agencies who have been helpful. We have been ably assisted by the staff of both the Congressional Research Service and the General Accounting Office. A special thanks goes to John Killian and Dan Zafren for their advice to us. I also want to thank Thomas Durbin, Kenneth Thomas, David Brumbaugh, Bette Alberts, Clay Wellborn, Carolyn Merck, Vladimir Pregelj, Paige Whitaker, and Deanna Hammond of CRS; and Linda Morra, John Kamensky, Bob Crystal, Truman Hackett, Mary Reich, Bill Peterson of GAO, and Brian Le Pore for their work. Additionally, I want to thank Jorge del Tinal of the Bureau of the Census who was helpful in obtaining census figures.

Also, I must recognize Jack Russ, the Sergeant at Arms of the U.S. House of Representatives and the U.S. Capitol Police who coordinated the assistance of the Puerto Rico and New York City police department that helped to assure the success of our field hearings. In particular, I want to tip my hat to Inspector Jack Daniels, Capt. Steven Bahrns, Capt. Rickey Stevens, and the men and women who serve with them.

Last but not least, I want to thank the people of Puerto Rico. Without their enthusiasm, commitment, and patriotic spirit this whole referendum process would not be possible. They have demonstrated that they understand and appreciate what it means to live in a democratic society by their active participation in our congressional hearings, by making their views known through letters, resolutions, petitions and phone calls, and by demanding the best from their elected and political party officials. I salute the people of Puerto Rico and it is because of them that we all have been working so hard to make this referendum happen in 1991 and for Congress to act on their status aspirations in 1992.

Finally, I want to thank my wife Sheila for her indispensable moral support that means so much to all of us when we are handling particularly difficult legislation. Throughout this process she has always been there offering encouragement to me. She was there for the memorable three hearings in Puerto Rico, and she was there when we reported H.R. 4765 out of both the Interior Subcommittee and full committee. She was there for the Committee on Rules and she is here today in the House gallery to witness and share in this special moment that

means so much to the people of Puerto Rico and indeed to all of us.

I wish at this time to thank Speaker FOLEY and the gentleman from California [Mr. LAGOMARSINO]. I am one of the luckiest subcommittee chairmen in this Congress. Anyone who is a chairman and is lucky enough to have someone like the gentleman from California [Mr. LAGOMARSINO] to work with, a dedicated, great Member of this body and a man of great honor, well, that person is fortunate, and I am very fortunate. And if that person has, representing the district that is under consideration in the legislation a Representative such as the gentleman from Puerto Rico [Mr. FUSTER] serving on his committee, as I have, he is doubly fortunate, and, if a problem arises with the legislation, as many problems arose with this bill, and he has to work with a new young Member as tenacious and with the ability of the gentleman in the chair, the gentleman from New York [Mr. SERRANO], he is again fortunate.

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Mr. Speaker, there are many Members I would like to salute, and I thank them all for their help in this matter.

Mr. Speaker, I urge the Members to approve this historic measure.

Mr. BLAZ. Mr. Speaker, I rise in support of H.R. 4756, the Puerto Rico Self-Determination Act.

It is appropriate that we consider this legislation while celebrating Hispanic Heritage Month. I wish to remind my fellow Members of Congress that Guam, like Puerto Rico, shares in that heritage. While San Juan was serving for four centuries as a bastion in the Caribbean for Spain's West Indies trade, Guam was an important junction for the Manila galleons which plied the Pacific between Mexico and the Philippines. While the two colonies developed different ethnic mixes and languages on opposite sides of the world under the Spanish flag, we shared many of the same surnames, including mine, and cultural characteristics.

We also share the heritage of being prizes of war ceded to the United States by Spain in the 1898 treaty of Paris which brought to a close the Spanish-American war. As war booty, we have shared many of the same frustrations and indignations of being treated as inferior beings and second-class citizens by our fellow Americans throughout most of this century. During the first half of the century, we were told we were incapable of governing ourselves, largely because we look different and speak different languages than English, which made us less understood by our American masters.

Since the 1950's, when President Truman signed into law the first Organic Act for Guam, and Puerto Rico embarked on its experiment with commonwealth, we have succeeded separately in developing most of the political institutions which we need to govern ourselves. In both cases, we need further congressional action so that we can exercise self-government and develop into self-sufficient and equal partners with our fellow Americans.

It has been frustrating for us in the islands and for me in particular to watch as Americans welcomed with open arms immigrants from all over the world, integrating them into the economic and political systems of this Nation, while looking down on me and my people. It is equally frustrating to stand by while this Nation hails the fall of the Iron Curtain and rise of new democracies in Eastern Europe while my people and the people of Puerto Rico have had to wait for 92 years now without receiving equality and dignity within this political system.

These sister colonies have continued to petition Congress for a full measure of self-government and dignity. In Guam's case, we reached a consensus when 70 percent of our people voted in 1987 for commonwealth status. I fully expect to be here next year to reintroduce for the third time H.R. 98, the Guam commonwealth bill, which calls for a full measure of autonomy for our people to govern themselves as equals in the American political family.

In Puerto Rico's case, its political leaders have worked together to devise a system whereby its people can exercise a full measure of self-determination and arrive at a consensus on political status, whether it is enhanced commonwealth, statehood, independence, or the status quo. Gov. Rafael Hernandez Colon, who leads the party supporting enhanced commonwealth, and President George Bush, who supports statehood for the island, issued calls last year for a referendum in 1991 to settle the status question. The President asked Congress to provide legislation which would enable Puerto Ricans to exercise self-determination by guaranteeing the implementation of their choice.

As a member of the Subcommittee on Insular and International Affairs, I took part in the hearings here and in Puerto Rico which led to the drafting of H.R. 4765. I was marveled by the vigor and intelligence with which arguments for each of the status options were made. I also was impressed that advocates of the three status options are all good citizens who wish to do what they think is best for their people. They showed their willingness to work together toward this objective by working with the subcommittee through its chairman, RON DE LUGO, and ranking Republican, BOB LAGOMARSINO, on the legislation which you have before you.

Mr. Speaker, after 92 years of waiting, my brothers and sisters in Puerto Rico deserve the opportunity to choose their own destiny and to implement that choice. They have pulled themselves up by their bootstraps to develop a vibrant economic, social, and political system and survive adversity after adversity. It is now up to Congress to provide this opportunity to exercise their self-determination by enacting H.R. 4765. I implore you to live up to the democratic ideals of this Nation by enacting this bill now.

Mr. UDALL. Mr. Speaker, today, we bring before the House a most important and historic bill. This bill would provide the people of Puerto Rico that precious right to help determine the future of their island

To say that finding a solution to the issues separating the parties requires the wisdom of Solomon is an understatement in this instance. This process has required great patience, ultimate fairness, ingenuity, and at times the all-important sense of humor.

We believe that the product that we bring before the House today is the very best that we can produce. My sincere thanks go to Senator JOHNSTON, my counterpart in the Senate Energy Committee, for his great work in getting the self-determination issue for Puerto Ricans on the agenda of this Nation.

We have taken one of the original bills Senator JOHNSTON drafted, made our modifications to it, and hope that it will be able to pass muster in the other body. As we all know, history is unkind to those who miss opportunities such as this one before us today.

I would like to particularly commend the enormous amount of work done by subcommittee Chairman RON DE LUGO, who has shown great courage, patience, and leadership in bringing us to this point today. In addition, the ranking Republican on the subcommittee, Representative BOB LAGOMARSINO, deserves great credit for his fairness and perserverance in helping to bring about a bill which has the bipartisan support it enjoys in this Chamber. Also, the Resident Commissioner of Puerto Rico, Delegate JAIME FUSTER, has contributed immeasureably in bringing the bill before the House.

To my colleagues who are concerned about the potential impact of this bill on other matters, I will say that this issue will be back before us once the people of Puerto Rico have expressed themselves in a referendum.

I urge the support of the House for this truly historic bill.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I rise in support of H.R. 4765, enabling the people of Puerto Rico to exercise self-determination.

As you know, the 3.6 million U.S. citizens of Puerto Rico currently exercise local self-government, according to a constitution approved by the Congress. But the people of Puerto Rico deserve the chance to determine whether they want independence, statehood, or a commonwealth.

The time has come for a commitment by the Congress to respond to whatever decision they freely choose to make.

Last year, President Bush asked Congress to take the steps necessary to allow the people of Puerto Rico to determine their own political fate. The passage of H.R. 4765, the Puerto Rico Self-determination Act, will be the first step in a process that eventually will see such a determination.

Mr. Speaker, we have been intensely interested in the political changes occuring in Eastern Europe and the Soviet Union. With all of the dramatic, revolutionary change going on in the world, it would be easy to neglect desires of the people of Puerto Rico to shape their own future.

But if we neglect to listen to the voice of the United States citizens of Puerto Rico, we turn our back not only on the people of that island, but on the principles of choice and self-determination we so strongly advocate in Europe and throughout the world.

After many months of consideration, the House Committee on Interior and Insular Affairs reported H.R. 4765 by a vote of 37–1. The Committee on Rules has favorably reported the bill. Now it is our turn to move the process forward.

I can think of no better example we can give the world than to pass this bill, thereby showing that the principle of self-determination is at the heart not only of our foreign policy, but at the heart of America itself.

Mr. KENNEDY. Mr. Speaker, I rise today in support of H.R. 4765, the Puerto Rico Self-Determination Act of 1991. The bill would authorize appropriations for two referendums on the future political status of the island of Puerto Rico. It is a bill that is consistent with our firm resolve to uphold democratic ideals, and it is a measure that enjoys bipartisan support.

H.R. 4765 essentially eliminates any remaining doubts about the self-governing nature of the Commonwealth of Puerto Rico. The bill would first allow a referendum on Puerto Rican independence, statehood, or commonwealth status. It would then establish an expidited process in which Congress would consider legislation that would implement the political status chosen by the people of Puerto Rico. And finally, the bill would allow Puerto Ricans to ratify their political future through a second referendum.

The bill is an effective solution to Puerto Rican political debate. By providing the Commonwealth of Puerto Rico with the right to decide its own fate, H.R. 4765 pays due respect to the island's distinctive cultural character and identity, while also perserving our deepest belief in the democratic values that has forged our great Nation.

Mr. Speaker, Congress has the opportunity to set into motion a process by which the people of Puerto Rico can once again exercise their right to self-determination. The last plebiscite for Puerto Rico was held in 1967, and the voters chose commonwealth status. Today, while the debate over Puerto Rico's political evolution will receive new life, it is clearly the measurable achievements of Gov. Hernandez Colon and the strength of the Puerto Rican citizens that has led the Commonwealth to this successful end.

In the pursuit of equity, I would urge my colleagues to provide the people of Puerto Rico the right they are due. Let them have a fair chance to decide their own fate. Vote in favor of H.R. 4765.

Mr. WEISS. Mr. Speaker, I rise today in strong support of H.R. 4765, the Puerto Rico Self-Determination Act. I would also like to commend the distinguished gentleman from the Virgin Islands, Chairman DE LUGO, and the members of the Interior and Insular Affairs Subcommittee on Insular and International Affairs. Their willingness to give all interested parties the opportunity to voice their opinions on this vital measure propelled them from Puerto Rico to New York and demanded countless hours of hearings. We all owe you a great debt.

Put quite simply, H.R. 4765 is about justice, about fairness, and about democracy. It represents a very thoughtful approach to ending the decades of stalemate on the future political status of Puerto Rico.

The measure authorizes $13.5 million for Puerto Rico to hold a referendum in 1991 on its political status. Voters would choose whether to seek statehood, become an independent nation, or enhance its present commonwealth status. The measure also requires Congress to enact further legislation implementing the decision of the referendum. This provision specifies expedited procedures for implementing the decision of the majority of the voters. In a subsequent referendum, the Puerto Rican people would have the opportunity to ratify this implementing legislation.

On the divisive issue of participation by the 2.5 million Puerto Ricans living in the mainland United States, the bill defers judgment to the island's three political parties and its legislature.

Finally, the bill states that enactment of this bill constitutes a commitment that the U.S. Congress will vote on the legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico.

There has been much debate and discussion about the effects that a political status change would have on the people of Puerto Rico and on this country. Those debates are worthwhile, but the real issue before us is the willingness of this Congress to allow the Puerto Rican people, who are U.S. citizens, to decide their own political, social, and economic future.

Mr. Speaker, the Puerto Rican people have valiantly participated in our country's foreign wars. They have fought for America and died for America; they alone deserve the right to decide whether they want to be part of America. In the spirit of democracy that is now permeating the globe, I urge my colleagues to support H.R. 4765.

Mr. DELLUMS. Mr. Speaker, I congratulate Chairman de Lugo and his staff on their hard work on this important issue.

I will support H.R. 4765, though it is not the vehicle that I would fashion. I do so because I cannot deny the people of Puerto Rico this opportunity to make some choice about their political destiny.

I wish we were returning full sovereignty to the people of Pueto Rico to allow them by themselves to fashion both what will be decided and how it will be decided.

I wish that the situation of the status of Puerto Rico was better understood in the Congress and across the United States.

The people of Puerto Rico form a glorious nation. It is a Latin and Caribbean nation, a nation separate from the United States and rich in its own language and traditions.

Puerto Rico is one of the few territories of the world where the vestiges of colonialism still prevail. The people of Puerto Rico have not ever had full sovereignty. Our holding them in colonial status since our acquisition through the Treaty of Paris is as Justice Harlan said "wholly inconsistent with the spirit and genius, as well as the worlds of the Constitution."

Since the Treaty of Paris, the people of Puerto Rico have not been consulted as to their political status preference.

We must allow the people of Puerto Rico to exercise their inalienable right to self-determination. If a clear majority of the nation chose an option, the Congress of the United States must honor that decision. If no majority is formed, we must ensure that the process continues so that the people of Puerto Rico maintain the sovereign right to forge an answer through their own actions.

The SPEAKER pro tempore (Mr. SERRANO). The question is on the motion offered by the gentleman from the Virgin Islands [Mr. DE LUGO] that the House suspend the rules and pass the bill, H.R. 4765, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PUERTO RICO SELF-DETERMINATION ACT

SPEECH OF

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. FUSTER. Mr. Speaker, today you are being asked to vote on a historic piece of legislation. The bill you are about to consider summons my constituents to a further exercise of their most fundamental right as a people—their right to self-determination. It calls upon them to ponder and declare what kind of ties they ultimately want to have with the United States. It sets in motion a process whose final results no one can surely predict except to say that it will deeply affect fundamental aspects of life of my constituents and in time transform the relationship between the United States and Puerto Rico.

During the markup of this bill in both the Insular Affairs Subcommittee and the full Interior Committee I pointed out that it had serious shortcomings. Its terms certainly fall short of what it purports to be. The options through which the people of Puerto Rico are asked to decide their collective future are not defined as broadly as their advocates wanted them defined; these options are not presented to the people as prominently as they could have been; the need to preserve and protect the Spanish language and Puerto Rican culture under the statehood option has not been addressed at all; the commitment of Congress to honor the results of the referendum is not as compelling as it should be; and the whole nation of Puerto Rico is not decidely enfranchised for this referendum. It is clearly an imperfect bill and it is so not only because traditional paternalistic and conservative attitudes about insular self-determination still prevail in some circles of the Washington power structure but also because H.R. 4765 is the result of an intense and complex process of negotiations that have tried to reconcile and accommodate dramatically different notions on how self-determination for Puerto Rico should be structured. The White House and part of the Republican leadership in this body would like Puerto Rico to become a State of the Union and they have marshalled their strong views about how the self-determination process should develop. The government of Puerto Rico and the main party in the island prefer a new Commonwealth relationship and we have insisted on our own vision of self-determination. The leadership in the House is reportedly neutral as to the three choices to be presented to the people of Puerto Rico but they have pressed their ideas about self-determination, ideas that do not fully coincide with the ones I have already alluded to. And then we have the statehood and independence parties of Puerto Rico whose own conflicting views have also been strongly asserted in the process. Out of these very disparate perspectives a difficult compromise has been contrived and the end result unavoidably is a very imperfect bill.

These realities notwithstanding, Mr. Speaker, I do support this bill and I do ask my colleagues in the House to approve it. Imperfect as it is, the bill has the potential to open up a path that in time will bring to an indisputable end the United States' imputed colonialistic rule of Puerto Rico. It has the potential to put to rest the seemingly endless, agonizing and debilitating political debate that has consumed so much of the peace of mind and of the creative energies of my constituents for almost a century now.

H.R. 4765 will allow the residents of Puerto Rico to express their choice among three options as they have been defined by Congress in the report of the bill. These definitions appearing in the report are an essential part of the congressional plan for the referendum. They encompass precisely the matters to be presented to my constituents for them to vote on. They were the central object of the long and complex deliberations and negotiations that led to the approval of this bill at the subcommittee and committee levels. They are meant to appear on the ballots so that the people of Puerto Rico can make the free and informed choice without which the referendum would not be legitimate. So through this process Congress does offer Puerto Ricans a true choice among three clearly defined alternatives. This bill also commits Congress to a good faith effort to enact the broad principles of the winning option into law. Congress is duty-bound to seek to incorporate all the essential elements of the defintion of the winning option into the implementing legislation. In these new times, when the right to self-determination prevails as never before throughout the world, the history, content and intent of the bill permits us to be fairly confident that Congress and the leaders of a nation which was founded upon the principles of self-determination and government by consent will honor the results of the referendum; that the will of the people of Puerto Rico as expressed in the referendum will be respected; that legislation will be finally enacted that faithfully incorporates the principles of the winning option as they appeared in the ballots. Because I believe this to be true, I support this bill. Because I believe you share these views, I ask that you approve it.

Mr. Speaker, 92 years ago, the commander of the American Army that landed in Puerto Rico to occupy the island told the people there that the military forces led by him had come

> * * * bearing the banner of freedom * * * They bring you the fostering arm of a nation of free people whose greatest power is in justice and humanity to all those living within its fold * * *.

After almost 100 years of tears and toil, of strife and struggle, of persevering in our quest for self-determination even in the face of great frustrations, the promise of General Miles seems close to being decidedly fulfilled even if only through the means of an imperfect bill. Let us accept it because it is the only one we have been able to agree upon through a fragile consensus between the leadership of Puerto Rico's political parties, Congress and the White House; let us accept it because it will spark the people of Puerto Rico into a new liberating experience, and their resolute will, once it is formed, shall eventually prevail.

Mr. Speaker, to conclude, I feel compelled to respond to some of the remarks about H.R. 4765 made by my colleague from California, Mr. ROBERT LAGOMARSINO. Once again, he has chosen quietly to put in writing as part of his revised remarks for the RECORD, petty partisan attacks that he did not venture to express openly before other Members and me on the floor of the House.

As he has done in the past, Mr. LAGOMARSINO seeks to meddle in the Puerto Rican debate about what status option is best for the island by echoing indiscriminately the demagogic attacks on Commonwealth status of those in the island who support either statehood or independence.

For example, Mr. LAGOMARSINO states that in enacting this bill, he believes that "Congress is faced with a question regarding the future relationship of a people under its responsibility." The paternalistic and colonial connotations of that statement fly in the face of the bilateral nature of the relationship between Puerto Rico and the United States since 1952. The unique Commonwealth relationship was entered into by both parties "in the nature of a compact." This compact was Public Law 600 of the 81st Congress, which was overwhelmingly accepted in a referendum by the people of Puerto Rico. Two peoples entered into an agreement on the same footing, not one being responsible over the other. The people of Puerto Rico are responsible for themselves and for their own destinies. H.R. 4765 so recognizes it by leaving the decision of the future relation between Puerto Rico and the United States in the hands of Puerto Rico.

Mr. LAGOMARSINO goes on to state that while "the three status options have been developed (by Congress) to address and accommodate the many aspirations of the different parties," there are "certain things under some of the status options that the Congress cannot grant." Mr. LAGOMARSINO is saying that once one of the status options obtains a majority of the votes in the Puerto Rican referendum, even though that option was defined and presented to the people by Congress itself, Congress nonetheless is not going to honor its promise to enact legislation in accordance with the definition of that winning option. This is simply unbelievable. The definitions in question were the object of long and tedious negotiations among the representatives of the three political parties of Puerto Rico, Mr. DE LUGO, Mr. LAGOMARSINO, the U.S. Justice Department, White House officials, and other interested parties. At the end of the process, all those involved agreed that the resulting definitions were solid ground on which to base future legislation to implement the winning option. They were presented that way for approval to the House Members at the subcommittee and full committee markups. If Mr. LAGOMARSINO thought that any of the principles spelled out in the definitions could not be converted into legislation later, he should not have supported such definitions and he should have voiced his concern before the definitions were approved, at the various stages that they were approved by Members of both parties before coming to the floor. Moreover, Mr. LAGOMARSINO should not have asked his colleagues during his remarks to approve a bill that is partially unlawful because it offers things Congress cannot grant.

If H.R. 4765 becomes law, the people of Puerto Rico will be summoned to exercise their right to self-determination in a referendum by choosing one of the options that appears in the ballot as Congress itself defined it. If, as Mr. LAGOMARSINO says, some "things" spelled out in the options' definitions cannot be granted by Congress in future legislation, the referendum will sadly be the staging of a monumental hoax. It would be inconceivable that, in this age when the right to self-determination is being successfully exercised throughout the world, the will of the people of Puerto Rico as expressed in the referendum would not be honored by Congress after Congress itself laid out the principles on which the different future relationships could be founded. Mr. LAGOMARSINO'S position is untenable and disgraceful because it allows U.S. enemies to claim that in this case the United States did not act in the furtherance of self-determination as it has demanded from the rest of the world community.

Mr. LAGOMARSINO also commented about the sovereignty implications of each status option, and stated that "under a commonwealth relationship, Puerto Rico would be locally self-governing under the Constitution of Puerto Rico consistent with article IV, section 3, clause 2 of the United States Constitution, also known as the territorial clause, and the United States would remain as the sovereign power." Mr. LAGOMARSINO misrepresents the nature of the current and, if chosen by a majority of Puerto Ricans, future Commonwealth relationship. In doing so, he clearly disregards authoritative legal pronouncements that have depicted the relationship in very different terms. I will let more objective authorities speak for themselves by quoting just a few of those pronouncements that clearly reject LAGOMARSINO'S bigoted views.

In 1953, when the United States Government requested the United Nations to remove Puerto Rico from the United Nations list of Non-Self Governing Territories, because Puerto Rico had achieved "Commonwealth" status, the United Nations General Assembly accepted the United States request, acknowledging that Commonwealth was:

* * * a new constitutional status . . . invested with attributes of political sovereignty which clearly identify the status of self-government attained by the Puerto Rican people as that of an autonomous political entity."

Years later several prominent judges of the U.S. Court of Appeals reiterated and expanded said understanding of the Commonwealth status. Judge Levin Campbell in a 1981 case, *First Federal* v. *Ruiz* (644 F2d 910) declared unequivocably that:

Puerto Rico's territorial status ended, of course, in 1952. Thereafter it has been a Commonwealth with a particular status as framed in the Puerto Rican Federal Relations Act."

In the same year, Judge Breyer, another distinguished judge of the U.S. Court of Appeals, in a different case, *Córdova* v. *Chase* (649 F2d 36), had this to say about Commonwealth status:

The Federal Relations Act and the Puerto Rican Constitution were intended to mark a significant change in the relation between Puerto Rico and the rest of the United States * * *. Under the Treaty of Paris, which ceded Puerto Rico to the United States, the island lost its autonomy. It became a "territory" of the United States and subject to the command of Congress * * *. The Federal Relations Act was intended to end this subordinate status * * *. The theme that consistently runs throughout the legislative history of Puerto Rico's attainment of Commonwealth status is that Commonwealth represents the fulfillment of a process of increasing self-government over local affairs by the people of Puerto Rico * * *. In sum, Puerto Rico's status changed from that of a mere territory to the unique status of Commonwealth. And the federal government's relations with Puerto Rico changed from being bounded merely by the Territorial Clause-and the rights of the people of Puerto Rico as the United States citizens, to being bounded by the United States and Puerto Rico Constitutions, Public Law 600, Puerto Rican Federal Relations Act and the rights of the people of Puerto Rico as United States citizens.

In 1985 case, *United States* v. *Quiñones* (758 F2d 410), a fourth U.S. Court of Appeals judge, this time Judge Bownes, flatly stated in words that ought to be remembered by Mr. LAGOMARSINO that:

Thus, in 1952, Puerto Rico ceased being a territory of the United States subject to the plenary powers of Congress as provided in the federal Constitution. The authority exercised by the federal government emanated thereafter from the compact itself. Under the compact between the people of Puerto Rico and the United States, Congress cannot amend the Puerto Rico Constitution unilaterally, and the government of Puerto Rico is no longer a federal government agency exercising delegated power.

These rulings from many different knowledgeable and authoritative U.S. Court of Appeals judges both reflect and complement statements made by the U.S. Supreme Court itself when, on different occasions, it has had the opportunity to characterize the existing Commonwealth relationship.

For example, in *Examining Board* v. *Flores*, 426 U.S. 572,594 (1976), the United States Supreme Court said "* * * the purpose of Congress in the 1950 and 1952 legislation was to accord to Puerto Rico the degree of autonomy and independence normally associated with a State of the Union * * *."

In *Rodriguez* v. *PPD*, 457 U.S. 1,8 (1982), the Court explained that under Commonwealth, "Puerto Rico, like a state, is an autonomous political entity, sovereign over matters not ruled by the United States Constitution * * *."

As I have pointed out before, Mr. LAGOMARSINO'S comments about sovereignty are his way of conveying to the people of Puerto Rico his prejudiced view that Commonwealth status in any shape or form will always be a territorial, that is; colonial status. If an enhanced Commonwealth status is still "colonial" as LAGOMARSINO suggests, why did he not object to its being included as one of the options in H.R. 4765, which purports to be a bill to allow Puerto Ricans to exercise their right to self-determination and to end the alleged United States colonial regime in Puerto Rico. Can H.R. 4765, which LAGOMARSINO coauthored, be a legitimate vehicle for self-determination if it includes a "colonial" status as one of the three options presented by Congress to the people of Puerto Rico?

LAGOMARSINO'S gratuitous comment will play in the press and the international arena the same way that avowed enemies of the United States, such as Fidel Castro, would like such remarks to play.

As such, it is interesting to note that President Bush, when he was the United States Ambassador to the United Nations in the 1970's, endorsed Puerto Rico's legitimacy under Commonwealth status. In a February 28, 1972, letter, responding to Cuban demands at the United Nations to review Puerto Rico's political situation vigorously by writing in part:

This is an insult to the people of Puerto Rico, who have chosen to live in a democracy, under a Constitution of their own choosing, in free association with the United States. This choice of their form of government has been restated periodically, in free and open elections, and through referenda, between 1952 and the present time.

Finally, in his analysis of the implications of the different status options, Mr. LAGOMARSINO discussed the citizenship issue and declared that "there are possible future scenarios which could provide a national basis for Congress revoking the citizenship of Puerto Ricans in a Commonwealth relationship." I wish he would have elaborated on what could have been these "future scenarios". He probably did not because he really knows there are none.

Mr. LAGOMARSINO claims that the United States citizenship of persons born or naturalized in Puerto Rico is not protected by the 14th amendment, as is the citizenship of all those born or naturalized "in the United States" pursuant to that amendment. This assertion is an incorrect statement of law. Here again Mr. LAGOMARSINO ignores well established legal doctrines in making obviously biased political statements. Conceivably, the only possible bases for his mistaken notion is the Supreme Court decision of *Rogers* v. *Bellei*, 401 United States 815 (1971), where a decided Court drew a distinction between statutory naturalization that took place within the United States and that which took place abroad, based on a technical reading of the phrase "in the United States" in the 14th amendment. With respect to persons naturalized outside the United States, the Rogers majority reasoned that Congress may condition their retention of American citizenship so long as the conditions are "not unreasonable, arbitrary, or unlawful." 401 United States at 831.

That holding does not apply to Puerto Rico not only because the issues are essentially different but also because Puerto Rico, by Congress' own determination in the Immigration and Nationality Act, expressly included in the geographic definition of the "United States", for purposes of the Fourteenth Amendment 8 U.S.C. 1101(a)(8), a power Congress has exercised under the authority recognized in the Insular cases. Congress cannot retract that geographical definition any more than it could revoke a conferral of naturalized status within the United States under Rogers versus Bellei. For if Congress could affect the permanence of its grant of citizenship by subsequently altering the geographical rules in place at the time of naturalization, the guarantee of the 14th amendment, which was recognized in Rogers itself, would mean nothing.

In any event, regardless of the applicability of the 14th Amendment, it is beyond doubt that the Due Process Clause of the fifth

amendment restrains Congress in the exercise of any power with respect to Puerto Rico, including the exercise of the naturalization power. *Examining Board* v. *Flores de Otero,* 426 United States 572, 600 (1976); *Calero-Toledo* v. *Pearson Yatch Leasing Company,* 416 United States 663, 668, N.5 (1974). Any congressional attempt to revoke the citizenship of Puerto Ricans would be a flagrant deprivation of liberty. The fifth amendment would not be a mere "factor", as Mr. LAGOMARSINO states, in a hypothetical congressional attempt to revoke the United States citizenship of Puerto Ricans. As recognized in the House Interior Committee Report's definition of the new Commonwealth relationship, the United States citizenship of persons born in Puerto Rico would be guaranteed and secured as provided by the fifth amendment of the Constitution of the United States and equal to that of citizens born in the several states." The Supreme Court has strictly limited Congress' power to revoke citizenship in the cases of *Schneider* v. *Bush,* 377 United States 163 (1964) and *Afroyim* v. *Bush,* 387 United States 253 (1967), and would do so in the highly unlikely event that Congress would attempt a wholesale revocation of the United States citizenship of the people of Puerto Rico.

Mr. LAGOMARSINO'S statement goes directly against what he agreed to during the intense negotiations over this citizenship issue when H.R. 4765 was before the Insular Affairs Subcommittee. How could he have voted the report language cited above yet believe that the U.S. citizenship under the new Commonwealth will not be as permanent as that of the citizens born in the United States? It is quite unfortunate that at the very last minute Mr. LAGOMARSINO attempts to create an issue over the permanence of the United States citizenship were Puerto Ricans to choose the new Commonwealth relationship. Mr. LAGOMARSINO demeans himself and demeans the whole relationship of the United States with a people who have cherished and honored their American citizenship during all the 73 years they have had it by using scare tactics when dealing with such a sensitive issue. The transcendental decision Puerto Ricans will be making in the referendum is difficult enough on its true merits. It should not be made any more difficult by attempting to interject fales issues and smokescreens that could confuse and mislead my constituents. The people deserve better.

IN SUPPORT OF THE PUERTO RICO SELF-DETERMINATION ACT, H.R. 4765

SPEECH OF

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. SERRANO. Mr. Speaker, I rise today to speak in support of legislation that is important to me both as a Puerto Rican, and as a citizen of the United States. The Puerto Rico Self-Determination Act, H.R. 4765, provides to the Puerto Rican people a right that we as Americans cherish dearly and seek to share with peoples around the world—the fundamental right of self-determination.

I wish to express my appreciation to the chairman of the Insular and International Affairs Subcommittee, RON DE LUGO, for his leadership and support in moving so quickly with this legislation.

Ever since Puerto Rico became a part of the United States after the Spanish-American War in 1898, the Puerto Rican people have had a dual identity—they are an island nationality in the Caribbean, and a component of our American Nation. We have been in this relationship for 92 years and, for better or worse, the fact remains that Puerto Ricans did not choose to become part of the United States. The incorporation of Puerto Rico into the United States was unilaterally imposed.

Since 1898, the Puerto Rican people have had two opportunities to express their will as to what sort of relationship should exist between Puerto Rico and the United States.

In 1952, the people of Puerto Rico were invited either to enter into a commonwealth relationship with the United States or to retain their status as a territory. In this instance, the Puerto Rican people chose what was offered to them. Independence and statehood were not options. In 1967, a plebiscite was held in Puerto Rico on three political status alternatives: independence, statehood, and a continuation of commonwealth status. Unfortunately, the plebiscite legislation was considered unfair by a substantial percentage of the eléctorate. After a contentious plebiscite marred by a substantial boycott on the part of proponents of independence and statehood, the commonwealth option prevailed.

The Puerto Rican people have been waiting patiently these last 23 years for an opportunity freely, fairly, and collectively to determine the political status of their island. And it should be noted, Mr. Speaker, that there could not be a more appropriate time for such a democratic exercise in self-determination.

In the past year the entire world has been swept by a surging wave of democratic fervor. Virtually every country in Eastern Europe has seen its unelected government replaced by a popular, democratic one. The constituent republics of the Soviet Union are proclaiming their independence and recognizing each other as independent countries. The wall dividing the Germanys has crumbled and the two countries have become one again. Even long-suffering South Africa shows encouraging signs of change.

The people of Puerto Rico are very much aware of these changes. It is highly significant that all three political parties of Puerto Rico—each favoring a different status option for the island's political future—have all endorsed the Puerto Rico Self-Determination Act. This unprecedented harmony among the rival parties bodes well for the ultimate success of the legislation.

Of special importance is a section of the bill which would allow nonresident Puerto Ricans to participate in the plebiscite provided that two of the three parties convened as a dialog committee reach agreement on the procedure and the commonwealth legislature then votes its approval.

Many Puerto Rican families have migrated here to the mainland because of the lack of economic opportunity at home, a situation caused in large measure by U.S. Federal policies. There are an estimated 2.5 million Puerto Ricans and their descendants living in different States. This is not a simple parochial election. It is a referendum of an entire people that may determine its political destiny for all time. To deny voting participation in this historic event to any Puerto Rican, wherever he may reside, would be to succumb to political expediency and add yet another unfortunate page to the history of the relationship between the United States and the island.

It saddens me to report that at present the Senate version of this legislation, S. 712, does not allow the Puerto Rican community at home to extend the vote to their nonresident brethren. It is my fervent hope that the proposed Senate legislation will be amended to conform with the Home legislation before it reaches the Senate floor. The inclusion of all Puerto Ricans can only strengthen the integrity of the referendum and the integrity and the fairness of the United States' role in it. The world is watching. Let us demonstrate real democracy in action.

Congress, in section 5, paragraph (d) of H.R. 4765 enunciates, and I quote, "a commitment that the United States Congress will vote on legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico." I urge my colleagues to fully support this commitment when the time comes.

This commitment is good for the people of Puerto Rico and for the credibility of American democracy in this era of stunning democratic progress. As we in the United States strive to encourage and foster these developments around the world, it is essential that we hold true to our principles at home and provide the people of Puerto Rico the opportunity to decide the political status of our island.

THE THIRD QUESTION: THE LEAST UNDERSTOOD

Mr. MOYNIHAN. Mr. President, in the final hours of the last day of the 101st Congress, I rise to discuss the last of the three questions on American foreign policy which I spoke of yesterday morning.

The subject may come as a surprise to some Senators; possibly an unwelcome surprise. If this should be the case, however, I would plead that it will not be the first such occasion. In the CONGRESSIONAL RECORD of April 27, 1990, and again, of May 24, 1990, I addressed the same subject. On both occasions my remarks were given the same heading in the RECORD: "The Decolonization of Puerto Rico."

This question has been with us from the outset of the 101st Congress. In his address to the joint session of February 10—his first address as our new President—President Bush summoned us to a large undertaking.

There is another issue I decided to mention here tonight. I have long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I favor statehood. But I ask the Congress to take the necessary steps to let the people decide in a referendum.

That was at the beginning of the Congress; we are now at the close; we have done no such thing.

The House has passed a bill, albeit a perfunctory one. Two committees of the Senate have reported bills, or portions of bills, but none has reached the floor, and none has passed. In the meantime, the administration has been silent, save for the occasional aide dispatched to the island to urge that the new State vote Republican.

In fairness, we have worked hard, if intermittently on the matter here in the Senate. Even so we failed to finish our work. This does not speak well of the Senate for the simple fact that we failed to do our duty in a situation where we could accurately be described as irresponsible. That is to say the citizens of Puerto Rico do not have a vote in the U.S. Senate. No one represents them. None of us is responsible to them.

The more then ought we, as a matter of principle rather than politics, to have responded to the President's summons—1989 and 1990 were the years that saw the end of the cold war and the reestablishment in Eastern and central Europe of the effective sovereignty of the nations established there after the First World War.

Those events of 1917—when the Republic of Czechoslovakia was proclaimed in Pittsburgh—to 1920 were, in effect, the first great wave of decolonization of this century. It was not a matter of breaking away of one colony or another, but rather of the acceptance by the international community of the right to independence of former colonies. There was a relapse under Hitler, then Stalin, but the principle has emerged triumphant once more.

That principle, enunciated by Woodrow Wilson in an earlier address to a joint session of Congress, applies no less to American colonies than to those of the Hapsburgs or the Hohenzollerns, or their assorted "cousins" in other capitals of Europe. It applies to Puerto Rico. Which is what President Bush acknowledged in his first address to the Congress.

On April 27 I asked on the Senate floor: "Is Puerto Rico a colony today?" I had asked the same question at hearings of the Committee on Energy and Natural Resources in San Juan in 1989. And I gave the same answer:

Most obviously, not. In July 1952 Puerto Rico became a full self-governing commonwealth.

Even so, the issue of status, as the islanders correctly term the matter, remains unresolved.

Commonwealth is one option. There are two others. Statehood. Independence. Every President since Harry S. Truman has asserted that the people of Puerto Rico were and are free to choose any of the three. In 1952 Commonwealth status was achieved. As I have more than once stated during this nondebate, commonwealth status was not seen by those who conceived it as a way station to statehood, the position or an applicant or candidate for full membership in the Union. To the contrary, statehood was seen as a plenitudinous condition, comparable to that of commonwealths in other devolving empires. Or such is my understanding; I do not claim to speak in any sense for present day advocates of commonwealth status, nor yet to represent the views of the predecessors. I can claim to have known two generations of commonwealth leaders in Puerto Rico, but no more. Similarly, I have known two generations of statehood leaders. I can claim to understand their position with some confidence simply because statehood is a clearly understood concept within the American Union. Similarly, I assume that I can understand the position of those who advocate independence. I cannot claim any close acquaintance, which is surely a fault of mine, yet I have met "independistas," and have been most impressed with their presentations at Senate hearings.

What this Senator knows or does not know is of small consequence. What matters is that at the outset of the Congress, Puerto Rico was given to understand that it would have the opportunity to choose; but here we are at the end of the Congress having, in effect, denied that opportunity.

Let me be clear. I have to assume that we will get to work on this matter first thing in the next Congress. We have now, mercifully, finished with the endless work of the Summit. We have a 5-year budget plan. It will last at least until next April. The more then should we be about the business of Puerto Rico before next April.

The plain fact is that the Senate does not see this subject in the light that the rest of the world sees it, or would do if attention were called to it This does us no discredit. Puerto Ricans are fellow citizens. As many live on the mainland today as live on the island itself—more properly, the islands. They fight in our wars, contribute to our affairs, add to our lives the special attributes of an hispanic culture. No matter. Puerto Rico remains a place of undertermined status. As a matter of honor, the Senate, the Congress must permit our fellow citizens there to choose. As a matter of elemental prudence, we ought to do so directly we return to Washinton next January.

If the Senate would indulge me, I would ask that a series of statements I have made on this subject in this Congress be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the CONGRESSIONAL RECORD, July 14, 1989]

POLITICAL STATUS OF PUERTO RICO

Mr. MOYNIHAN. Mr. President, early last spring Senators JOHNSTON, MCCLURE, and SIMON introduced S. 712, a bill "to provide for a referendum on the political status of Puerto Rico." This is a bill of the uttermost importance to the people of the commonwealth, and of no less moment to the American union.

The bill provides for a referendum to be held in 1991 presenting the choice of statehood; independence; or commonwealth status. In the event that no status option obtains a majority, there will be a runoff.

In his State of the Union Message, President Bush indicated his firm support of statehood, as does the just previous Governor of Puerto Rico, Romero Barcelo. The present Governor of Perto Rico, the Honorable Rafael Hernandez Colon, is a supporter of "enhanced" commonwealth status. There are, of course many supporters of independence.

There are many considerations involved. Obviously. Absolutely central, however, will be the tax provisions associated with the respective choices. I need not spell out for the Senate the importance, for example, of section 936 of the Internal Revenue Code which provides extraordinary tax incentives for manufacturing firms located on the island. Perhaps a third of Puerto Rican employment is attributable to "936" benefits. There is a great variety of tariff questions to be dealt with, maritime statutes, excise taxes, and the like. The Social Security law and related social welfare measures are of transcendent importance to Puerto Ricans as they are to all American citizens. Each of the three options that are to be presented to the people of Puerto Rico will entail different provisions with respect to these matters.

With these decisions in the offing, I have been assembling materials that I hope will be of use to the Finance Committee when we settle down to fill in the blanks having to do with the duration of present statutes and such like matters which will be referred to us by the Committee on Energy and Natural Resources.

Imagine our consternation, then, when the Treasury Department, testifying before the Energy Committee yesterday morning, stated that it saw no reason why our plebicite bill should be "encumbered at this stage" by any specifics concerning the tax and financial provisions that would accompany the three options.

We are evidently to ask the people of Puerto Rico to make their decision in the dark. They are evidently not to know in advance whether, for example, statehood would mean the end of section 936 tax benefits or not; not to know whether "enhanced" commonwealth status will bring equal social welfare benefits to Puerto Rico, or perhaps yet further restricted ones. They are not to know anything about the very questions which will be most on the minds of the voters.

If the Treasury Department's position was not so transparently untenable, one would be forced to suspect that it is deliberately perverse. That somewhere in the upper echelons of the Department there are persons determined to thwart the President's state of the Union commitment.

This is not something the Congress can settle. But one would surely advise the President do so, and quickly, on his return from Paris. For obviously no plebiscite can go forward if the Treasury position remains that of the executive branch.

Mr. President, I ask to reproduce the opening portion of the testimony of Kenneth W. Gideon, Assistant Secretary—Tax Policy, U.S. Department of the Treasury, before the Senate Energy Committee.

The excerpt follows:

TESTIMONY OF KENNETH W. GIDEON

Mr. Chairman and Members of the Committee: It is a pleasure to be here today on behalf of the Administration, to discuss S. 712, a bill "To Provide for a Referendum on the Political Status of Puerto Rico." This bill would give the people of Puerto Rico an historic opportunity to vote upon the status of that island. The bill would provide for a referendum, to be held in 1991, in which the Puerto Rican people could decide among the options of statehood, independence, or commonwealth status.

The Administration strongly supports the right of the people of Puerto Rico to decide for themselves on the status of the island. Further, as the President has noted a number of times, he favors the admission of Puerto Rico to the Union as a state, thereby assuring the people of Puerto Rico an equal standing with other United States citizens. However, by providing for a status referendum, the United States Government would be assisting the Puerto Rican people to exercise the basic political right to determine the nature of their government.

The choice facing the people of Puerto Rico is fundamentally a political one, with long-term implications for their rights and obligations as citizens. Each voter must determine relationship that should exist between Puerto Rico and the United States. By its very nature, a status referendum determines a people's political future. Individual voters must weigh the implications of their vote not only for themselves but also for future generations.

The Administration firmly believes that the Puerto Rican people should be given an opportunity to express their will in a manner that recognizes the historic and fundamentally political nature of their decision of self-determination. The importance of the decision they face as people transcends any narrow concern about specific aspects of economic or fiscal structures.

For this reason, the Administration believes that the discussion of Puerto Rico's future status should not be encumbered at this stage by the tax and financial provisions in the current bill. The selection among the possible status options should be a choice made by the people of Puerto Rico unaffected by the bias which specific economic costs and benefits could bring to the process. After that choice has been made, appropriate tax and financial relationships between Puerto Rico and the United States could be formed consistent with the choice of the Puerto Rican people.

The Administration recognizes the difficulty of isolating the impact of tax and financial issues from the question of Puerto Rico's future status. Appropriate transition mechanisms will ultimately have to be developed to minimize economic disruption to Puerto Rico resulting from any change from the current commonwealth status. In addition, we believe that a transition to statehood can be structured so that the Puerto Rican government, after making appropriate use of its own resources, would not be forced to incur a net revenue loss during this transition. The Administration would support a "transition grant" to Puerto Rico to assist in achieving that result. The budgetary treatment of a transition to statehood should be consistent with sound budget discipline. Finally, we believe that there should be a level economic playing field among options.

The development of provisions which will properly achieve these goals will require a careful cooperative analysis by the Administration, Congress, and the government of Puerto Rico. The resulting package would probably consist of interrelated provisions affecting Puerto Rico's own tax system, the Federal tax system, and direct Federal grants. Accordingly, depending on the specific alternatives chosen, many will be involved in the process, including, for example, the tax-writing committees of the Congress.

The Administration looks forward to working with your committee at the appropriate time in fashioning an integrated economic package which meets the Administration's commitments to Puerto Rico and which is fully acceptable to both Congress and the Puerto Rican government. To lay a foundation for that process, I would like to review with you today some of the technical issues which are presented by the provisions in the current bill. While not intended as either an endorsement or rejection of these provisions, my comments will hopefully highlight particular problems which the current language raises.

Each of the political options covered by the bill—statehood, independence, and commonwealth status—raises special issues that affect the tax systems of both Puerto Rico and the United States. The following comments are limited to those issues. They are not intended to reflect any views on the desirability of any of the status options.

Regardless of the status option under consideration, we believe that a primary goal of the bill in question should be to ensure that the tax implications of the option are clearly defined. Certainty in the application of the tax law is always a goal of tax policy, and we believe that it is especially important to strive for that certainty in these circumstances, where the Puerto Rican people are facing the possibility of fundamental changes to their government's structure. The focus of my testimony, therefore, will be to identify the tax results of this bills' provisions as drafted, to note those ambiguities which the bill raises, and to highlight those issues which the bill's tax revisions do not currently address.

I. GENERAL REVENUE EFFECTS OF S. 712

It is difficult to present very precise estimates of the Federal revenue consequences of the various options described in the bill, but it may be helpful for purposes of this discussion to consider some rough guidelines.

Both the independence and the statehood options assume some form of reduction of the tax incentives currently provided under Internal Revenue Code ("Code") section 936. It should be noted that even under the commonwealth option, Congress can continue to review and revise section 936 and other tax benefits as necessary.

We estimate that in FY 1989 the tax benefits received by section 936 corporations amount to about $1.9 billion. If section 936 benefits are phased out, some section 936 corporations may choose to leave Puerto Rico. However, the nature of most section 936 company operations makes it unlikely that they could find a good substitute for Puerto Rico in some low-tax foreign location. Thus, if companies do leave the island,

it is most likely that they would move back to the mainland where they would be subject to U.S. tax.

A phase-out of section 936 benefits would cause economic dislocation on Puerto Rico, at least in the short run. Employment in 936 companies now accounts for about 12 percent of total Puerto Rican employment. However, it is very difficult to project the extent to which Federal tax collections would be affected by this dislocation. Under the statehood option, collections of personal income tax may be somewhat reduced for a time; but as discussed below, fully phased-in Federal personal income tax collections from Puerto Rico can be expected to be relatively modest.

The statehood option presents the issue of how a newly-imposed Federal income tax will interact with a Puerto Rican state tax system. The effects of this change must be considered for both individual and business tax revenues.

[From the CONGRESSIONAL RECORD, Aug. 4, 1989]

PUERTO RICO STATUS REFERENDUM ACT

Mr. MOYNIHAN. Mr. President, the Senate Committee on Energy and Natural Resources has now reported the Puerto Rico Status Referendum Act which has been referred to the Finance Committee for consideration of the taxation and social welfare aspects of the three options set forth which are, of course, independent statehood, or as the term has come to be used "enhanced commonwealth."

In anticipation of this consideration by the Finance Committee and the Senate's fuller debate on the whole matter, I asked the Congressional Research Service to analyze the effect on selected programs of each status option and also to assess how the Federal tax relationship with Puerto Rico would change under these various options. The first of the these analyses was completed earlier this week, and the other a month ago.

I am placing them in the Record today in order that the discussion of this hugely important matter may go forward on the basis of relevant facts; which is to say that we might, to some extent at least, know what we are talking about and ultimately voting about.

I would call attention to the important findings concerning social welfare programs under statehood, under the statehood option. I now cite the CRS studies.

Under statehood, extension of the earned income tax credit to Puerto Rico where it is not currently available inasmuch as the Federal income tax does not apply in Puerto Rico, could be a significant new program expenditure and a new social welfare benefit, it having had its origin for that precise purpose. If I may say, it is beginning to be the basis of an American family.

The Congressional Research Service estimates that the earned income tax credit could cover up to 65 percent of all families with children in Puerto Rico, two-thirds of the population which are families with children. That is a cash return, and as we expect it will be at the end of this Congress, a refundable tax refund.

It needs to be refundable in the case of Puerto Rico in particular because the relevance of Puerto Rico is that under the 1986 tax legislation we put an end to the taxation of families with children with incomes under the poverty line.

Mr. President, under statehood, the second finding, replacing the nutrition assistance block grant with the food stamp program, including open-ended funding, would greatly reduce Puerto Rico's program design flexibility and could expand the caseload and program costs by one-third or more.

The third finding, Mr. President, under statehood, replacing the program of aid to the aged, blind, or disabled with the supplemental security income program, an openended funding which is the case, would significantly expand the eligibility of the population in Puerto Rico for increased benefits to recipients by as much as tenfold, and consequently greatly increase Federal costs, but also greatly increase social welfare benefits.

I might add that the supplementary security income is the one provision of the family assistance plan that was sent to Congress in 1969 to be extended to the four income-determined, noncontributory, programs under Social Security: Aid to Families with Dependent Children, aid to the blind, aid to the permanently and totally disabled, and aid to old-age assistance.

It was the intention of that proposal that the benefits be nationwide and openended. So the great disparities, for example, in the program and benefits to AFDC would not continue. Well, the only group for whom that provision was to adopted were the children. But the other three programs were incorporated into SSI and now would make their way to the commonwealth under statehood.

Last of the findings, Mr. President, under statehood, the capital and Medicaid funds that currently apply to Puerto Rico would be removed, and a more generous Federal matching formula would be used. As a result, Federal spending for Medicaid in Puerto Rico would more than double. In addition, Puerto Rico would become subject to new requirements for furnishing more extensive coverage to some classes of individuals, while cutting off coverage to others; and Puerto Rico would no longer be able to restrict Medicaid providers to public facilities.

Mr. President, the analysis of the tax relationship that I shall include in the RECORD this afternoon is not as extensive as that concerning social welfare programs, as much as a further study from the staff of the Joint Committee on Taxation is, now in preparation. It should be available in little more than a week's time, and I would inform Senators that my office will have copies, should any of them wish to obtain them.

However, on the basis of what we already have, and indeed what we have some time known, I call attention at this time to a major central fact. The tax benefits associated with section 936 of the Internal Revenue Code now account for about one-third of the total employment in the Commonwealth of Puerto Rico. I should make explicit, Mr. President, that this is direct and indirect employment, but a third of the jobs there come from 936 industries—the multiplier effect, as economists call the further benefits from wages earned and then spent.

The legislation reported by the Energy and Natural Resources Committee provides for phaseout of section 936 benefits under statehood ending in 1998, obviously something such would be required under the uniformity laws of the Constitution.

I emphasize that by present reckoning, the majority of Puerto Rican families have incomes below the Federal poverty line, as I mentioned. In our 1986 tax legislation, we went to great lengths to see that no such family pays Federal income taxes. Hence, the majority of Puerto Rican families would, for the immediate future at least, be free of Federal income tax, while they would have available a very considerable range of Federal social welfare programs.

It would thus appear that statehood offers Puerto Ricans the prospect of immediate social welfare benefits, but long-term economic losses, the losses being those to be associated with the disappearance, at least as much as we know, the inevitable disappearance of section 936 benefits, and the assumed decline in those economic activities.

By contrast, the Commonwealth promises long-term economic gains, the continued availability of the very considerable tax incentives associated with 936, such that a third of the island's employment comes from that section, a section originally designed to promote economic investment by American firms in the Philippines, if I may say.

By contrast, the Commonwealth promises long-term economic gains, I say again, but with no immediate social welfare enhancements, or none in the legislation we have before us, and which we will take up in an openminded manner in the Finance Committee.

These are serious matters and will be seriously debated. A minimum responsibility here in Washington is to ensure that, as much as possible, the facts be made available to those who wish to make informed choices. Imagine our consternation when the Treasury Department testified before the Energy Committee on July 13, stated that it saw no reason why the referendum bill should be "encumbered at this stage" by any speculation concerning the tax and economic consequences of the three options. It cannot be that they would wish the people of Puerto Rico to make their decisions in the dark, but certainly they had not shed any light on those decisions. The people of the Commonwealth want, and should have, the facts necessary to make an informed choice.

Mr. President, earlier this year, the distinguished chairman of the Committee on Energy and Natural Resources, and the distinguished ranking member, held hearings in San Juan on this subject. I was asked to join as an observer from the Finance Committee, which I did, and I think it was probably the case that during our 3 days of hearings, something like half the adult population of Puerto Rico was attacking us on television. It was an extraordinary event in the evenings to walk about the old city and be recognized not just by the occasional viewer of the evening news, but by everyone. This is central to the lives of the people of the Commonwealth, as it ought to be.

Of course, it is very much in the mind of President Bush, who proposed this referendum to us in his State of the Union message and stated that his preference—very clear, and it has been well understood—was statehood. I am sure if President Bush were aware of the Treasury Department's view that there is no need to encumber this decision with facts, "do not trouble me with the facts" point of view, that he would be of a different view, and perhaps Treasury would respond.

In any event, Mr. President, the reports I now place in the Record are a beginning—I believe a good one. I would like most especially to express my appreciation to Carolyn Merck of the Congressional Research Service, which is a branch, of course, of the Library of Congress, and who headed the study on the effects of the proposal for a referendum on the status of Puerto Rico. I express my appreciation also to David Brumbaugh, of the CRS, who did the analysis of Federal taxes and Puerto Rico under statehood, independence, and commonwealth options.

Mr. President, may I say that I am aware that I place a large document in the RECORD

on this concluding day, as we hope or expect, of this portion of the session of the 101st Congress, but I do so because we are at exactly the point where the issue of the consequences in terms of social welfare benefits and taxation of the three options to be considered by Puerto Rico comes before us.

The Senate Finance Committee will hold hearings, I am sure, in the autumn. Before we do, it is well that the public should have available the analysis of what the choices before us entail.

Mr. President, I ask unanimous consent to have two memoranda prepared by CRS printed in the Record at this time.

There being no objection, the material was ordered to be printed in the Record, as follows:

MEMORANDUM

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, July 6, 1989.

To: Hon. Daniel P. Moynihan. Attention: Ted Zukoski.

From: David L. Brumbaugh, Analyst in Public Finance, Economics Division.

Subject: Federal Taxes and Puerto Rico under the Statehood, Independence, and Commonwealth Options of S. 712, 101st Congress.

This memorandum responds to your request for an explanation of how the Federal tax relationship with Puerto Rico would change under each of the options that S. 712 would present to the people of Puerto Rico for referendum. The discussion that follows begins by explaining how current Federal tax laws apply to Puerto Rico. Under S. 712's Commonwealth option, these laws would generally remain in place. The memoradum continues by looking at the changes the particular statehood and independence options contained in S. 712 would bring.

CURRENT LAW

Puerto Rico's current tax relationship with the Federal Government is best understood by looking at how the United States defines its jurisdiction to tax and how Puerto Rico fits into that jurisdiction. In general, the United States asserts its tax jurisdiction on the basis of both the source of income and the identity of the person of firm earning the income. If income has its source in the United States, the United States generally taxes that income, regardless of who earns it. Thus, all individuals and corporations are generally subject to U.S. taxes on income earned in the United States, regardless of their nationality. On the other hand, if an individual is a U.S. citizen, the U.S. taxes the person's income regardless of the country in which it is earned; U.S. citizens are taxed on their foreign as well as domestic income. To alleviate double-taxation, however, the U.S. permits foreign taxes to be credited against U.S. taxes on foreign-source income.

As with U.S. citizens, the United States taxes corporations that are chartered in the United States on their worldwide income but permits the crediting of foreign taxes. Thus, if a firm conducts its foreign operations through a foreign branch of the U.S. parent corporation, its foreign income is subject to U.S. taxes on a current basis. At the same time, however, foreign-source income of foreign corporations is beyond the U.S. tax jurisdiction. Thus, if a U.S. firm conducts its foreign operations through a subsidiary corporation chartered in a foreign country, income the subsidiary earns is exempt from U.S. taxes until it is remitted to the U.S. parent corporation as intra-firm dividends. U.S. taxes on foreign-source income can thus be postponed indefinitely. This characteristic of the U.S. tax code is usually referred to as the "deferral principle."

Puerto Rico fits into this structure much like a foreign country but with some very important differences. U.S. corporations and firms, for example, are generally permitted to claim Puerto Rican taxes as foreign tax credits.[1] Also, Puerto Rico is not considered part of the United States for tax purposes.[2] For firms, the result is that corporations chartered in Puerto Rico are treated like foreign corporations and are not subject to U.S. taxes on income earned outside the mainland United States. As in foreign countries, then, the deferral principle is generally available in Puerto Rico for U.S. firms that wish to use it.

Instead of deferral, however, more firms that invest in Puerto Rico use the possessions tax credit: an alternative tax benefit that is not available in foreign countries. The credit, provided by section 936 of the Federal tax code, provides a full exemption from Federal taxes rather than mere postponement and is widely used by U.S. firms with operations in Puerto Rico. Under its terms, qualifying U.S. corporations can receive a tax credit equal to the Federal income taxes they would otherwise owe on income from active business operations and certain financial investments in Puerto Rico. Thus while section 936 technically provides a tax credit, the credit is, in effect, a tax exemption for income earned in Puerto Rico. To qualify for the credit, a firm must be incorporated in the United States (a subsidiary corporation cannot therefore qualify for both deferral and the possessions tax credit), must earn at least 80 percent of its income in the possessions, and must derive at least 75 percent of its income from the active conduct of a business in the possessions. Firms with extensive operations in the mainland United States and elsewhere ordinarily meet these requirement by setting up separate subsidiary corporations for their Puerto Rican operations.[3]

Section 936 generally provides a more generous tax benefit than the deferral principle. Under deferral, U.S. firms can invest in Puerto Rico, through corporations chartered in Puerto Rico, and, as long as the subsidiaries' earnings are not repatriated to the U.S. parent corporations, they are exempt from Federal taxes. When the earnings are repatriated, however, they are subject to Federal taxes in the hands of the U.S. parent corporation. Under section 936, possession-source business income of qualifying U.S. corporations is exempt from Federal taxes. Further, since parents can deduct from taxable income dividends received from subsidiary U.S. (but not foreign) corporations, the possessions-source income is also not taxed upon repatriation to the parent corporation.

Turning now to individuals, Puerto Ricans are citizens of the United States and, as noted above, U.S. citizens are subject to U.S. taxes on their worldwide income. Normally, then, Puerto Rican citizens would be subject to Federal taxes on their worldwide income just like other U.S. citizens. Special provision is made for Puerto Rico, however, by section 933 of the Internal Revenue Code. Under its terms, year-long residents of Puerto Rico are exempt from Federal taxes on income from Puerto Rican sources. Puerto Rican residents, however, are subject to Federal taxes on income from any other geographic source, including the mainland United States. Also Puerto Rico levies its own individual income tax on residents of Puerto Rico.

The tax code also makes special provision for Puerto Rico with regard to excise taxes. Under section 7652 of the Internal Revenue Code, revenues from Federal excise taxes on goods manufactured in Puerto Rico generally are rebated or "covered over" to the treasury of Puerto Rico, Since 1984, however, certain limitations have been imposed on the rebates. With respect to distilled spirits, rebated taxes are limited to those imposed on rum. Rebate of taxes on other items is prohibited unless more than 50 percent of the value of the taxed items is actually added in Puerto Rico.[4]

STATEHOOD

The statehood option specified by S. 712 generally provides that Puerto Rico will ultimately be treated like the fifty States for purposes of Federal income taxes. Individuals residing in Puerto Rico would be subject to Federal taxes on their worldwide income. And at least in the long run, corporations would be subjected to full Federal taxation on income earned in Puerto Rico; neither the possessions tax credit nor deferal would apply. But while the bill provides that "Provisions of the Internal Revenue Code concerning Federal Income Taxes shall immediately apply to Puerto Rico" (section 16 of the bill), S. 712's statehood language also contains important transition provisions designed to "expedite the adjustment of the Commonwealth of Puerto Rico from the tax structure of the territory to the fiscal and economic system of the State" (section 16(a)).

Among the transition provisions is a general statement that "Provision shall be made by Congress so that economic and fiscal exceptions of the Internal Revenue Code, already granted" would temporarily remain in effect. The possessions tax code is explicitly listed by the bill as one of the tax code's "exceptions." The bill would continue the full application of section 936 for an unspecified period of time before gradually phasing the credit out, also over an unspecified time period.

Section 993's tax exemption for individuals residing in Puerto Rico would certainly be construed as an "exception" to normally applicable tax treatment in the case of Puerto Rico. The nature of the deferral of taxes on income earned by corporations chartered in Puerto Rico is less certain, but could also be considered an exception. Still, neither of these tax provisions are explicitly listed as exceptions by S. 712. Whether they would be temporarily continued is thus uncertain.

Another transition provision relates to tax revenue. The statehood language of S. 172 provides that the existing income tax laws of Puerto Rico would stand repealed upon admission of Puerto Rico as a State, a measure that would deprive the State government of an important source of revenues. Under the statehood provisions, however, proceeds from the application of Federal income taxes to Puerto Rico are to be transferred into Puerto Rico's treasury in gradu-

[1] U.S. Internal Revenue Code, Section 901(b).

[2] U.S. Internal Revenue Code, Section 7701(a).

[3] For further information of the possession tax credit, see: U.S. Library of Congress. Congressional Research Service. *The possessions Tax Credit (IRC Section 936): Background and Issues.* Report No. 88-200 E, by David L. Brumbaugh. Washington, 1988. p. 9.

[4] For additional information on the cover-over of excise taxes. See: Hoff, Karla, U.S. Federal Tax Policy Toward the Territories: Past, Present, and Future. *Tax Law Review.* v. 37. Fall, 1981. p. 56-7. For information on the 1984 limitations, see: U.S. Congress, Joint Committee on Taxation. *General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984.* Joint Committee Print., 98th Cong., 2d Sess. Washington, U.S. Govt. Print. Off. 1984. p. 1222. 1226.

ally diminishing amounts for an unspecified number of years.

Finally, the statehood language provides that an "omnibus act" will be enacted by Congress "to ensure that the people of Puerto Rico attain equal social and economic opportunities with the residents of the several States" (section 16(c)).

STATEMENT OF SENATOR DANIEL PATRICK MOYNIHAN

I wish to state my growing sense that by the close of this session of Congress, and accordingly, of the 101st Congress itself, we will not have sent to the President a bill providing for a plebiscite on the status of Puerto Rico.

This would not be my wish. To the contrary. What I am about to say is sensitive. I have a limited, but I dare to hope, sufficient sense of just how sensitive. I mean no offense to anyone and devoutly hope that in the end I shall not have given any offense.

We recall with what great expectations this matter came before us at the outset of the first session of this Congress. On January 17 the Majority Leader received a letter from the heads of the three principle political parties of Puerto Rico (identical letters having been addressed to the Speaker of the House and to the President) asking for a "resolution of the status issue" through a vote of the people of the Commonwealth. The text is a follows:

"In the past election held on November 8, 1988, all three political parties, which represent the three alternatives for the ultimate political status of the People of Puerto Rico, included the need for the resolution of the status issue in the platforms they presented to the electorate.

"In accordance with the platform of the Popular Democratic Party, the Governor of Puerto Rico announced in his Inauguration the intention of the Government of Puerto Rico to pursue the resolution of the status question with the Government of the United States of America and convened a meeting of the leadership of the three political parties that represent the three formulas.

"As a result of this meeting we, the Presidents—of the Popular Democratic Party, representing Commonwealth, the New Progressive Party, representing Statehood, and the Independence Party, representing Independence—have agreed to express to the President and to the Congress of the United States of America, that the People of Puerto Rico wish to be consulted as to their preference with regards to their ultimate political status and the consultation should have the guarantee that the will of the People once expressed shall be implemented through an act of Congress which would establish the appropriate mechanisms and procedures to that effect.

"Towards the formulation of such an act of Congress and related policies, we request to meet with you at your earliest convenience.

"Conscious that since Puerto Rico came under the sovereignty of the United States of America through the Treaty of Paris in 1898, the People of Puerto Rico have not been formally consulted by the United States of America as to their choice of their ultimate political status, and in the understanding that we are taking a momentous decision in Puerto Rican history and confident of the commitment of the United States of Amercia and of the People of Puerto Rico to the principles of self-determination and government by the consent of the governed, we remain,

"Cordially yours,

"Baltasar Corrada del Rio, President, New Progressive Party; Rafael Hernandez Colon, President, Popular Democratic Party; Ruben Berrios Martinez, President, Puerto Rican Independence Party."

Some weeks thereafter, in an address to a Joint Session of the Congress on February 9, 1989, President Bush endorsed this proposal. He said:

"There's another issue that I've decided to mention here tonight. I've long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I strongly favor statehood. But I urge the Congress to take the necessary steps to allow the people of decide in a referendum."

The response in Puerto Rico was one of great satisfaction and even greater interest. In June a year ago I accepted the kind invitation of the Committee on Energy and Natural Resources to take part in a hearing on the issue held in San Juan. I think it likely that a third of the population of the island watched our televised hearings all day long, and two-thirds watched the reruns during the evening. That same evening, I could not walk anywhere in town without being greeted by name, usually with some apt comment on the (few) questions which I had asked that day. The Energy Committee went forward with, deliberate dispatch, and on August 2nd reported out the bill which is now before the Finance Committee.

That was three-quarters of a year ago. Nothing much has happened. It begins to look as if nothing might. On April 10, the chairman of the House Insular and International Affairs Subcommittee, Ron de Lugo, stated:

"The House is still waiting for legislation from the Senate that was promised last year. At some time soon, we will cross a point when it will become impossible to pass a bill in the House."

What happened?

Here I must declare, indeed assert, the limits of my knowledge, still more my understanding. I am no stranger to Puerto Rico. I first was there in the Navy near to half a century ago. (And, come to think, before that had spent more time than my mother knew in a pool hall called Los Muchachos in the original Manhattan barrio just north of 96th Street where the tracks come above ground on Park Avenue.) In the Kennedy years I came to know and to admire Luis Munoz Marin, and, indeed, worked with many of his lieutenants and associates. I did not fail to note that for them the English term "Commonwealth" was rendered "Estado Libre Asociado" with the further provision in one of the party conferences that the latter never be translated back in English.

At the United Nations I came upon the fierce accusations from Cuba and other elements of the so-called nonaligned nations that Puerto Rico was held in colonial captivity. On behalf of President Ford I answered back with, I hope, equal fierceness that it was the fixed policy of the United States that the people of Puerto Rico were free to choose any relationship with the United States that they wished: commonwealth, statehood, independence.

Shortly thereafter I came to the Senate and am now in my fourteenth year on the Finance Committee. During this time I have recurrently found myself dealing with matters affecting Puerto Rico in the most direct and important ways. I think it fair to say that my colleagues have assumed my interest in these matters reflects the large number of Puerto Rican residents in New York State, which it surely does. But it also reflects my experience at the United Nations and generally with the process of colonialization and decolonialization. For make no mistake: in the first instance Puerto Rico was the spoil of a colonial war. It became an American colony. It has since evolved into much more than that, yet no one should doubt the explosive nature of the original relationship.

Moreover, I began to sense how precarious the situation of Puerto Rico was in the Congress. Puerto Rico had friends; it had no fully empowered member. A nonvoting resident commissioner in the House; no one at all in the Senate. Thus, in November 1984 the Reagan administration announced a wholesale revision of the Internal Revenue Code. The first version, known as Treasury I, simply abolished Section 936 of the Code, the economic cornerstone of the whole development policy conceived by Munoz and those of his time. We managed to block this; but only just. Treasury I was the work of the permanent government; it would be back.

This experience only confirmed my view that statehood would come sooner than anyone seemd to think. I had presented this view in a speech on the Senate floor the previous August.

"Having known Luis Munoz Marin, and being a friend and admirer of so many Puerto Rican leaders who carry on in his tradition, I must say that I have always assumed that this tradition views Commonwealth status as interim, as transitional.

"Temporary economic advantages can help prepare a society for statehood but can never indefinitely outweigh the civil advantage of full citizenship, which only statehood can confirm.

"I look to a Puerto Rico that appears at our portals asserting that the obligation of citizenship can never be fully met by a citizenship that is incomplete. In a word, I look to the day when a Puerto Rican sense of equality will animate a sense of the shared responsibility of equals.

"What I dread is a Puerto Rico coming to us in frustration and resentment at what it considers unequal treatment, looking to statehood as a remedy for grievances rather than a call to duty. Do these terms seem archaic, idealized? Perhaps. Yet I believe they would be recognized by the founders of this Republic, who have nothing to apologize for as regards to the realism of their ideals."

I might add that on that occasion I was defending the right of Puerto Rico to receive back excise taxes paid on liquor produced there. Nothing new in this. The second bill enacted by the first Congress imposed a tariff on Caribbean rum. I concluded:

"I urge the Senate to give consideration to this measure, and especially hope that it will come to the attention of our distinguished majority and minority leaders, who will one day, they or their successors, stand on the floor of this Senate and deal with the application by the Commonwealth of Puerto Rico for entry into the American union, asking that a pledge repeatedly made to the people of Puerto Rico be honored."

In the course of the years my views have not changed. They are known in Puerto Rico, and ought to be made known in the present debate. But I would make an important point in this regard. I have no quarrel with commonwealth status. To the contrary I have come to sense that too many of Munoz's time, and those who follow him, commonwealth was not a way station, an interim period prior to statehood. It was, to the contrary, the closest economically viable option to independence. Or at least, it was something this side of absorption into the union of the mainland.

I respect that. Just as I respect those for whom independence is the only acceptable

outcome. My concern is that the process of making a viable choice should continue.

Leaving aside independence, where neither consideration arises, those who would choose between statehood and commonwealth status face a basic dilemma.

It is this.

Statehood automatically brings a huge increase in social welfare benefits. By an order of magnitude! Consider Supplementary Security Income. The current benefit in the commonwealth is about $32 a month for the blind, disabled, and aged who have insufficient Social Security or other benefits. The day statehood becomes effective, this benefit rises to $386, a tenfold increase, thereafter automatically indexed to inflation. Similar results occur across what is now a very wide range of programs. In the 1950s and later these benefits in the United States either did not exist or varied greatly from state to state. In the past 30 years, however, we have more and more tended to national benefits standards.

The impact of statehood on perhaps half the population of the island would be instantaneous and profound. And yet, at the same time, statehood means the loss of Section 936 benefits to industry, such that the economy loses a stimulus which has been absolutely central to economic growth in the past two generations. (Section 936, incidentally, was a program begun in the 1920s to encourage investment in the Philippines.)

By contrast, commonwealth status retains—for a period at least—the economic stimulus of Section 936. But it probably means a continued low level of social welfare benefits. And the absence of a considerable range of Federal taxes. Given those perplexities, I would offer a number of suggestions.

First of all, the executive branch and the Congress have got to undertake as much analysis as the remaining time allows. With no intent to criticize, I must state that some of the departments of the executive branch have been fair to mute on this subject. The Treasury, at least, has come before us and "endorsed" S. 712 as reported out by the Energy Committee, and offered a number of suggestions and reservations. Other departments with programs affected have simply come up here with no views and less data.

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Similarly, those supporting continued commonwealth status should take great care that the present seeming preference for statehood, as reflected in opinion polls, not persuade them that the best course is to put off a plebiscite. It is now common to read of this in the Puerto Rican press. I would presume to suggest, for example, that there is no reason the House of Representaties should be waiting on the Senate for a bill.

Let them write their own bill, and we will go to conference with them. This is the normal way in which we do business. One could wish that voices were heard in San Juan asking why the House seems to be running out the clock. For there will be no winners in such an eventuality, or at all events, that is my view. As for "enchanced" commonwealth status, that is surely a matter the Finance Committee will want to consider. I will make proposals. I hope others will do so as well. But time presses.

In the end, the great issues involved here are civic, not economic. Do the people of Puerto Rico wish to become Americans? For that is what statehood ineluctably implies. That is what statehood brings. Or do they wish to retain a separate identity? Of, but not in, the American union. This could be a perfectly intelligent choice, and of course, the option of eventual statehood or independence remains.

But to say again, the Congress must act. It is almost a century now since William Graham Sumner composed his bitter epitaph on the Spanish American War entitled, "The Conquest of the United States by Spain." His thesis, of course, was that by entering the colonial lists, we would become like other imperial nations, and suffer all their decadence and decline. Well, that hasn't happened. But we won't know until it is made perfectly clear that our offer to Puerto Rico of choice is in fact a fair-minded and efficacious offer. Which is to say, an offer which will shortly issue in an actual choice being made.

I ask that two important editorials, one from The New York Times, the other from The Washington Post, be appended to this statement.

[From the New York Times, Apr. 1, 1990]

THE 51ST AND 52D STATES

Puerto Rico is not America's Lithuania, but it is unhappy with its status as a highly dependent commonwealth. An overwhelming majority of 3.3 million islanders are agreed that they want change. But as Congress is learning, agreement stops there. What adds to the perplexity is a parallel but unrelated campaign to grant statehood to the District of Columbia.

A Senate bill supported by the Bush Administration would offer Puerto Ricans a chance to choose, by a binding vote next year, statehood improved commonwealth status or independence. The problem is to assure a fair choice. If one or another side has plausible reasons for charging bad faith, the referendum could prolong the argument it is meant to end.

Polls for the first time show a narrow majority of Puerto Ricans now favors statehood. As sentiment has shifted, so has the time of a longstanding debate, Statehood supporters now join with advocates of independence in decrying colonialism. Those clamoring for enhanced commonwealth status contend that the Senate bill is front-loaded unfairly in favor of statehood.

The argument springs from a complicated history. The U.S. acquired Puerto Rico from Spain almost incidentally in 1900. In 1917, Puerto Ricans became U.S. citizens, but not until 1947 did they elect a Governor. Five years later, Congress approved an ingenious commonwealth arrangement, giving a Spanish-speaking island home rule and exemption from Federal taxes but no vote in Federal elections.

Economically, the plan made sense. Using an additional tax break known as Section 936 of the revenue code, Pureto Rico has provided generous incentives for mainland investors. But politically, the island has been virtually a ward of Congress, without the clout it would wield with two senators and six or seven representatives, plus a Presidential vote.

The sense of being second-class citizens has given potent impetus to the statehood campaign. As statehood sentiment has waxed, so has uncertainty about Puerto Rico's tax ememptions, causing investors to hold back. To end the debate once and for all, Gov. Rafael Hernandez Colon, a commonwealth advocate, proposed a binding referendum.

But he now faults the Senate bill as "terribly, dangerously unbalanced." It would phase in Federal taxes and phase out Section 936 over four years. Meanwhile, says the Congressional Budget Office, statehood could cost other U.S. taxpayers as much as $9.4 billion in additional Federal social spending; more than half the island's population remains below the national poverty line.

A very different view is taken by former Gov. Carlos Romero Barcelo, a statehood proponent. He persuasively cites similar preferential treatment granted other incoming states. Congress can redress the balance by rewording the commonwealth choice to give its proponents more of what they seek: an increased international role, an open port for air carriers, a vioce in Federal appointments and jurisdiction over natural resources.

What is unarguable and fundamental is Puerto Rico's right to self-determination. The choice is primarily between two forms of association with the United States. Even the minority favoring independence relies on reason rather than passion. Congress can reciprocate by specifying clearly and fairly what Puerto Ricans can expect, whichever way they vote.

[From the Washington Post, Apr. 24, 1990]

PUERTO RICAN STATEHOOD

A game is being played in a mostly indifferent Congress with the people and the future of Puerto Rico. The issue is the recurrent one in island politics of statehood or independence versus the present mixed status of commonwealth.

The last election on the island in 1988 was won by the commonwealth party, but it was close. In hopes of taking the distracting status issue away from the statehood advocates nipping at their heels, the commonwealthers decided to ask Congress to authorize a binding referendum. Puerto Ricans would choose among the three broad relationships with the United States, and Congress would agree in advance to give effect to the result.

The other Puerto Rican parties also supported the idea, as did the administration, on record as favoring statehood. Then came the problem, which persists, of defining the alternatives that would be voted on. The administration wanted to leave them vague. The Senate Energy and Natural Resources Committee rightly resisted, on grounds that the voters should know what they were voting for. But the committee then produced a seriously misshapen bill, tilted sharply in favor of statehood. The legislation front-loaded the statehood option by providing that benefits would go up right away and taxes only later. Opinion polls on the island picked up an instant pro-statehood shift.

Now the Congressional Budget Office has done a study of the likely economic effects of statehood as outlined in the committee bill. From what might be called a welfare standpoint the island would gain (and the Treasury lose). Benefits would rise not just earlier than taxes, but as much as $2 billion to $3 billion a year more. But the Puerto Rican economy is dependent on a special provision in the U.S. tax code exempting

from tax part of the income of U.S. companies that invest there. As a condition of statehood the exemption would be phased out. CBO says that would mean loss of jobs and calculates that within 10 years this loss on the job side would be greater than the gain in benefits. Puerto Rico would be both more dependent and worse off.

The bill has now gone to the Finance Committee, whose chairman ordered the CBO study. Finance, which has jurisdiction over taxes and many benefit programs, is scheduled to hold a hearing this week. The Agriculture Committee, which has jurisdiction over the food stamp program, an island mainstay, must also be heard from before the legislation can go to the floor. Then the whole process would have to be repeated in the House. There isn't time, and therefore there isn't likely to be a bill. The way the idea has been abused and mangled thus far, that would be a merciful result. But in the meantime the people of Puerto Rico have been badly jerked around.

[From the CONGRESSIONAL RECORD, Apr. 27, 1990]

THE DECOLONIZATION OF PUERTO RICO

Mr. MOYNIHAN. Mr. President, the decolonization enterprise initiated by President Woodrow Wilson in his Fourteen Points speech is still very much with us. What was once known as the Mandatory Territory of South-West Africa has just become the independent nation of Namibia. The headlines are dominated by what is, in fact, a decolonization struggle between the Soviet Union and its colony, Lithuania. The Senate has just voted to appropriate funds for earthquake victims in another Soviet colony: Armenia. The decolonization of the Soviet empire is an issue which will occupy our attention for, perhaps, decades to come.

I rise today, however, to remind my colleagues that the United States has not been immune to the attractions of empire building. We once lived in the era of Admiral Mahan and the age of coal-fired ships of the line and the strategic need for a global string of coaling stations. American strategists wrote of the vital American need for stepping stones across the Pacific: Hawaii, Guam, the Philippines. The Hearst press whipped up a war hysteria against Spain over its treatment of Cuba. Then on February 15, 1898 the battleship *Maine* went to the bottom of Havana harbor with the loss of 266 American lives. The warhawks claimed that Spain was responsible and demanded revenge and America went to war with the cry "Remember the *Maine*!"

Mr. President, we now know that it was not a Spanish mine which sank the *Maine*. In a masterful investigation headed by Adm. Hyman Rickover the U.S. Navy concluded in 1976 that "In all probability, the *Maine* was destroyed by an accident which occurred inside the ship." But no matter.

We went to war with Spain ostensibly over its treatment of our neighbors in Cuba and the sinking of the *Maine* in Cuba, but it was in the Philippines that Admiral Dewey first struck, sinking the Spanish fleet handily and gaining for the United States an empire with an afternoon's work. We, therefore, invaded Cuba, defeated the Spanish forces and acquired, in the process, the island of Puerto Rico. At the close of the war and as a result of the Treaty of Paris, America became a transoceanic empire. America's imperial phase had all the trappings of the colonialist, paternalistic mentality. Many Americans snicker over the Frence mission civilitrice, but they forget William Howard Taft's commitment to look after "our little brown brothers" in the Philippines.

Most of this empire has now been shed, but we are still grappling with the problem of the island of Puerto Rico. For 2 years Puerto Rico was governed by the military and from 1900 to 1952 the island was governed, frankly, as a possession of the United States. It was "non-self-governing" in the language of the Charter of the United Nations.

Is Puerto Rico a colony today? Most obviously, not. In July 1952, Puerto Rico became a full self-governing Commonwealth. Its constitution was approved by nearly 82 percent of those voting. Repeatedly, its citizens have had the opportunity to express their opinion through free and open elections. In 1967 only 0.6 percent of its voters opted for independence.

And yet, Mr. President, it would be folly to ignore the island's colonial legacy. It was a colony. This fact requires a special sensitivity on the part of the United States, a sensitivity which I am not at all sure we are today demonstrating. If we do not pay attention to Puerto Rico's colonial legacy, the world does. Resolutions calling for investigations of Puerto Rico's status became standard fare in the U.N. Decolonization Committee during the early 1970's. Only the most intensive lobbying effort in 1975 prevented a similar resolution from being adopted, an event which the New York times hailed as "a victory for common sense." I am happy to report that since that time the United States has successfully resisted resolutions condemning the U.S. role in Puerto Rico.

Mr. President, will this situation continue? We cannot be sure. It is a matter of the utmost delicacy. We are in the process of considering arrangements for a plebiscite there and I fear that too little attention is being paid here to this important process. I ask unanimous consent that a statement which I made yesterday in the Committee on Finance and an article from the San Juan Star concerning a congressional visit to the island in June 1989.

I hope that my colleagues will pay close attention to this situation. Mr. President, I urge my colleagues to work diligently to ease the United States through this final stage of its own "decolonization" process.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DANIEL PATRICK MOYHIHAN

I wish to state my growing sense that by the close of this session of Congress, and accordingly, of the 101st Congress itself, we will not have sent to the President a bill providing for a plebiscite on the status of Puerto Rico.

This would not be my wish. To the contrary. What I am about to say is sensitive. I have a limited, but I dare to hope, sufficient sense of just how sensitive. I mean no offense to anyone and devoutly hope that in the end I shall not have given any offense.

We recall with what great expectations this matter came before us at the outset of the first session of this Congress. On January 17 the Majority Leader received a letter from the heads of the three principle political parties of Puerto Rico (identical letters having been addressed to the Speaker of the House and to the President) asking for a "resolution of the status issue" through a vote of the people of the Commonwealth. The text is as follows:

"In the past election held on November 8, 1988, all three political parties, which represent the three alternatives for the ultimate political status of the People of Puerto Rico, included the need for the resolution of the status issue in the platforms they presented to the electorate.

"In accordance with the platform of the Popular Democratic Party, the Governor of Puerto Rico announced in his Inauguration the intention of the Government of Puerto Rico to pursue the resolution of the status question with the Govenment of the United States of America and convened a meeting of the leadership of the three political parties that represent the three formulas.

"As a result of this meeting we, the Presidents—of the Popular Democratic Party, representing Commonwealth, the New Progressive Party, representing Statehood, and the Independence Party, representing Independence—have agreed to express to the President and to the Congress of the United States of America, that the People of Puerto Rico wish to be consulted as to their preference with regards to their ultimate political status and the consultation should have the guarantee that the will of the People once expressed shall be implemented through an act of Congress which would establish the appropriate mechanisms and procedures to that effect.

"Towards the formulation of such an act of Congress and related policies, we request to meet with you at your earliest convenience.

"Conscious that since Puerto Rico came under the sovereignty of the United States of America through the Treaty of Paris in 1898, the People of Puerto Rico have not been formally consulted by the United States of America as to their choice of their ultimate political status, and in the understanding that we are taking a momentous decision in Puerto Rican history and confident of the commitment of the United States of America and of the People of Puerto Rico to the principles of self-determination and government by the consent of the governed, we remain,

"Cordially yours,

"Baltasar Corrada del Rio, President, New Progressive Party; Rafael Hernandez Colon, President, Popular Democratic Party; Ruben Berrios Martinez, President, Puerto Rican Independence Party."

Some weeks thereafter, in an address to a Joint Session of the Congress on February 9, 1989, President Bush endorsed this proposal. He said:

"There's another issue that I've decided to mention here tonight. I've long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I strongly favor statehood. But I urge the Congress to take the necessary steps to allow the people to decide in a referendum."

The response in Puerto Rico was one of great satisfaction and even greater interest. In June a year ago I accepted the kind invitation of the Committee on Energy and Natural Resources to take part in a hearing on the issue held in San Juan. I think it likely that a third of the population of the island watched our televised hearings all day long, and two-thirds watched the reruns during the evening. That same evening, I could not walk anywhere in town without being greeted by name, usually with some apt comment on the (few) questions which I had asked that day. The Energy Committee went forward with deliberate dispatch, and on August 2nd reported out the bill which is now before the Finance Committee.

That was three-quarters of a year ago. Nothing much has happened. It begins to look as if nothing might. On April 10, the chairman of the House Insular and International Affairs Committee, Ron de Lugo, stated:

"The House is still waiting for legislation from the Senate that was promised last

year. At some time soon, we will cross a point when it will become impossible to pass a bill in the House."

What happened?

Here I must declare, indeed assert, the limits of my knowledge, still more my understanding. I am no stranger to Puerto Rico. I first was there in the Navy near to half a century ago. (And, come to think, before that had spent more time than my mother knew in a pool hall called Los Muchachos in the original Manhattan barrio just north of 96th Street where the tracks come above ground on Park Avenue.) In the Kennedy years I came to know and to admire Luis Munoz Marin, and, indeed, worked with many of his lieutenants and associates. I did not fail to note that for them the English term "Commonwealth" was rendered "Estado Libre Asociado" with the further provision in one of the party conferences that the latter never be translated back into English.

At the United Nations I came upon the fierce accusations from Cuba and other elements of the so-called nonaligned nations that Puerto Rico was held in colonial captivity. On behalf of President Ford I answered back with, I hope, equal fierceness that it was the fixed policy of the United States that the people of Puerto Rico were free to choose any relationship with the United States that they wished: commonwealth, statehood, independence.

Shortly thereafter I came to the Senate and am now in my fourteenth year on the Finance Committee. During this time I have recurrently found myself dealing with matters affecting Puerto Rico in the most direct and important ways. I think it fair to say that my colleagues have assumed my interest in these matters reflects the large number of Puerto Rican residents in New York State, which it surely does. But it also reflects my experience at the United Nations and generally with the process of colonialization and decolonialization. For make no mistake: in the first instance Puerto Rico was the spoil of a colonial war. It became an American colony. It has since evolved into much more than that, yet no one should doubt the explosive nature of the original relationship.

Moreover, I began to sense how precarious the situation of Puerto Rico was in the Congress. Puerto Rico had friends; it had no fully empowered member. A nonvoting resident commissioner in the House; no one at all in the Senate. Thus, in November 1984 the Reagan administration announced a wholesale revision of the Internal Revenue Code. The first version, known as Treasury I, simply abolished Section 936 of the Code, the economic cornerstone of the whole development policy conceived by Munoz and those of his time. We managed to block this; but only just. Treasury I was the work of the permanent government; it would be back.

This experience only confirmed my view that statehood would come sooner than anyone seemed to think. I had presented this view in a speech on the Senate floor the previous August.

"Having known Luis Munoz Marin, and being a friend and admirer of so many Puerto Rican leaders who carry on in his tradition, I must say that I have always assumed that this tradition views Commonwealth status as interim, as transitional.

"Temporary economic advantages can help prepare a society for statehood but can never indefinitely outweigh the civil advantage of full citizenship, which only statehood can confirm.

"I look to a Puerto Rico that appears at our portals asserting that the obligation of citizenship can never be fully met by a citizenship that is incomplete. In a word, I look at the day when a Puerto Rican sense of equality will animate a sense of the shared responsibility of equals.

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The other Puerto Rican parties also supported the idea, as did the administration, on record as favoring statehood. Then came the problem, which persists, of defining the alternatives that would be voted on. The administration wanted to leave them vague. The Senate Energy and Natural Resources Committee rightly resisted, on grounds that the voters should know what they they were voting for. But the committee then produced a seriously misshapen bill, tilted sharply in favor of statehood. The legislation front-loaded the statehood option by providing that benefits would go up right away and taxes only later. Opinion polls on the island picked up an instant pro-statehood shift.

Now the Congressional Budget Office has done a study of the likely economic effects of statehood as outlined in the committee bill. From what might be called a welfare standpoint the island would gain (and the Treasury lose). Benefits would rise not just earlier than taxes, but as much as $2 billion to $3 billion a year more. But the Puerto Rican economy is dependent on a special provision in the U.S. tax code exempting from tax part of the income of U.S. companies that invest there. As a condition of statehood the exemption would be phased out. CBO says that would mean loss of jobs and calculates that within 10 years this loss on the job side would be greater than the gain in benefits. Puerto Rico would be both more dependent and worse off.

The bill has now gone to the Finance Committee, whose chairman ordered the CBO study. Finance, which has jurisdiction over taxes and many benefit programs, is scheduled to hold a hearing this week. The Agriculture Committee, which has jurisdiction over the food stamp program, an island mainstay, must also be heard from before the legislation can go to the floor. Then the whole process would have to be repeated in the House. There isn't time, and therefore there isn't likely to be a bill. The way the idea has been abused and mangled thus far, that would be a merciful result. But in the meantime the people of Puerto Rico have been badly jerked around.

[From the San Juan Star, June 17, 1989]

SENATORS COOL TO PDP "SPECIAL TREATMENT" PLAN

(By Carlos Galarza)

The Popular Democratic Party's proposal for special federal policy treatment continued to get the cold shoulder from U.S. senators during status hearings in Old San Juan Friday.

When PDP Vice President Miguel Hernandez Agosto defended the party's key proposal of getting special legislative treatment from Congress, the idea got the same rebuff as when Gov. Hernández Colón made the proposal in Washington two weeks ago.

Sen. J. Bennett Johnston, D-La., chairman of the Senate Energy and Natural Resources Committee, and ranking Republican Sen. James McClure of Idaho, rejected giving Puerto Rico the power to challenge the applicability of federal laws to Puerto Rico.

Hernández Agosto contended such a policy would cut litigation because Puerto Rico then could not challenge any federal law which Congress deemed to have "overriding national interest."

The senators, who were joined by Sen. Daniel P. Moynihan, a New York Democrat and member of the Finance Committee, did not appear to buy the argument.

Johnston offered Hernández Agosto a counter-proposal, suggesting that unless Congress mentioned Puerto Rico in federal legislation, it would not apply to the island.

"It's a good idea, but we like our idea better," Hernández Agosto said later during an interview. "I see a very positive attitude on their part of trying to understand our proposal and it all boils down to negotiations on this issue."

Hernández Agosto was one of the main speakers during the daylong hearings at the Government Reception Center that saw a parade of island political leaders address the senators about status and a proposed plebiscite.

PDP Resident Commissioner Jaime Fuster, who preceded Hernández Agosto on the stand, also made a defense of the federal policy proposal. "We are sensitive to the issue of federal policy as applied to Puerto Rico," he said.

Johnston and the other senators had a rough moment when they confronted the radical left of the island's independence movement.

Puerto Rican Socialist Party Secretary-General Carlos Gallisá pointed his finger at them and said, "You represent the colonial power and cannot be judge and player in this process."

Gallisá was followed to the witness stand by former PSP Secretary-General Juan Mari Bras, who predicted that the senators would see "thousands of independentistas" turn out for a demonstration today.

"You'll see that the people will not assimilate," Mari Bras told the senators.

The PIP-sponsored demonstration will begin with a 10 a.m. rally in front of the El Escambrón sports complex and conclude with a march to the site of the hearings.

Former Resident Commissioner Jaime Benítez made a pitch in favor of enhanced Commonwealth.

"If the PDP had not made the mistake of losing the elections in 1976, we would have had enhanced Commonwealth by now because that's what the people of Puerto Rico want," he said.

The other key PDP proponent to testify during the morning session was House Speaker José "Rony" Jarabo, who greeted the senators by saying, "Welcome to the marvelous world of Puerto Rico status politics, where everything is black and white, good and evil . . ."

Former NPP President Baltasar Corrada del Río was one of four members of the pro-statehood faction who testified in the morning.

He attacked Commonwealth status, corporate tax exemption under Section 936 of the Internal Revenue Code. Corrada said that without statehood, Puerto Ricans would have "second-class citizenship."

Sen. Oreste Ramos, NPP-San Juan, said Puerto Rico is defined by U.S. law as an unincorporated territory and contended that Commonwealth status does not exist and thus cannot be enhanced.

Sen. Rolando Silva, NPP-San Juan, adding a personal touch to his testimony, said he is a Vietnam War veteran who fought for the United States and now wants the right to equal representation.

Sen. Nicolas Nogueras, NPP-at-large, proposed to the senators that Commonwealth status go alone in a referendum. He said that if it fails to garner 51 percent of the votes, then statehood and independence should go alone in a plebiscite run-off.

During the afternoon session development administrator Antonio J. Colorado was submitted to tough questioning on Section 936. He and representatives of the island's business sector said that without 936 benefits Puerto Rico's economy would collapse.

However, their testimony was disputed by prostatehood tax expert Luis Costas Elena who said 936 could be eliminated immediately without affecting the island's economy.

He quoted a U.S. Treasury report that said 936 tax breaks in Puerto Rico cost the Treasury $1.641 billion in 1983. However, Colorado had told the senators that 936 does not cost the United States anything.

Moynihan, who is a member of the Senate Finance Committee, said 936 is not safe from attempts by Congress to eliminate it as has been attempted in the past.

Today's hearings are scheduled from 9 a.m. to 12 p.m. After a day off Sunday, the hearings will conclude Monday with a session scheduled from 8:30 a.m. to 11:30 a.m.

SENATOR CALMS FEARS STIRRED BY MEMORANDUM

(By Manny Suarez)

Sen. J. Bennett Johnston, D-La., said categorically Friday that Puerto Ricans' U.S. citizenship could not be revoked by Congress under either commonwealth or statehood.

"Citizenship should not, will not and cannot be changed under statehood or commonwealth. Citizenship should not, will not and cannot be modified in any way under statehood or commonwealth. It is guaranteed," said Johnston in his opening statement at the Senate Energy and Natural Resources Committee hearings on status here.

Johnston's statement helped ease a controversy over Puerto Ricans' U.S. citizenship sparked at the start of June by a Library of Congress memo.

In the news conference before the hearings started at the Government Reception Center in Old San Juan, Johnston also said:

He did not have an opinion about the size of a majority that would be needed to permit Puerto Rico to become a state.

He did not consider that Puerto Rico was a colony under commonwealth.

That there was growing support in Congress for a "self-executing" bill that would enact whatever status preference the people select without more congressional legislation.

That the island's three parties would share equally in a $1.5 million federal appropriation to help them carry out their plebiscite campaigns.

The committee will not be able to extend the hearings in Puerto Rico as Gov. Hernández Colón had requested.

Johnston addressed the citizenship issue at a morning news conference, helping defuse the uproar sparked by a Library of Congress staff member. A memo from the staffer released during June 1-2 status hearings said Congress might be able to revoke Puerto Ricans' U.S. citizenship if the island became independent.

Johnston's comments that the memo was only concerned with the effects of Puerto Rican independence were praised by Hernández Colón, president of the proautonomy Popular Democrats.

Johnston's reassurance, however, had little impact on former Gov. Carlos Romero Barceló, leader of the pro-statehood New Progressive Party.

"The only way to guarantee citizenship is under statehood," he said. "Under commonwealth there will always be doubts, uncertainty and fear."

Also taking issue with Johnston were Dr. Myriam Ramírez de Ferrer, president of the pro-statehood Citizens in Civic Action, and by former Secretary of Justice Blas Herrero.

Ramírez de Ferrer said, "A little of what Johnston had to say was to resolve the hysteria that arose over the issue. But although we may not have it revoked under the present version of commonwealth, we do not know what would happen if the island became an 'associated republic.' "

"Associated republic" is used by the NPP to describe PDP plans for Puerto Rico's relations with the United States. NPP members contend it is a plan for independence.

Herrero said he had been studying the matter and found that citizenship legislation was contradictory.

"The matter is not as clear as Johnston presents it," he said. "I'll have my study done in about two weeks."

Johnston was also asked about another memo to the committee that said the island would have to vote overwhelmingly for statehood before Congress would grant it.

The memo pointed to such offshore states as Alaska and Hawaii that had several prostatehood referendums in which the people voted 90 percent in favor before they were accepted into the union as examples of the "super majority" required.

"The question of the majority needed is not one to be decided right at this moment," Johnston said.

When asked for a reaction, Romero Barceló said the "super majority" issue was raised by Hernández Colón and the PDP.

"If you must have a super majority it should be for commonwealth which deprives you of representatives and senators and sovereignty," he said. "To be able to participate as a state all you would need is a majority."

Aida Montilla, who attended the news conference as an analyst with WPAB radio on Ponce, asked if the committee truly intended to resolve the island's colonial" status.

"That's a loaded question," Johnston responded. "To answer yes or no is to say I believe that Puerto Rico's status is colonial and I do not believe that."

Montilla, a retired University of Puerto Rico professor, is an outspoken advocate of independence and is scheduled to address the committee Monday.

Johnston said there were three bills submitted to deal with the plebiscite, one of which was "self-executing." That means Congress would spell out the terms under which statehood or independence would be granted depending on which alternative won or what enhancement would be given if commonwealth won.

[From the Washington Post, June 2, 1989]

SENATE COMMITTEE OPENS HEARINGS ON PUERTO RICO

(By Judith Havemann)

With impassioned testimony televised live to Puerto Rico, a Senate committee opened hearings yesterday aimed at the permanent settlement of the Puerto Rican question: should the island seek to become the 51st state, an independent nation, or an "enhanced commonwealth" of the United States?

The Senate Committee on Energy and Natural Resources, which has jurisdiction over territories, began consideration of legislation calling for Puerto Ricans to decide their fate in a referendum in 1991.

The issue is nearly 100 years old, and sentiments have run so strong in Puerto Rico that extremists attempted to assassinate President Harry S. Truman in 1950 and shot up the House of Representatives in 1954 in the cause of independence. The question of status has dominated politics on the island since the Spanish American War.

But with the strong support of President Bush, committee chairman J. Bennett Johnston (D-La.) and the three major Puerto Rican political parties, a referendum seems more likely now than it has in decades.

Details of the three alternatives have been submitted to the Senate for consideration in hearings in the energy, finance, judiciary, commerce and armed services committees.

"I can assure you that Congress will make substantial changes to all three definitions, and I fully expect that the advantages of each option will be reduced from what the parties have proposed," Johnston said. "Congress will make budget neutrality an objective." The island receives about $6 billion annually in federal funds.

Former governor Carlos Romero Barcelo argued for statehood. "We are U.S. citizens with a difference: we are second class citizens who have no voice in our nation's future, who have no vote in Washington."

When Americans attacked Libya, "a Puerto Rican Air Force Commander was in the eye of the raid, and [Capt. Fernando L.] Ribas-Dominicci gave his life for his country," Romero Barcelo testified. "His mother did not vote for the president who gave the order to take action against Libya. She has no right to vote—she lives in Utuado, Puerto Rico."

Ruben Berrios Martinez, the Oxford-educated president of the Puerto Rican Independence Party, countered with testimony echoing claims that usually garner 4 percent to 7 percent of the vote in island elections.

The U.S.-Puerto Rican relationship "by whatever name, and whether by imposition or consent, contradicts the principle of representative democracy, is inconsistent with the values and principles of the American people and constitutes a growing source of embarrassment to the United States in the international community," he said.

Gov. Rafael Hernandez Colon, speaking for what he called the "real world" solution of an "enhanced commonwealth," called independence "impracticable," saying it "would wreck the Puerto Rican economy and it runs counter to the unswerving desire of the people of Puerto Rico to maintain their American citizenship."

"Statehood was and is unworkable because it would also disrupt the Puerto Rican economy and does not take into account another given: the fact that Puerto Ricans form a people, a distinct society with its own culture, ethos and language," Hernandez Colon said.

He was the only panel member to testify in detail, with the others scheduled to answer questions today.

Hernández Colón explored several major problems: the official language, whether Puerto Ricans should continue to be exempt from federal taxes, and whether the commonwealth can be legally enhanced to allow Puerto Rico the degree of autonomy it seeks.

The pro-commonwealth forces want tariffs on selected foreign imports; bilateral air transportation agreements with foreign counties; a non-voting commissioner in the

Senate; recovery of excess federal lands; block grant funding from federal agencies; Spanish-language testimony in U.S. courts if requested; and the power to enter international organizations and agreements.

The existing commonwealth was established in 1952. In a 1967 plebiscite on Puerto Rico's status, 60 percent of the voters chose the commonwealth, 39 percent backed statehood and the independence party received less than 1 percent of the vote after boycotting the process.

[From the San Juan Star, June 2, 1989]

RHC STATUS PROPOSAL RAKED

(By Harry Turner)

WASHINGTON.—Gov. Hernández Colón and his vision of an enhanced Commonwealth ran into a buzzsaw of objections Thursday from Sen. J. Bennett Johnston, D-La., who found fault with nearly all the pro-autonomy proposals during a torturous afternoon for the governor.

One by one, Johnston picked apart the commonwealth provisions, suggested some be taken out of the plebiscite bill, said others should be sharply modified and contended still others were unworkable.

Johnston's unrelenting criticisms appeared to shake Hernández Colón, who looked worried and huddled with his advisers during breaks in the first day's plebiscite hearings by the Senate Energy and Natural Resources Committee.

To those with long memories, the attack was remindful of other occasions over the past 30 years when Popular Democratic Party leaders came enthusiastically to Congress with autonomy proposals, only to have their hopes shattered.

Johnston's views are all the more important because he is committee chairman and the driving force behind the plebiscite. It was to him that Hernández Colón first appealed late last year to get the plebiscite process moving.

Hernández Colón was the first witness to undergo extensive questioning by the committee. Puerto Rican Independence Party President Rubén Berrios and New Progressive Party President Carlos Romero will appear today.

The hearings are the start of the legislative process that is supposed to end in 1991 when Puerto Rico residents vote in a plebiscite between enhanced Commonwealth, statehood and independence and settle Puerto Rico's status turmoil for a long time, if not forever.

Johnston, although mild-mannered, was especially harsh with the centerpiece of the Popular Democratic Party's proposals—the creation of a federal policy that, in effect, would allow the Puerto Rican government to reject most federal laws and regulations.

This proposed policy mandates that almost all federal laws and regulations must take into consideration Puerto Rico's special economic, cultural, ecological and other conditions.

If a law doesn't, then Puerto Rico could either go to court to block its applicability or ask the president to declare it nonapplicable if Congress doesn't act.

"I think this (allowing the president to declare a law nonapplicable) would violate the separation of powers," Johnston told the governor. "This is probably not a good way to do it * * *. It may not be a good policy and it may not be workable."

The Louisiana Democrat also complained at several points that the proposed federal policy would result in "endless litigation."

He seemed more sympathetic, however, to giving Puerto Rico some kind of control over federal regulations and their administration on the island.

In what appeared to be a warning to all three statuses, Johnston said he believed that Congress, given the budget deficit situation, wouldn't pass a plebiscite bill that led to a further drain on the U.S. Treasury.

"It is certain that if a [status] definition includes an increased benefit, then Congress will be looking for a way to offset the cost of that benefit * * *. Congress will make budget 'neutrality' an objective during its consideration of these definitions."

Johnston backed up his words by telling Hernández Colón that the Commonwealth proposals of forcing Congress to treat Puerto Rico equally in all federal programs—worth between $850 million and $1 billion a year—were not feasible.

Johnston suggested that the mandatory provision be replaced with watered down language in which Congress would adopt equal treatment as a "goal" to be sought sometime in the future.

Although he didn't spell out his objections, Johnston also seemed disturbed by the PDP leadership's use of "autonomy" when describing the enhanced Commonwealth it seeks.

In the face of the committee chairman's steady objections, Hernández Colón appeared to backtrack on most issues during what must have been a long afternoon for him.

However, Johnston indicated in an opening statement that the other two statuses will also take their share of criticism from him and the rest of the committee.

"I can assure you that Congress will make substantial changes to all three definitions, and I fully expect that the advantages of each option will be reduced from what the parties have proposed," he said.

The Thursday hearings began in the morning with brief statements from Hernández Colón, Romaero and Berríos on their status goals. The three then sat together to take preliminary questions from committee members as a crowded hearing room audience, mostly from Puerto Rico, watched.

The political spectrum of those present ranged from San Juan attorney Jorge Farinacci, accused as a Machetero terrorist in a Hartford, Conn., armed robbery, to former Gov. Luis Ferré, 85, who recounted for the committee how he had first testified in Congress on behalf of statehood in 1936.

The morning session stayed pretty much on track until Romero and Hernández Colón got off on a tangent of why so many Puerto Ricans can't speak English.

A sizable number of committee members were on hand for the morning session, but in the afternoon usually only Johnston and Sen. James McClure, R-Ida., were present.

Berríos, in his testimony, made a strong plea to the committee to establish safeguards for the plebiscite campaigning so that neither the federal nor the Commonwealth government could skew the process.

Asked later whether he thought the Hernández Colón administration would use government resources to win the plebiscite, he snorted and said, "Of course."

Here are other major Commonwealth plebiscite proposals and Johnston's reaction to them:

The transfer to the Puerto Rican government of the power to negotiate with foreign countries over air routes. "It seems to me that that would be a burden for Puerto Rico," Johnston said, suggesting that Puerto Rico have some other kind of "input" on air routes.

The empowerment of Puerto Rico to license tuna boats, as part of its proposed jurisdiction 200 miles out to sea.

"We'd probably be better off not to accept that [tuna licensing]," the senator remarked.

[From the CONGRESSIONAL RECORD, May 24, 1990]

THE DECOLONIZATION OF PUERTO RICO

Mr. MOYNIHAN. Mr. President, yesterday's Washington Post carried an important article by Mr. Ruben Berrios-Martinez, the president of the Puerto Rican Independence Party. It is entitled, "Puerto Rico—Lithuania in Reverse?" It appears to me to raise many of the issues I addressed here on the Senate floor on April 27 in a statement which appears in the RECORD under this title, "The Decolonization of Puerto Rico."

May I first say that Mr. Berrios-Martinez' views deserve a most respectful hearing. Puerto Rico was acquired as a U.S. colony almost a century ago—91 years to be exact—in a classic colonial war. Nothing is more normal in our time than for colonies acquired in the 17th, 18th, or 19th century to demand independence in the 20th century. Indeed, all but tiny remnants have done so in what must now be called the aftermath of the age of decolonization. Puerto Rico is a singular exception.

The doctrine, for it is nothing less, of American exceptionalism leads us to think otherwise. We will note, for example, that since 1917 Puerto Ricans have been citizens of the United States. What is one to say? Algerians were free to be citizens of France. The cause of independence marches to a different drummer. In truth, when the Senate Committee on Energy and Natural Resources held hearings in San Juan a year ago June, by far the most impressive demonstration came on a Saturday morning when some 40,000 independence supporters peacefully marched passed the site of our hearings—I was present as a guest of the committee—chanting, "Yankees go home."

I have related before, and will not dwell on it here, my own involvement with this subject. In the Kennedy years I came to know the advocates of Commonwealth status—Estado Libre Asociado, as the term is in Spanish. I acquired them, and still held the impression, it can be little more given my very limited knowledge, that Monoz and his followers were at heart nationalists. They did not see Commonwealth as a kind of way station on the road to full statehood. To the contrary, many saw it as an acceptable variation of independence. Later, as U.S. Representative to the United Nations, I had to deal with a Cuban resolution in the United Nations Decolonization Committee dealing with the "inalienable right of the people of Puerto Rico to self-determination and independence." Our view, stated with some force to the members of the Decolonization Committee, was that every President since Harry S. Truman had affirmed that right, and that we needed no advice from a Communist dictator on the subject of our political arrangements. Yet, note that it was thought a considerable "victory for common sense," as the New York Times observed in an editorial, when a motion not to take up the resolution carried by 11 votes to 9. For the word is made up of ex-colonies. Not least of which, of course, is the United States itself.

May I restate my own view that our relationship has, in fact, changed over the course of 91 years. On June 17 last year, the final day of our hearings, the issue of Puerto Rico's status was raised. I offered the comment: "Is Puerto Rico a colony? We can say it was a colony * * * but have things not changed?" This remark was widely reported and, I believe, is legitimate.

Even so, I quite understand the position of the independentistas who hold that there is no alternative save to establish a Puerto Rican nation. Mr. Berrios-Martinez writes:

"[W]hat is wrong with statehood, the traditional solution for dealing with territories peopled with settlers moving west, or with ethnic minorities coalescing around the American way of life?

"Just this: Puerto Rico, a distinct Latin American nationality 60 percent of whose people do not speak English, presents a radically different situation. We Puerto Rican independentistas will never give up our inalienable right to struggle for independence, even under statehood. Minorities and majorities come and go; but nationalities remain. The United States is a unitary, not a multinational, country, and statehood was made for Americans, not for Puerto Ricans or other distinct nationalities."

Then this, with a touch of sarcasm not undeserved:

"A recent study by the Congressional Budget Office has calculated the additional cost to the American taxpayer of Puerto Rico as a state at $25.6 billion in the first nine years. That is why the Puerto Rican statehooders' battle cry is 'Statehood is for the poor'—a far cry from 'Give me liberty or give me death!' Not to be outdone, Commonwealth leaders have petitioned the U.S. Senate for parity with the states in federal funding, but without Puerto Rican's paying federal taxes."

That is why in an opening statement at the Finance Committee hearing on April 26, I pleaded that at the rate we were moving—especially with no action in the House whatever—we were not going to get a bill to the President by the end of this Congress. Without intending we were going to break his promise of a free plebiscite in 1991. I reviewed the assorted economic forecasts and analyses. But concluded:

"In the end, the great issues involved here are civic, not economic. Do the people of Puerto Rico wish to become Americans? For that is what statehood ineluctably implies. That is what statehood brings. Or do they wish to retain a separate identity? Of, but not in, the American union. This could be a perfectly intelligent choice, and of course, the option of eventual statehood or independence remains.

"But to say again, the Congress must act. It is almost a century now since William Graham Sumner composed his better epitaph on the Spanish American War entitled, 'The Conquest of the United States by Spain.' His thesis, of course, was that by entering the colonial lists, we would become like other imperial nations, and suffer all their decadence and decline. Well, that hasn't happened. But we won't know until it is made perfectly clear that our offer to Puerto Rico of choice is in fact a far-mined and efficacious offer. Which is to say, an offer which will shortly issue in an actual choice being made."

Since then, things have got both better and worse. Better in the House where at long last there is some legislative activity. Worse on the island, where a recent visit of White House representatives produced a storm of controversy, having evidently given the appearance that statehood was the cause of the Republican Party in the United States. Whereupon Gov. Hernandez Colon accused "President Bush * * * of wanting self-determination for Puerto Rico the way the Soviet Premier Mikhail Gorbachev wants self-determination for Lithuania" (The San Juan Star, May 17, 1990).

As for the Senate, the Finance Committee will shortly be reporting our section of the plebiscite legislation which deals with taxes, tariffs, and social welfare benefits. In this respect, I believe three general observations are possible.

First, under independence, there will be none of the above. A parting gift, to be sure. A continuing relationship of some kind—Mr. Berrios-Martinez suggests some form of "sovereign free association option, as defined by international law." But no taxes, no tariffs, no Social Security benefits, save those already earned.

Second, under statehood, there will be full taxes, no refunding of tariffs—as is now partially the case—and full Social Security and other benefits. There may be a symmetrical phase-in of taxes and benefits, but at the end of the decade, the situation of Puerto Rico will be undistinguishable from that of Idaho, with just possibly—and why not—a few tax benefits such as Hawaii still enjoys.

It is inevitable that statehood will bring a huge increase in per capita Federal transfers to Puerto Ricans. I have recently received from the Congressional Budget Office an estimate of this increase.

"CBO estimated federal transfers in 1995, as specified in S. 712, for four entitlement programs—Food Stamps, Aid to Families with Dependent Children, Medicaid, and Supplemental Security Income (Aid to the Aged, Blind, and Disabled under commonwealth status). These are the major federal entitlement programs funded by general revenues. CBO estimates that per capita federal spending for these programs under commonwealth status would be about $400. Under statehood, this figure would rise to about $1,250. These figures compare with estimated per capita federal spending of $475 for these programs on the mainland in 1995. (May 15, 1990 Letter to Senator Moynihan from Robert D. Reischauer, Director, Congressional Budget Office.)"

Note that at present, under Commonwealth status, Puerto Ricans receive almost as much in per capita transfers as do residents of the 50 States. About $400 in the case of Puerto Rico, $475 for the mainland. Statehood almost triples this amount.

Let us consider what this implies. The only figures I have at hand at this moment were prepared last year by the Congressional Research Service. They show that in 1980 median family income in Puerto Rico was $6,080. Let us increase this by half, to allow for inflation and some growth in real income—the latter having been quite low in the United States as a whole. This gives us a current median family income in Puerto Rico of, say, $9,000. The difference between transfers under Commonwealth and those assumed under statehood is $850 per capita. For a hypothetical family of four this would come to an increase of $3,400. Bear in mind that median family income is only about $9,000. Clearly these dimensions—I mean only to be suggestive—constitute a considerable attraction.

In this context it is altogether understandable that advocates of continued Commonwealth status are asking that the present arrangements be enhanced. Which, in part, is to say that Federal assistance to the island population be increased. It appears to me that this case is unassailable, and that the Finance Committee must promptly assess what is possible in our present budgetary situation.

[From the Washington Post, July 31, 1990]

"TAKING PUERTO RICO SERIOUSLY"

Those involved with legislation that will provide for the forthcoming Puerto Rican status referendum will welcome The Post's July 13 editorial "Taking Puerto Rico Seriously." The referendum will, of course, present the choice of commonwealth, statehood or independence.

The Post writes: "The status issue is important in its own right. Puerto Ricans are U.S. citizens but have neither all the rights nor all the obligations of citizenship. The threshold question for them as for the U.S. public and Congress is whether that incomplete status is fair."

I wonder if these are quite the words The Post wants. The present commonwealth status dates from the time of Luis Munoz Marin, who in 1948 became the first elected governor of Puerto Rico. Puerto Ricans drafted the present constitution, Congress approved. As best I understand—here I am following Arnold Leibowitz in his authoritative "Defining Status"—this was seen as creating more than local self-government. To the contrary, it was contended 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."

The United States promptly informed the United Nations and requested that Puerto Rico be removed from the list of Non-Self-Governing Territories compiled by the General Assembly. The General Assembly thereafter passed Resolution 748(viii) (1953), which recognized that commonwealth had "achieved a new constitutional status" and that the people of Puerto Rico now had "attributes of political sovereignty which clearly identify the status . . . as that of an autonomous political entity." As U.N. ambassador in the mid-'70s, I had more than one occasion to refer to this resolution.

Mr. Leibowitz writes: "The Popular Democratic Party of Puerto Rico created commonwealth status as a permanent status equal in dignity to statehood and independence with a political validity on the island." (The PDP was, of course, Mr. Munoz's party, and is part of Gov. Rafael Hernandez Colon.)

In this view, commonwealth is not an "incomplete status." To ask whether it is "fair" is to adopt the language of those who think it is not desirable, opting instead for statehood. This, of course, is the view of the New Progressive Party, and its leader, former governor Carlos Romero-Barcelo. It would be my thought that, as much as possible, Congress ought to be neutral in the matter.

This takes us to the question of whether the forthcoming referendum should set forth the details of any of the choices. Again, it is the commonwealth position that is the sensitive one. The terms of independence and statewood are clear. Some transitional arrangements can be stipulated, but it can't much matter. In a very short space of time, statehood will mean statehood, period. Indpendence will mean independence.

On the other hand, the PDP is asking for "enhanced commonwealth" status to be stipulated in the referendum. This mostly comes down to greater social welfare benefits. These are not small matters in the lives of Puerto Ricans. Consider the Supplemental Security Income program. The current benefit in the commonwealth is about $32 a month for the needy blind, disabled and aged. Under statehood, these benefits automatically increase to $386. Is Congress willing to provide the same benefit under common wealth? Half? No change? I would have thought these are matters that want spelling out, if an informed choice is to be made. But perhaps I am wrong.

As for the question of a two-stage process whereby Congress first sets up the referendum, with or without details, and thereafter ratifies the results, I think The Post is

right. The Senate should follow the House in this regard.

DANIEL P. MOYNIHAN,
U.S. Senator (D-NY),
NEW YORK.

Calendar No. 976

101ST CONGRESS
2D SESSION

H. R. 4765

IN THE SENATE OF THE UNITED STATES

OCTOBER 12 (legislative day, OCTOBER 2), 1990
Received; read twice and placed on the calendar

AN ACT

To enable the people of Puerto Rico to exercise self-determination.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Puerto Rico Self-Determination Act".

SEC. 2. REFERENDUM ON STATUS OPTIONS.

(a) There are hereby authorized to be appropriated $13,500,000 to the Executive Office of the President for grants to the State Elections Commission of Puerto Rico for a referendum which is to be held on September 16, 1991, or on a later date in 1991 agreed to by a majority of the mem-

bers of the Dialogue Committee on the Status of Puerto Rico (hereafter in this Act referred to as the "Dialogue Committee"), as established by executive order of the Governor of Puerto Rico on June 29, 1989, on the following question:

Which political status do you favor for the Commonwealth of Puerto Rico on terms to be consented to by the people of Puerto Rico and the Congress of the United States?

independence;

statehood;

a new commonwealth relationship; or

none of the above statuses.

(b)(1) Of the amount authorized to be appropriated by subsection (a), the State Elections Commission is authorized to—

(A) expend $7,500,000 for costs of conducting the referendum, including $1,500,000 to facilitate the participation of Puerto Ricans not resident in Puerto Rico in the referendum as authorized pursuant to section 3(c); and

(B) disburse $6,000,000 to the Dialogue Committee to be expended for the purpose of informing the people of Puerto Rico regarding the three status options, such amount to be equally divided among Puerto Rico's principal parties.

(2) Funds appropriated under paragraph (1) shall be made available for the necessary expenses, including the travel and transportation of persons, services as authorized by section 3109 of title 5, United States Code, communications, utilities, printing and reproduction, supplies and materials and other related services, and administrative costs.

(3) To be eligible to receive payments under paragraph (1)(B), a recipient shall—

(A) agree not to incur expenses related to the referendum in excess of amounts established by the electoral laws of Puerto Rico for expenditures by the parties in general elections as of September 19, 1990;

(B) agree to keep complete records as to receipts and expenditures related to informing the people of Puerto Rico regarding the status question and furnish to the State Elections Commission such information as it may request; and

(C) agree to financial audits and examinations of such funds by the Comptroller General of the United States.

(4) Under such regulations as the Comptroller General of the United States shall prescribe, the Comptroller General shall audit and examine transactions made with funds made available under this subsection.

(c) The referendum shall be conducted pursuant to the laws of Puerto Rico.

(d) These Federal laws that apply to the election of the Resident Commissioner of Puerto Rico shall, if appropriate, also apply to the referendum. Any reference in such Federal laws to elections shall be considered, where appropriate, to be a reference to the referendum, and any reference in such laws to candidates for office shall be considered, where appropriate, to be a reference to the political status options under the referendum.

SEC. 3. NONRESIDENT PUERTO RICANS.

(a) The Congress finds that—

(1) a substantial number of the Puerto Rican people reside outside of Puerto Rico; and

(2) the Government of Puerto Rico has the authority to enable some Puerto Ricans who are United States citizens residing in places other than Puerto Rico to vote in the referendum.

(b) The Congress hereby authorizes the Government of Puerto Rico, subject to the plan referred to in subsection (c), to enable Puerto Ricans not resident in Puerto Rico to register and vote in the referendum without being present in Puerto Rico. Such persons may include those born in Puerto Rico or those who have at least one parent who was born in Puerto Rico.

(c) The Dialogue Committee is authorized to submit to the Legislative Assembly of Puerto Rico for its ratification a plan agreed to by a majority of the members of such committee to accomplish the purposes authorized by subsection (b). Once so ratified, such plan shall have the force of law.

(d) In the event that any provision of this Act is held invalid, or the Dialogue Committee does not submit a plan, or the Legislative Assembly of Puerto Rico fails to ratify such plan not later than one hundred and twenty days before the referendum, it is the intent of Congress that the remaining provisions of this Act shall continue in full force and effect.

SEC. 4. DEVELOPMENT OF LEGISLATION.

(a) If the referendum results in a majority for one of the three status options, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of Puerto Rico's principal parties, the President of the United States, and other interested persons as may be appropriate, shall draft legislation to implement the selected status addressing the aspects of that status set forth in the report which accompanies the bill, H.R. 4765 (H. Rept. 101–790, Part 1). In drafting the legislation provided for in this section, the governing principles of each status

option shall be treated equally, consistent with the constitutional authority of the United States Congress.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the consultations.

SEC. 5. CONSIDERATION OF LEGISLATION.

(a) Not later than March 6, 1992, the Chairman of the Committee on Energy and Natural Resources shall introduce the legislation provided for in section 4(a) in the United States Senate and the Chairman of the Committee on Interior and Insular Affairs shall introduce such legislation in the United States House of Representatives.

(b) At any time after the close of the one hundred and eightieth-calendar day beginning after the date of introduction of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to discharge any committee of that House from further consideration of the legislation. A motion to discharge shall be highly privileged, and debate thereon shall be limited to not more than two hours, to be divided equally between those supporting and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(c) At any time after the close of the fourteenth legislative day beginning after the last committee has reported or been discharged from further consideration of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to proceed to the immediate consideration of the legislation (such motion not being debatable), and such motion is hereby made of high privilege. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(d) Enactment of this section constitutes a commitment that the United States Congress will vote on legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico.

SEC. 6. RATIFYING VOTE ON LEGISLATION.

(a) If enacted, the legislation draft pursuant to section 4(a) as approved by the Congress shall be submitted to the people of Puerto Rico of ratification according to the laws of Puerto Rico not later than sixty days after enactment. The legislation shall take effect in accordance with its terms upon approval by the people of Puerto Rico in the ratification vote.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the ratification vote provided for by this section.

SEC. 7. RECOMMENDATIONS, IF NECESSARY.

If the referendum provided for by section 2 does not result in a majority for one of the three status options or if the legislation drafted pursuant to this Act does not come into effect, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of the principal parties of Puerto Rico, the President of the United States, and other interested persons as may be appropriate, shall make such recommendations as may be appropriate at that time to facilitate the exercise of self-determination by the people of Puerto Rico.

Passed the House of Representatives October 10, 1990.

Attest: DONNALD K. ANDERSON,

Clerk.

news

Committee on Interior and Insular Affairs
Morris K. Udall, Chairman

House of Representatives
Washington, D.C. 20515

FOR RELEASE: January 3, 1991 CONTACT: Gail Mukaihata
(202) 225-9297

De Lugo introduces House passed Puerto Rico status bill

Shortly after the Members of the 102nd Congress were sworn in today, House Insular and International Affairs Subcommittee Chairman Ron de Lugo (D-VI) introduced the "Puerto Rico Self-Determination Act" which is identical to the bill (H.R. 4765) that unanimously passed the House of Representatives in the 101st Congress.

De Lugo was joined by his colleagues, Robert J. Lagomarsino (R-CA), Ranking Republican on the Subcommittee; Jaime B. Fuster (D-PR), Resident Commissioner of Puerto Rico; Morris K. Udall (D-AZ), Chairman of the Committee on Interior and Insular Affairs; John Moakley (D-MA) and Gerald B.H. Solomon (R-NY), Chairman and Ranking Republican of the Committee on Rules, respectively; George Miller (D-CA), Ranking Democrat on the Committee on Interior and Insular Affairs; Richard H. Lehman (D-CA); Bill Richardson (D-NM); George "Buddy" Darden (D-GA); John Lewis (D-GA); Eni Faleomavaega (D-AS); and Ben Blaz (R-GU), in co-sponsoring this bill.

De Lugo said, that "today's action should demonstrate to the people of Puerto Rico our continued commitment to see that a political status referendum takes place in Puerto Rico and that the status favored by the people of Puerto Rico is implemented."

De Lugo re-emphasized that the bill will provide an opportunity for the people of Puerto Rico to freely express to the United States government whether they want to become independent, a state, or a new commonwealth. It also sets up a process to implement the status change favored by the island's people.

"Until the people of Puerto Rico have had an opportunity to speak, it is not fair to speculate about the outcome of any one particular status option. It is up to the people of Puerto Rico to decide what they want and then the Congress will respond accordingly," de Lugo stated. He concluded by saying, "I am committed to this process."

102D CONGRESS
1ST SESSION

H. R. 316

To enable the people of Puerto Rico to exercise self-determination.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1991

Mr. DE LUGO (for himself, Mr. LAGOMARSINO, Mr. FUSTER, Mr. UDALL, Mr. MOAKLEY, Mr. SOLOMON, Mr. MILLER of California, Mr. LEHMAN of California, Mr. RICHARDSON, Mr. DARDEN, Mr. LEWIS of Georgia, Mr. FALEOMAVAEGA, and Mr. BLAZ) introduced the following bill; which was referred jointly to the Committees on Interior and Insular Affairs and Rules

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A BILL

To enable the people of Puerto Rico to exercise self-determination.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Puerto Rico Self-Determination Act".

SEC. 2. REFERENDUM ON STATUS OPTIONS.

(a) There are hereby authorized to be appropriated $13,500,000 to the Executive Office of the President for grants to the State Elections Commission of Puerto Rico for

527

102D CONGRESS
1ST SESSION

S. 244

To provide for a referendum on the political status of Puerto Rico.

IN THE SENATE OF THE UNITED STATES

JANUARY 23 (legislative day, JANUARY 3), 1991

Mr. JOHNSTON (for himself, Mr. WALLOP, and Mr. SIMON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To provide for a referendum on the political status of Puerto Rico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the United States of America recognizes the principle of self-determination and other applicable principles of international law with respect to Puerto Rico; and

(2) the United States is committed to a process of consultation and negotiation with the people of Puerto

Rico leading to a referendum on the issue of political status to be conducted in a fair and equitable manner.

SEC. 2. This Act may be cited as the "Puerto Rico Status Referendum Act".

TITLE I

SEC. 101. REFERENDUM.

(a) IN GENERAL.—An islandwide referendum shall be held in Puerto Rico in which qualified voters of the Commonwealth of Puerto Rico shall be presented a choice of three status options for Puerto Rico. The options shall appear on the ballot as follows:

(1) Statehood as set forth in title II of the Puerto Rico Status Referendum Act;

(2) Independence as set forth in title III of the Puerto Rico Status Referendum Act; and

(3) Commonwealth as set forth in title IV of the Puerto Rico Status Referendum Act.

(b) DATE OF REFERENDUM.—The referendum shall occur on December 2, 1991, or on a date during the autumn of calendar year 1991 as may be mutually agreed by the three principal political parties of Puerto Rico. If there is not a majority in favor of one of the three options, then there shall be, within thirty days, a runoff referendum between the two status options which had received the largest number of votes. Such referendum shall also include an option of "Neither of the Above". The Governor shall certify the results of the referendum to the President and to the Congress of the United States.

(c) APPLICABLE LAW.—(1) The referendum shall be conducted pursuant to the laws of the Commonwealth of Puerto Rico, except that eligibility to vote in the referendum shall be in accordance with the election laws of Puerto Rico as of August 1, 1990.

(2) Those Federal laws that apply to the election of the Resident Commissioner of Puerto Rico shall also apply to the referendum. Any reference in such Federal laws to elections shall be considered, where appropriate, to be a reference to the referendum, and any reference in such laws to candidates for office shall be considered, where appropriate, to be a reference to the political status options under the referendum.

(d) JUDICIAL REVIEW.—Any legal dispute or controversy arising out of this referendum shall be adjudicated in accordance with local laws and procedures, except that:

(1)(A) Any aggrieved person (including, without limitation, and political party, within sixty days after the certification by the Governor of the results of the referendum pursuant to title I, section 101(c), may institute an action to challenge the choice certified by the Governor on the basis that (1) an electoral irregularity or irregularities had occurred, and (2) that the ir-

regularity or irregularities were so significant as to affect the outcome of the referendum and call into question the choice certified by the Governor.

(B) The three-judge court provided for in paragraph (2) shall have exclusive jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the aggrieved shall have exhausted any administrative or other remedies provided by Federal law or the law of Puerto Rico.

(C) In any proceeding instituted pursuant to this paragraph of this subsection, if the court finds that there has been an electoral irregularity or irregularities so significant as to affect the outcome of the referendum and call into question the choice certified by the Governor, the court is empowered to grant appropriate relief, including nullification of the entire referendum, ordering a recount or recounts, or any other relief deemed appropriate to preserve the integrity of the electoral process.

(D) The Attorney General of the United States is empowered to intervene at the request of the court in any proceeding brought under this section in order to assist in the gathering and presentation of evidence. Any aggrieved person with a Federal constitutional or

Federal statutory claim arising out of the same factual nexus as an action brought under this section may intervene in that action in a manner deemed timely by the court in its discretion. Failure of such an aggrieved person to timely intervene will result in foreclosure of that person's Federal constitutional or statutory claim.

(E) The court shall accord local law the benefit of local interpretation. The court is not required to provide de novo review of any and all claims of irregularities already determined by a local authority or tribunal, except as it deems necessary.

(2)(A) Any claims brought under the United States Constitution or a Federal statute, or any claim brought to challenge the result certified by the Governor, whether brought under this Act or under the law of the Commonwealth of Puerto Rico, shall be heard by a three-judge court in the District for the District of Columbia, which shall have exclusive jurisdiction over all such claims. This court now exercises exclusive jurisdiction over certain Voting Rights Act claims under 42 U.S.C. 1973c.

(B) The court shall receive evidence and hear argument, as it deems necessary. The provisions of 28 U.S.C. 2284(b)(3) shall apply to proceedings of the three-judge court. It shall be the duty of the Chief

Judge of the United States Court of Appeals for the District of Columbia to designate three judges, of whom at least one shall be a circuit judge and the remaining judge or judges shall be district court judges, to hear and determine any such claim. Hearings of the three-judge court shall be conducted in Puerto Rico. An appeal from a final judgment of the three-judge court will lie to the Supreme Court of the United States by way of certiorari.

(e) IMPLEMENTATION LEGISLATION.—(1) If the referendum results in a majority for one of the three status options, then to implement the status selected by the People of Puerto Rico, pursuant to this Act, the Chairman of the Senate Committee on Energy and Natural Resources and the Chairman of the House Committee on Interior and Insular Affairs shall introduce the appropriate title of this Act.

(2) Enactment of this section constitutes a commitment by Congress to implement the status receiving a majority.

(f) RATIFICATION.—Upon enactment, the implementation legislation shall take effect in accordance with its terms and upon approval by the people of Puerto Rico in a ratification vote.

(g) INFORMATION.—The Joint Committee on Printing shall provide a Referendum Information Booklet to each voter household in Puerto Rico at least thirty days before the

referendum. The booklet shall contain the text of this Act, a translation of such text, and other appropriate information as set forth in the Statement of Managers regarding this Act. There are authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

TITLE II—STATEHOOD

SEC. 201. PROCLAMATION.

(a) If, pursuant to section 101(f) of the Puerto Rico Status Referendum Act, statehood is ratified, then the President shall issue a proclamation announcing the results of the election as so ascertained.

(b) Upon the issuance of the proclamation under subsection (a), the Commonwealth of Puerto Rico (hereafter in this title also referred to as "the State") shall, effective on January 1 of the fifth calendar year following the calendar year in which the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs, be declared to be a State of the United States of America, and shall be declared admitted into the Union on an equal footing with the other States.

SEC. 202. CONSTITUTION.

The Constitution of the Commonwealth of Puerto Rico shall always be republican in form and shall conform to the Constitution of the United States and the principles of the Declaration of Independence. The Constitution adopted by a vote of the people of Puerto Rico in the election held on

June 4, 1951, has been found by Congress to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and was accepted, ratified, and confirmed, through Public Law 447 of the Eighty-second Congress, March 3, 1952. The current Constitution of the Commonwealth of Puerto Rico as ratified by the people at the referendum held on June 4, 1951, is hereby accepted as the Constitution of the State.

SEC. 203. TERRITORY AND BOUNDARIES.

The State shall consist of all of the territory, together with the waters included in the seaward boundary, of the Commonwealth of Puerto Rico.

SEC. 204. STATE TITLE TO LANDS AND PROPERTY.

(a) The State and its political subdivisions shall have and retain title to all property, real and personal, which it currently holds, including, but not limited to, title to submerged lands heretofore granted to Puerto Rico.

(b) Any lands and other properties that, as of the date of admission of Puerto Rico into the Union, are set aside pursuant to law for the use of the United States under any (A) Act of Congress, (B) Executive order, (C) proclamation of the President, or (D) proclamation of the Governor of the Commonwealth of Puerto Rico, shall remain the property of the United States.

(c) Not later than five years after the date of admission of the Commonwealth of Puerto Rico as a State of the Union, each Federal agency having control over any land or property that is retained by the United States pursuant to this section shall submit a report to the President and the Congress concerning the continued need for such land or property. If the President determines that any such land or property, or portion thereof, or any interest therein, is no longer needed by the Federal Government, it shall be conveyed to the Commonwealth of Puerto Rico at no cost. This section does not authorize the transfer of any interest in the Caribbean National Forest or the San Juan National Historic Site.

(d) ALL LAWS OF THE UNITED STATES.—

(1) reserving to the United States the free use or enjoyment of property which vest in or is conveyed to the Commonwealth of Puerto Rico or its political subdivisions pursuant to this section; or

(2) reserving the right to alter, amend, or repeal laws relating to the ownership of such land; shall cease to be effective upon the conveyance of the land.

SEC. 205. CLAIMS TO FEDERAL LANDS AND PROPERTY.

(a) The Commonwealth and its people recognize all rights and titles to any lands or other property not granted or conferred to the Commonwealth or its political subdivisions

by or under the authority of this Act, the right or title to which is now held by the United States or subject to disposition by the United States.

(b)(1) Nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by applicable laws of the United States.

(2) Nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any applicable law authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the determination of the applicability of any law to any such claim shall be unaffected by anything in this Act.

(c) No taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States.

SEC. 206. ELECTIONS AND ADMISSION REFERENDUM.

(a)(1)(A) Not later than January 1 of the fourth calendar year following the calendar year in which the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation for the election of two United States Senators and for such number of United States Representatives in Congress as provided in this Act. Such proclamation shall provide that such elections shall occur on the

first Tuesday in November of such fourth calendar year (or on another date during the autumn of such calendar year as may be provided by legislation enacted by the Commonwealth of Puerto Rico).

(B) The Governor of the Commonwealth of Puerto Rico shall certify the election of the Senators and Representatives in the manner required by law. The Senators and Representatives elected shall be entitled, upon the date of admission of the Commonwealth of Puerto Rico as a State of the Union, to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of the other States in the Congress of the United States. The Office of Resident Commissioner shall cease to exist upon the swearing in of the first Member of the House of Representatives so elected.

(2) In the first election of Senators from the State, the two senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No such identification or designation of either of the two senatorial officers shall refer to or be taken to refer to the terms of such offices, or in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

(b)(1) Election returns shall be made and certified in such manner as provided by the electoral laws of Puerto Rico

and in such a manner as the Commonwealth of Puerto Rico may prescribe. The Governor of the Commonwealth of Puerto Rico shall certify the results of such elections to the President of the United States.

(2) The new State of Puerto Rico shall be known as the Commonwealth of Puerto Rico.

(3) The individuals holding legislative, executive, and judicial offices of the Commonwealth of Puerto Rico shall continue to discharge the duties of their respective offices, pending the issuance of the proclamation by the President of the United States and the admission of the Commonwealth of Puerto Rico as a State of the Union. The officers elected or appointed under the provisions of the constitution and laws of the Commonwealth shall thereupon proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of the State, as provided by the constitution and laws of the State.

SEC. 207. CONGRESSIONAL REPRESENTATION.

The Commonwealth of Puerto Rico upon its admission into the Union, and until the next reapportionment, shall be entitled to such additional Representatives as would be provided based upon the 1990 census. The permanent membership of the House of Representatives as now prescribed by law, is hereby increased from four hundred and thirty-five to four hundred and thirty-five plus the number of additional

Representatives to which the Commonwealth of Puerto Rico is entitled.

SEC. 208. LAWS IN EFFECT.

(a) Upon admission of the Commonwealth of Puerto Rico into the Union, all of the local laws then in force in the Commonwealth of Puerto Rico shall be and continue in force and effect throughout the State, except as modified or changed by this Act, and shall be subject to repeal or amendment by the legislature of the Commonwealth. All of the laws of the United States shall have the same force and effect within the State as on the date immediately prior to the date of admission of the State of Puerto Rico, except as otherwise provided in section 213 or 214 or elsewhere in this Act, and except for any provisions of law which provide for grants or other assistance to States or other units of local government or individuals and for which the Commonwealth of Puerto Rico or residents thereof are either excluded or whose eligibility is less than that provided on a uniform basis to other States. Any regulatory or other provision of law, other than grants and other assistance, which does not apply to Puerto Rico solely on the basis of particular geography, especially if such provision does not also apply to either Alaska or Hawaii, shall continue to not apply unless specifically extended by Congress.

(b) Within sixty days of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, the President shall appoint a Commission on Federal Laws to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not applicable to the Commonwealth of Puerto Rico should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner. The Commission will consist of seven persons (at least four of who will be residents of Puerto Rico who are and have been for at least five years domiciled continuously in Puerto Rico at the time of their appointments) who will be representative of the Federal, local, private and public interests in the applicability of laws of the United States to the Commonwealth of Puerto Rico. The Commission will make its final report by January 1, 1994, and before that time will make such interim reports and recommendations to the Congress as it considers appropriate. In formulating its recommendations the Commission will take into consideration the potential effect of each law on local conditions within the Commonwealth of Puerto Rico, the policies embodied in the law and the provisions and purposes of this title. The United States will bear the cost of the work of the Commission. There are hereby

authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

SEC. 209. CONTINUATION OF SUITS.

(a) No writ, action, indictment, cause, or proceeding pending in any court of the Commonwealth of Puerto Rico, shall abate by reason of the admission to the Commonwealth of Puerto Rico into the Union, but shall proceed within such appropriate State courts as are now established under the Constitution of the Commonwealth, or shall continue in the United States District Court for the District of Puerto Rico, as the nature of the case may require.

(b) All civil causes of action and all criminal offenses, which shall have arisen or been committed prior to the admission of the Commonwealth, but as to which no writ, action, indictment, or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Puerto Rico in like manner, to the same extent, and with like right of appellate review, as if such State had been created and such State courts had been established prior to the accrual of such causes of action or the commission of such offenses. The admission of the State shall effect no change in the procedural or substantive laws governing causes of action and criminal offenses which shall have arisen or been committed, and any such criminal offenses as

shall have been committed against the laws of the Commonwealth of Puerto Rico, shall be tried and punished by the appropriate courts of the State, and any such criminal offenses as shall have been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Puerto Rico.

SEC. 210. APPEALS.

Parties shall have the same rights of judicial review of final decisions of the United States District Court for the District of Puerto Rico or the Supreme Court of the Commonwealth of Puerto Rico, in any case finally decided prior to the admission of the State of Puerto Rico into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission. The United States Court of Appeals for the First Circuit and the Supreme Court of the United States, shall have the same jurisdiction in such cases as by law provided prior to the admission of the State into the Union. Any mandate issued subsequent to the admission of the State, shall be to the United States District Court for the District of Puerto Rico or a court of the State, as appropriate. Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Puerto Rico and of the Supreme Court of Puerto Rico, in any case pending at the time of admission of the State into the Union, and

the Supreme Court of the Commonwealth of Puerto Rico and the Supreme Court of the United States shall have the same jurisdiction therein, as by law provided in any case arising subsequent to the admission of the State into the Union.

SEC. 211. MILITARY LANDS.

(a) Subject to subsection (b) and notwithstanding the admission of the Commonwealth of Puerto Rico into the Union, authority is reserved in the United States for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of land as, immediately prior to the admission of the State, are controlled or owned by the United States and held for defense or Coast Guard purposes.

(b)(1) The Commonwealth of Puerto Rico shall always have the right to serve civil or criminal process within such tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the State but outside of such tracts or parcels of land.

(2) The reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over such lands shall not operate to prevent such lands from being a part of the Commonwealth of Puerto Rico, or to prevent the State from exercis-

ing over or upon such lands, concurrently with the Federal Government, any jurisdiction which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation or authority.

(3) The power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for defense or Coast Guard purposes, except that the United States shall continue to have sole and exclusive jurisdiction over such military installations as have been or may be determined to be critical areas as designated by the President of the United States or the Secretary of Defense.

SEC. 212. UNITED STATES NATIONALITY.

No provision of this title shall operate to confer United States nationality, to terminate nationality lawfully acquired, or to restore nationality terminated or lost under any law of the United States or under any treaty to which the United States is or was a party.

SEC. 213. ECONOMIC ADJUSTMENT.

The following subsections and the provisions of section 214 are enacted pursuant to Congress' power to admit new States, in recognition of the unique Federal tax provisions and programs affecting the Commonwealth of Puerto Rico

which differ from those which applied to any other newly admitted State, and solely for the purposes of effecting a smooth and fair transition for the new State with a minimum of economic dislocation and to permit Federal agencies to assume or expand responsibilities for the administration and enforcement of Federal taxes and programs affecting the citizens residing in the new State:

(a) APPLICATION OF FEDERAL LAWS.—Effective upon the ratification under section 101(f) of the Puerto Rico Status Referendum Act, the heads of all Federal agencies are directed, as a priority matter, to examine the application of all programs within the jurisdiction of their respective agencies and, after consultation with the Governor of Puerto Rico, to recommend to the President, and to the Commission established under section 208(b), what changes, if any, and what additional administrative requirements, if any, will be needed to properly achieve the application of Federal laws in or to the new State with proper regard for the economic, and geographic circumstances of the new State.

(b) TRANSITION FOR CERTAIN ENTITLEMENTS.—(1) Except as otherwise provided in this subsection, effective on the date of admission of the State of Puerto Rico, all Federal programs which provide assistance to or on behalf of individuals, including, but not limited to Aid to Families with Dependent Children, Medicaid, Foster Care and Adoption As-

sistance, and the Social Services block grant, shall apply in the Commonwealth of Puerto Rico as they apply within the several States.

(2) Beginning on January 1 of the 2nd calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, amounts applicable under sections 1611(a)(1)(A) and 1611(b)(1) of the Social Security Act may not exceed 50 percent and under section 1611(a)(2)(A) and 1611(b)(2) of such Act may not exceed 75 percent of the per capita income of the State (as determined on the basis of the most recent reliable data available from the Secretary of Commerce) in which the applicant for or recipient of benefits under title XVI of such Act resides. An individual shall, regardless of legal residence, be considered to reside in a State for purposes of this paragraph for any month in which such individual is physically present in such State throughout the entire month. The Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall promulgate the amounts determined under this paragraph for the State at the same time and in the same manner as amounts are promulgated for cost-of-living adjustments in benefits under section 1617 of the Social Security Act.

(3)(A) Beginning on January 1 of the 2nd calendar year beginning after the date of the ratification under section

101(f) of the Puerto Rico Status Referendum Act, the Secretary shall implement the Supplemental Security Income for the Aged, Blind, and Disabled program as provided under title XVI of the Social Security Act in Puerto Rico. The benefit standards provided under sections 1611 (a) and (b) of the Social Security Act shall, after any reduction under the per capita limitation described in paragraph (2) be set at—

(i) 25 percent of the otherwise applicable level in such 2nd calendar year;

(ii) 50 percent of such level in the calendar year immediately following such 2nd calendar year; and

(iii) 75 percent of such level in the 2nd calendar year following such 2nd calendar year.

(B) The Secretary and the Government of Puerto Rico may enter into an agreement under which the implementation of the Supplemental Security Income program described in this paragraph in Puerto Rico will be deferred to a date later than January 1 of the 2nd calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act (but not later than the effective date of admission of the State of Puerto Rico). Any such agreement must provide that payment levels under the program of Aid to the Aged, Blind, and Disabled as in effect in Puerto Rico shall be based on the levels that would otherwise be in effect there under the Supplemental Security Income

program and the Federal contribution to the cost of such payments shall not exceed what would have been the Federal costs under such Supplemental Security Income program.

(4)(A) Except as provided in this paragraph or in any agreement between the Government of Puerto Rico and the Secretary, the Medicaid program provided for under title XIX of the Social Security Act shall, prior to the effective date of admission of the State of Puerto Rico, continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act.

(B) The Federal medical assistance percentage rate determined under section 1905(b) of the Social Security Act without regard to clause (2) of such section shall apply with respect to benefits paid under such program on or after January 1 of the 2nd calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act.

(C) Section 1108(c) of the Social Security Act—

(i) shall be inapplicable to Puerto Rico on and after the date of admission of the State of Puerto Rico; and

(ii) shall apply to fiscal years ending after the 1st calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, and prior to the date described in

clause (i), as though the amount set forth in paragraph (1)(C) thereof were increased by the applicable percentage of the excess of the amount that would be payable to Puerto Rico without regard to such section 1108(c) over $79,000,000.

For purposes of claims (ii), the applicable percentage is 25 percent for the 1st such fiscal year, 50 percent for the 2nd such fiscal year, and 75 percent for the 3rd such fiscal year.

(5) Prior to the effective date of admission of the State of Puerto Rico, the Aid to Families with Dependent Children program provided for under Part A of title IV of the Social Security Act shall continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act, except that—

(A) the Federal matching rate for program expenditures after December of the 1st calendar year beginning after the date of the ratification under section 101(e) of the Puerto Rico Status Referendum Act shall equal the Federal medical assistance percentage rate determined under section 1905(b) of the Social Security Act without regard to clause (2) thereof, and

(B) the limitation on expenditures provided for under section 1108(a)(1) of the Social Security Act shall not apply with respect to such expenditures under such title.

(6) The Medicare Hospital Insurance Benefits for the Aged and Disabled program provided for under part A of title XVIII of the Social Security Act shall continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act, except that the Prospective Payment Assessment Commission shall examine current levels of reimbursement under such part and advise the Secretary within 6 months of the date of the enactment of this Act as to whether the system in place on the date of the enactment of this Act accurately and appropriately reflects cost differentials between Puerto Rico and the States. If such study finds that the system in effect on the date of the enactment of this Act does not accurately reflect such cost differentials, the Secretary shall submit to the appropriate committees of Congress within 6 months of the date of completion of such study a legislative proposal to correct any deficiencies in the reimbursement system.

(7) The Secretary shall reduce the amounts otherwise payable to Puerto Rico under titles IV, XVI (as in effect before the date of the enactment of Public Law 92–603), and XIX of the Social Security Act with respect to expenditures under such titles for any fiscal year which ends after the end of the 1st calendar year beginning after the date of the ratification under section 101(e) of the Puerto Rico Status Referendum Act and prior to the date which is 4 calendar years

after the date of the admission of Puerto Rico as a State, to the extent that the sum of such amounts and any expenditures under the Supplemental Security Income program under title XVI of the Social Security Act with respect to residents of Puerto Rico exceeds the sum of $161,000,000 and any increase in Federal revenues by reason of section 214(d) of this Act. The Secretary of the Treasury shall make an annual determination of such amount and provide for appropriate adjustments in such amount as determined for prior years.

(c) NUTRITION ASSISTANCE AND FOOD STAMP PROGRAM.—

(1) INCREASED FUNDING LEVELS FOR THE NUTRITION ASSISTANCE PROGRAM IN PUERTO RICO.—Notwithstanding any other provision of law from the sums appropriated under the Food Stamp Act of 1977, the Secretary of Agriculture shall pay to the Commonwealth of Puerto Rico, in addition to the amounts required to be paid by the Secretary of the Commonwealth of Puerto Rico under subparagraph (A) of section 19(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)), the following additional sums for the years described—

(A) $112,500,000, for the fiscal year beginning on October 1 of the first calendar year after

the date of the ratification of the "Statehood" status option by the people of Puerto Rico (hereinafter referred to in this subsection as the "first fiscal year after ratification");

(B) $250,000,000 for the fiscal year immediately following the first fiscal year after ratification; and

(C) $337,500,000 for the second fiscal year after the first fiscal year after ratification.

(2) FOOD STAMP PROGRAM.—Beginning on the first day of October prior to January 1 of the year Puerto Rico is declared admitted to the Union—

(A) Puerto Rico shall participate in the food stamp program under the Food Stamp Act of 1977 on equal footing with any other State of the United States; and

(B) the block grant program authorized under section 19 of such Act for Puerto Rico is terminated.

(3) AMENDMENTS TO THE FOOD STAMP ACT OF 1977.—Beginning on the first day of October prior to January 1 of the year Puerto Rico is declared admitted to the Union, section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended to read as follows:

"SEC. 19 (a). SPECIAL RULES.—Notwithstanding any other provision of this Act, any State whose per capita income is below 50 per centum of the national per capita income of the United States shall participate in the program under the requirements of this Act except as follows:

"(1) a household within any such State shall be ineligible to participate in the food stamp program (notwithstanding the provisions of section 5(c) of the Act) if such household's income, after the exclusions are made as provided for in section 5(d) of such Act and before the deductions in such income are made under section 5(e) of such Act, exceeds 65 per centum of the poverty line as defined in section 5(c)(1) of such Act;

"(2) the standard deduction for purposes of determining benefits in such State shall be 59 per centum of the standard deduction determined under section 5(e) of the Act for the forty-eight contiguous States and the District of Columbia; and

"(3) the maximum excess shelter expense deduction to which a household within the State may be entitled shall be 35 per centum of the maximum excess shelter expenses deduction determined for the forty-eight contiguous States and the District of Columbia under paragraph (2) of the fourth sentence of section 5(e) of the Food Stamp Act of 1977 for the household.

"(b) Any State whose per capita income is below 50 per centum of the national per capita income of the United States shall participate in the program under the requirements of this Act except that any such State must make benefits available through the use of intelligent benefit cards, other automated or electronic delivery system, or other benefit delivery system specifically designed to promote the integrity of the program in any such State."

(4) LEGAL RIGHT TO ADDITIONAL SUMS.—Unless otherwise provided through legislation providing Federal revenues, the Secretary of Treasury is required to pay to the Secretary of Agriculture all additional amounts for nutritional assistance required to be paid by the Secretary of Agriculture to the Commonwealth of Puerto Rico under the Puerto Rico Status Referendum Act and section 19 of the Food Stamp Act of 1977. The Commonwealth of Puerto Rico is legally entitled to receive from the Secretary of Agriculture such additional amounts.

SEC. 214. PROVISIONS RELATING TO TAXATION AND REVENUE TRANSFERS.

(A) GENERAL RULE.—Except as otherwise provided in this section—

(1) all Federal tax laws shall be applicable to the State of Puerto Rico on and after the date of its admission as a State of the Union in the same manner as applicable to all other States; and

(2) all Federal tax laws which are applicable to the Commonwealth of Puerto Rico before the date of the enactment of this Act shall continue to apply until such date of admission.

(b) TRANSITION PERIOD FOR APPLICATION OF INCOME TAXES.—

(1) Except as provided in paragraph (2), in the case of any taxable year in the transition period, the Federal income tax laws shall be applied—

(A) to all persons in the same manner as if the Commonwealth of Puerto Rico were a State, and

(B) without regard to section 933 of the Internal Revenue Code of 1986.

(2) The amount of any increase (or decrease) in any Federal income tax by reason of the application of paragraph (1) shall be equal to the applicable percentage of the amount by which such tax is greater (or less) than such tax computed without regard to this subsection.

(3) For purposes of this section—

(A) The applicable percentage with respect to any taxable year in the transition period shall

be determined in accordance with the following table:

In the case of the following year in such period:	The applicable percentage is:
1st	25 percent
2nd	50 percent
3rd	75 percent
4th and succeeding	100 percent

(B) If, but for this subparagraph, the applicable percentage for the taxable year in the transition period which includes the date of admission of Puerto Rico as a State is less than 100 percent, the applicable percentage shall be treated as 100 percent with respect to the amount which bears the same ratio to the amount of the increase or decrease under paragraph (2)(A) (or the credit under paragraph (2)(B)) as—

(i) the number of months in the taxable year after the month preceding the month including such date, bears to

(ii) the total number of months in such taxable year.

(4) For purposes of this subsection, the term "transition period" means, with respect to any taxpayer, the period beginning with the taxpayer's 2nd taxable year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act and ending with the taxpayer's taxable

year which includes the date of admission of Puerto Rico as a State. For purposes of the preceding sentence, a taxpayer whose 1st taxable year begins after such ratification date shall be treated as if such taxpayer had such a taxable year (and subsequent taxable years) in effect on (and after) such date.

(5)(A) Paragraph (1) shall not apply to a corporation which is a FSC (as defined in section 922 of such Code) organized and operated under the laws applicable to the Commonwealth of Puerto Rico.

(B) Notwithstanding paragraph (1), if any portion of the foreign source income of a Puerto Rican corporation is not subject to United States tax by reason of paragraph (2) such corporation shall be treated as a foreign corporation for purposes of applying the antideferral provisions to such portion.

(C) For purposes of subparagraph (B), the term "antideferral provisions" means subchapter G, subpart F of part III of subchapter N, and part VI of subchapter P of chapter 1 of such Code.

(c) EMPLOYMENT, EXCISE, AND ESTATE AND GIFT TAXES.—

(1) Except as provided in paragraph (3), and notwithstanding any other provision of law, in the case of any calendar year during the transition period, the fol-

lowing taxes shall be imposed in the manner as if the Commonwealth of Puerto Rico were a State:

(A) Chapter 24 of the Internal Revenue Code of 1986 (relating to income tax collected at source).

(B) Any excise tax imposed under the Internal Revenue Code of 1986 other than sections 3111 and 3301 of such Code.

(2) In the case of any transfer of property after September 27, 1990, and before the date of admission of Puerto Rico as a State by a donor if section 2501(c) of the Internal Revenue Code of 1986 applies by reason of being a resident of Puerto Rico—

(A) if such donor dies on or after such date of admission, the value of such property shall be included in the donor's gross estate if the donor or the donor's spouse retains directly or indirectly any beneficial interest in such property as of the date of death or disposes of such interest within three years before such date of death, and

(B) for purposes of applying subtitle B of such Code to any transfer, or to the estate of any decedent dying, after such date of admission, such transfer of property shall be taken into account in computing taxable gifts and adjusted taxable gifts.

(3)(A) A tax imposed under paragraph (1) shall be equal to the applicable percentage of such tax determined without regard to this paragraph.

(B) For purposes of this paragraph, the applicable percentage for any calendar year in the transition period shall be determined in accordance with the following table:

In the case of the following year in such period:	The applicable percentage is:
1st year	25 percent
2nd year	50 percent
3rd year	75 percent
4th year	100 percent

(4) For purposes of this subsection, the term "transition period" means the four-calendar year period beginning with the second calendar year following the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs.

(5) Paragraph (1)(B) shall not apply to any article to which section 7652 of the Internal Revenue Code of 1986 applies.

(6)(A) In the case of any article which is held for sale in Puerto Rico on January 1 of the first, second, third, or fourth calendar year of the transition period, and which on such date is beyond the point at which tax would otherwise be imposed under the relevant

provision of the Internal Revenue Code of 1986, there is hereby imposed a tax equal to the excess of—

(i) the Federal excise tax which would be imposed under the Internal Revenue Code of 1986 if such tax were imposed on such date, over

(ii) the amount of such tax if such tax were imposed on January 1 of the preceding calendar year.

(B) The person holding an article on which tax is imposed under subparagraph (A) shall be liable for payment of such tax, and such tax shall be due and payable on February fifteen of the calendar year in which imposed in the same manner as the excise tax which would have been imposed under the relevant provision of the Internal Revenue Code of 1986 on a similar article.

(d) TRANSITION PERIOD FOR SECTION 936 CREDIT.—

(1) In the case of a taxable year in the transition period, the credit under section 936 of the Internal Revenue Code of 1986—

(A) shall be allowable to a taxpayer only if such taxpayer (or a predecessor) elected the application of such section for its taxable year which included the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act,

and (B) shall be equal to the applicable percentage of the lesser of—

(i) the amount of such credit determined without regard to this subsection, or

(ii) 130 percent of the average amount of such credit of the taxpayer and its predecessors for the three-taxable year period ending with the taxpayer's last taxable year ending before August 1, 1990 (not taking into account years in which the taxpayer or its predecessor was not in existence). If neither the taxpayer nor any predecessor has a taxable year ending before August 1, 1990, the amount under clause (ii) shall be treated as being equal to the amount of such credit of the taxpayer for its 1st taxable year ending on or after August 1, 1990 (adjusted as provided by the Secretary in the case of a short taxable year).

(2)(A) For purposes of this subsection, the applicable percentage for any taxable year in the transition period shall be determined in accordance with the following table:

In the case of the following year in such period:	The applicable percentage is:
1st taxable year	75 percent
2nd taxable year	50 percent

3rd taxable year	25 percent
4th and following taxable year	0 percent

(B) For purposes of this paragraph, a rule similar to the rule contained in subsection (b)(3)(B) shall apply.

(3) For purposes of this subsection, the term "transition period" has the meaning given such term by subsection (b)(4).

(e) COVER OVER OF TAXES.—

(1)(A) Except as provided in subparagraph (B), all income and excise taxes collected under the internal revenue laws of the United States by reason of subsections (b) and (c) allocable to each fiscal year (or portion thereof) preceding the date of admission of Puerto Rico as a State shall be covered into the treasury of Puerto Rico.

(B) The provisions of section 7652 of the Internal Revenue Code of 1986 shall continue to apply before the date of admission of Puerto Rico as a State and shall cease to apply on and after such date.

(2)(A) Taxes collected under the internal revenue laws of the United States by reason of subsection (d) allocable to each fiscal year (or the portion thereof) preceding the date of admission of Puerto Rico as a State shall be covered into the treasury of Puerto Rico to the extent that the amount of such taxes exceeds

the applicable excess expenditures of the United States allocable to such portion of the fiscal year.

(B) For purposes of subparagraph (A), the term "applicable excess expenditures" means the excess (if any) of—

(i) the amount of expenditures by the United States—

(I) with respect to the operation in Puerto Rico (or for residents thereof) of the programs established by parts A and E of title IV, title XVI (as added by Public Law 92–603), title XVI (as in effect before the date of the enactment of Public Law 92–603), and title XIX of the Social Security Act, and

(II) with respect to credits under section 32 of such Code in excess of tax liability allowable to residents of Puerto Rico, over

(ii) the amount of the expenditures described in clause (i) which would have been made without regard to the provisions of this Act.

(f) RESERVATION; REGULATIONS.—

(1) Congress explicitly reserves authority to enact appropriate transitional rules to implement the provisions of this section.

(2) The Secretary of the Treasury is authorized to promulgate such rules and regulations as are necessary or appropriate to carry out the purposes of this section and to implement the transition to statehood.

SEC. 215. AMENDMENTS TO TRADE LAWS.

(a) ELIMINATION OF SEPARATE DUTIES.—

(1) Notwithstanding any other provision of law, no additional duties may be imposed by the Legislature of Puerto Rico after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act.

(2) Beginning on the first day of the 2nd calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, any duties imposed by the Legislature of Puerto Rico that are in effect on the date of such ratification shall be reduced by an amount equal to the applicable percentage of such duties in accordance with the following table:

In the case of the following calendar year after ratification:	The applicable percentage is:
2nd	25 percent
3rd	50 percent
4th	75 percent
5th and following	100 percent

(3) Section 319 of the Tariff Act of 1930 (19 U.S.C. 1319) is repealed effective January 1 of the 5th calendar year following the calendar year in which the

date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs.

(4) The Act of June 18, 1934 (48 Stat. 1017, chapter 604; 19 U.S.C. 1319a) is repealed effective January 1 of the 5th calendar year following the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs.

(5) Any Act ratifying an Act of the Legislature of Puerto Rico which imposes tariffs or duties on articles imported into Puerto Rico is repealed effective January 1 of the 5th calendar year following the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs.

(b) CARIBBEAN BASIN INITIATIVE.—

(1) Section 213(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)) is amended—

(A) by striking "the Commonwealth of Puerto Rico and" in the flush paragraph at the end of paragraph (1),

(B) by striking "(other than the Commonwealth of Puerto Rico)" in the flush paragraph at the end of paragraph (1), and

(C) by striking paragraphs (4) and (5).

(2) Section 214(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703 note) is amended—

(A) by striking "the treasuries of Puerto Rico or" and inserting "the treasury of", and

(B) by striking "produced in Puerto Rico or" and inserting "produced in".

(3) Section 214 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 1319 note) is amended by striking subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(4) The amendments made by this subsection shall take effect on January 1 of the 5th calendar year following the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs.

(c) CONFORMING AMENDMENTS.—

(1) Section 504 of the Trade Act of 1974 (19 U.S.C. 2464) is amended by striking subsection (e) and redesignating subsection (f) as subsection (e).

(2) Section 4 of the Act of April 12, 1900 (commonly known as the "Foraker Act"; 31 Stat. 77, chapter 191; 48 U.S.C. 740) is repealed.

(3) The amendments made by this subsection shall take effect on January 1 of the 5th calendar year following the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs.

TITLE III—INDEPENDENCE

SEC. 301. CONSTITUTIONAL CONVENTION.

(a) Should independence be ratified pursuant to section 101(f) of the Puerto Rico Status Referendum Act, then the Legislative Assembly of the Commonwealth of Puerto Rico shall provide, within two months, for the election of delegates to a Constitutional Convention to serve until the proclamation of independence and to draft a Constitution for the Republic of Puerto Rico. The election of delegates must be held within six months after such ratification.

(b) Those qualified to vote in the election of delegates to the Constitutional Convention shall be (1) All persons born and residing in Puerto Rico; (2) all persons residing in Puerto Rico and one of whose parents was born in Puerto Rico; (3) all persons who at the time of the adoption of this Act shall have resided in Puerto Rico for a period of twenty years or more; (4) all persons who established their residence in Puerto Rico prior to attaining voting age and still reside in Puerto Rico; and (5) spouses of all persons included in (1), (2), (3), and (4) above.

(c) The laws of the Commonwealth of Puerto Rico relating to additional voter qualifications and the electoral process shall apply to this election.

(d) The Constitutional Convention shall meet within three months of the election of delegates at such time and place as the Legislative Assembly of the Commonwealth of Puerto Rico shall determine.

(e) The Constitutional Convention shall exercise jurisdiction over all of the territory of Puerto Rico ceded to the United States by Spain by virtue of the Treaty of Paris the tenth day of December 1898.

SEC. 302. CHARACTER OF THE CONSTITUTION.

(a) The Constitutional Convention mandated under the previous section shall formulate and draft a constitution establishing a republican form of government which shall guarantee the protection of fundamental human rights.

(b) The fundamental human rights guaranteed by the aforementioned constitution shall include such rights as due process and equal protection under the law, freedom of speech, press, assembly, association, and religion, as well as the rights of the accused, and economic, social, and cultural rights such as the right to education, adequate nutrition, health services, adequate housing, and work or employment and the right to own private property and to just compensation for the taking thereof.

(c) The property rights of the United States and Puerto Rico shall be promptly adjusted and settled, and all existing property rights of citizens or corporations of the United States shall be acknowledged, respected, and safeguarded to the same extent as property rights of citizens of Puerto Rico.

SEC. 303. RATIFICATION OF THE CONSTITUTION.

(a) The Constitution adopted by the Constitutional Convention shall be submitted to the people of Puerto Rico for its ratification or rejection.

(b) The Legislative Assembly of the Commonwealth of Puerto Rico shall call for a special election for such ratification or rejection, to be held within three months of the adoption of the Constitution by the Constitutional Convention.

(c) The special election providing all qualified voters the opportunity to cast a vote for or against the proposed Constitution shall be held in the manner prescribed by the Legislative Assembly of the Commonwealth of Puerto Rico. In the event such Constitution is not approved in the election, it shall be resubmitted to the convention for further consideration and resubmission to the voters as provided in this section.

(d) Those qualified to vote in this election shall be those possessing the qualifications established in section 301 of this title.

SEC. 304. ELECTION OF OFFICERS OF THE REPUBLIC.

(a) Within thirty days of the ratification of the Constitution as provided for by section 303 of this title, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation calling for the election of such officers of the Republic of Puerto Rico as may be required by the ratified Constitution.

(b) The election of officers of the Republic shall be held not later than six months after the date of ratification of the Constitution.

(c) The aforesaid election shall be held in accordance with the procedures and requirements established in the Constitution of the Republic of Puerto Rico.

(d) The Governor of the Commonwealth of Puerto Rico shall certify the results of the election to the President of the United States.

SEC. 305. JOINT TRANSITION COMMISSION.

(a) A Joint Transition Commission shall be appointed in equal numbers by the President of the United States and the Presiding Officer of the Constitutional Convention of Puerto Rico.

(b) The Joint Transition Commission shall be responsible for expediting the orderly transfer of all functions currently exercised by the Government of the United States in Puerto Rico, or in relation to Puerto Rico; including the recommendation of appropriate legislation to the appropriate officials of each government.

(c) Any necessary task forces established by the Joint Transition Commission shall be constituted in the same manner as the Commission.

(d) The Government of the Commonwealth of Puerto Rico and the agencies of the Government of the United States shall cooperate with the Joint Transition Commission and subsequently with the new officers of the Republic of Puerto Rico, to provide for the orderly transfer of the functions of government.

(e) The costs of the Transition Commission shall be evenly divided between the United States and Puerto Rico, and there is hereby authorized to be appropriated such sums as are necessary for the United States share of these costs. Agencies of the United States Government shall provide technical assistance to the Joint Transition Commission on a reimbursable basis.

SEC. 306. RESOLUTION OF CONTROVERSIES PRIOR TO INDEPENDENCE.

Except as provided in title I of this Act and beginning on the date of the ratification provided for in title I of this Act, and until the date of proclamation of independence, any action arising from this title filed in courts of the United States shall be stayed and referred to the Joint Transition Commission for resolution within a reasonable period of time.

SEC. 307. PROCLAMATIONS BY THE PRESIDENT OF THE UNITED STATES AND THE HEAD OF STATE OF THE REPUBLIC OF PUERTO RICO.

(a) Not later than one month after the official certification of the elected officers of the Republic of Puerto Rico under section 304, and the approval, in accordance with the constitutional processes of Puerto Rico and the United States, of the agreements set forth in sections 312 and 313, the President of the United States shall by proclamation withdraw and surrender all rights of possession, supervision, jurisdiction, control or sovereignty then existing and exercised by the United States over the territory and people of Puerto Rico, and shall furthermore recognize on behalf of the United States of America the independence of the Republic of Puerto Rico and the authority of the government instituted by the people of Puerto Rico under the Constitution of their own adoption. The proclamation shall state that the effective date of withdrawal of the sovereignty of the United States and the recognition of independence shall be the same as the date of the proclamation of independence as provided in subsection (d).

(b) The President of the United States shall forward a copy of the proclamation issued by him to the presiding officer of the Constitutional Convention of Puerto Rico within a week after signature.

(c) Within one week after receiving the Presidential proclamation and with the advice of the officer elected as head of state of the Republic, the presiding officer of the Constitutional Convention shall determine the date in which the Government of the Republic shall take office, and shall so notify the Governor of the Commonwealth of Puerto Rico and the President of the United States.

(d) Upon taking office, the head of state of the Republic of Puerto Rico shall immediately issue a proclamation declaring (1) that Puerto Rio has become a sovereign, independent nation; (2) that the Constitution of the Republic is thenceforth in effect; (3) that the Commonwealth of Puerto Rico and its Government have ceased to exist; and (4) that the Government of the Republic will henceforth exercise its powers and duties under its Constitution.

SEC. 308. EFFECTS OF THE PROCLAMATION OF INDEPENDENCE ON LEGAL AND CONTSTITUIONAL PROVISIONS.

(a) Upon the proclamation of independence as provided in section 307, and except as otherwise provided in this title or in any separate agreements hereinafter concluded between the United States and the Republic of Puerto Rico—

(1) all property, rights, and interests which the United States may have acquired over Puerto Rico by virtue of the Treaty of Paris of 1898, and thereafter by

cession, purchase, or eminent domain, with the exception of such land and other property, rights, or interests as may have been sold or otherwise legally disposed of prior to the enactment of this Act, shall vest in the Republic of Puerto Rico;

(2) all laws of the United States applicable to the Commonwealth of Puerto Rico immediately prior to the proclamation of independence shall no longer apply in the Republic of Puerto Rico; and

(3) all laws and regulations of the Commonwealth of Puerto Rico in force immediately before the proclamation of independence shall continue in force and shall be read with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution of the Republic of Puerto Rico until such time as they shall be replaced with new legislation, except any provisions that may be incompatible with the sovereignty of the Republic of Puerto Rico shall be deemed invalid.

SEC. 309. EFFECTS OF THE PROCLAMATION OF INDEPENDENCE ON JUDICIAL PRONOUNCEMENTS.

Unless otherwise agreed by the Governments of United States and Puerto Rico in accordance with their respective constitutional processes:

(1) The Republic of Puerto Rico shall recognize and give effect to all orders and judgments rendered by United States or Commonwealth courts prior to the proclamation of independence pursuant to the laws of the United States then applicable to the Commonwealth of Puerto Rico.

(2) All judicial proceedings pending in the courts of the Commonwealth of Puerto Rico prior to the proclamation of independence shall be continued in the corresponding courts under the Constitution of the Republic of Puerto Rico.

(3) Upon the proclamation of independence, the judicial power of the United States shall no longer extend to Puerto Rico. All proceedings pending in the United States District Court for the District of Puerto Rico shall be transferred to the corresponding Puerto Rican courts of competence under the Constitution of the Republic of Puerto Rico for disposition in conformity with laws applicable at the time when the controversy in process arose. All proceedings pending in the United States Court of Appeals for the First Circuit, or in the Supreme Court of the United States, which may have initiated in the courts of the Commonwealth or in the United States District Court for the District of Puerto Rico shall continue until their final disposition

and shall be submitted to the competent authority of the Republic of Puerto Rico for proper execution, unless either the United States or any of its officers is a party, in which case any final judgment shall be properly executed by the competent authority of the United States.

SEC. 310. STATE SUCCESSION.

(a) The Government of the Republic of Puerto Rico shall be deemed successor to the Government of the Commonwealth of Puerto Rico and of all the rights and obligations thereof.

(b) Upon proclamation of independence the President of the United States shall notify the governments with which the United States is in diplomatic correspondence, to the United Nations Organization, and to the Organization of American States, that—

(1) the United States has recognized the independence of the Republic of Puerto Rico; and

(2) all obligations and responsibilities of the Government of the United States which arise from any valid bilateral or multilateral international instruments affecting Puerto Rico, insofar as said instruments may be held to have consequences for the United States because of their application to or in respect to Puerto Rico, shall cease, except that such obligations and responsibilities may be assumed by the Government of the Republic of Puerto Rico in a manner to be determined and proclaimed by the appropriate officer of the Republic of Puerto Rico in accordance with its Constitution.

SEC. 311. CITIZENSHIP AND MIGRATION.

(a) All matters pertaining to Puerto Rican citizenship shall be regulated pursuant to the Constitution and laws of the Republic of Puerto Rico.

(b) Upon the ratification under section 101(f) of the Puerto Rico Status Referendum Act, Puerto Rico shall no longer be deemed to be a part of the United States for the purposes of acquiring citizenship of the United States. Provisions of the Puerto Rican Federal Relations Act (commonly known as the "Jones Act", 48 U.S.C. 731 et seq.) and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) declaring Puerto Rico to be a part of the United States for the purpose of extending citizenship to persons born in Puerto Rico are repealed or modified, as appropriate, to delete any reference to Puerto Rico and Puerto Rico shall not be considered to be a part of the United States for such purposes, except that nothing in this section shall affect the citizenship of any person born prior to the date of the ratification.

(c) Notwithstanding any other provision of law, no person born outside of the United States after the ratification

under section 101(f) of the Puerto Rico Status Referendum Act shall be a citizen of the United States at birth if a parent or the parents of such person acquired United States citizenship solely by virtue of birth in Puerto Rico pursuant to the provisions of the Puerto Rican Federal Relations Act (commonly known as the "Jones Act", 48 U.S.C. 731 et seq.) and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and whose principal residence, as defined under section 101(a)(33) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(33)), continued to be Puerto Rico on or after the Proclamation of Independence, unless the parent or parents at the time of the birth of such person is a citizen of the United States employed by the Government of the United States.

(d) Entry into the United States and lawfully engaging in occupations or establishing residence as immigrants in the United States for any person who is not a citizen of the United States and becomes a citizen of the Republic of Puerto Rico upon the Proclamation of Independence, or who becomes a citizen of the Republic by birth after the Proclamation of Independence, or who is a naturalized citizen of the Republic who has been an actual resident of Puerto Rico for not less than five years, shall be permitted only as may be provided by law and regulation of the United States: *Provided.* That persons identified under subsection (c) above, may

enter the United States and its territories and possessions as nonimmigrants for a period of twenty-five years after such Proclamation of Independence without regard to paragraphs (14), (20), and (26)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a) (14), (20), and (26)(B): *Provided further,* That this subsection does not confer on such citizen of Puerto Rico the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under such Act. This subsection, however, shall not prevent a citizen of Puerto Rico from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

SEC. 312. DEFENSE.

Specific arrangements for the use of military areas by the United States in Puerto Rico shall be negotiated by a task force established by the Joint Transition Commission, and approved in accordance with the constitutional processes of the United States and Puerto Rico, and shall come into effect simultaneously with the proclamation of independence. These specific arrangements shall include an agreement by the Government of Puerto Rico to deny to third countries any access to or use of the territory of Puerto Rico for military purposes. Consent by the United States to any alteration, modification, amendment, limitation, termination, or

other change in such agreement regarding denial shall occur only pursuant to a specific Act of Congress.

SEC. 313. FEDERAL PROGRAMS.

The following subsections and the provisions of this title are enacted in recognition of the unique relationship between the United States and Puerto Rico, to affect a smooth and fair transition for the new Republic of Puerto Rico with a minimum of economic disruption, and to promote the development of a viable economy in the new Republic of Puerto Rico.

(a) All Federal programs shall continue to apply in Puerto Rico until the end of the fiscal year in which independence is proclaimed, at which time, a grant shall be paid to the Republic of Puerto Rico pursuant to subsection (3).

(b) Specific arrangements for the continuation or phase-out of Federal programs shall be negotiated by a Task Force on Economic Assistance established by the Joint Transition Commission and approved in accordance with the constitutional processes of Puerto Rico and the United States, and shall come into effect simultaneously with the proclamation of independence. In general, the specific arrangements shall provide that—

(1) all Federal pension programs, such as veterans and civil service benefits, shall continue as provided by United States law;

(2) prior to the end of the fiscal year in which independence is proclaimed, an estimate will be determined by the Comptroller General of the United States of the total value of grants, programs, and services, including Medicare, provided by the Federal Government in Puerto Rico in such fiscal year, except for those grants, programs, and services which will otherwise continue under this Act;

(3) a grant equal to the value established under paragraph (2) shall be paid annually to the Republic of Puerto Rico beginning in the fiscal year following the year in which independence is proclaimed, through the ninth year following the ratification under section 101(f) of the Puerto Rico Status Referendum Act;

(4) the United States will fulfill any contractual obligations outstanding at the time of the proclamation of independence; and

(5) Puerto Rico may request that the United States renew or continue any existing contractual obligations: Provided that Puerto Rico agrees that the cost of such renewal or continuation shall be deducted from the annual grant made under paragraph (3).

(c) There are authorized to be appropriated such sums as may be necessary to fulfill the purposes of this section.

SEC. 314. SOCIAL SECURITY AND UNEMPLOYMENT INSURANCE.

(a) The Joint Transition Commission established under section 305 of this Act shall establish a Task Force on Social Security to negotiate agreements necessary for the coordination of the social security system of the United States established by title II of the Social Security Act with a similar system to be established in the new Republic of Puerto Rico. Such agreements shall protect the benefit rights of all individuals who have attained benefit eligibility under such title as of 5 calendar years subsequent to the ratification under section 101(f) of the Puerto Rico Status Referendum Act shall provide appropriate credit for others who have contributed to such system. Any such agreement shall be approved in accordance with the constitutional processes of Puerto Rico and the United States.

(b) In order to provide adequate time for the negotiation and implementation of the agreements provided for in (a), the provisions of the Old Age, Survivors, and Disability Insurance programs under title II of the Social Security Act and the related provisions of chapters 2 and 21 of the Internal Revenue Code of 1986 shall apply until the end of the 5th calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act.

(c) Except as otherwise provided in this section, all programs operated under the Social Security Act shall cease to apply in Puerto Rico at the end of the fiscal year in which independence is proclaimed.

(d) Notwithstanding any other provision of law, on December 31 of the year in which a proclamation of independence is issued under section 307(d) of this Act—

(1) any amounts remaining in the Unemployment Trust Fund which are allocable to Puerto Rico shall be transferred to the Republic of Puerto Rico; and

(2) the Republic of Puerto Rico shall cease to be treated as a State for purposes of chapter 23 of the Internal Revenue Code of 1986, titles III, IX, and XII of the Social Security Act, the Federal-State Extended Unemployment Compensation Act of 1970, and any similar law of the United States relating to unemployment taxes or benefits.

(e) Any person who is a citizen of the United States (as described in section 316(c) of this Act, without regard to clauses (i) and (ii) of subparagraph (B)) shall not be treated as an employee for purposes of any law described in subsection (d)(2).

SEC. 315. TRADE RELATIONS.

(a) It is the sense of the Congress that—

(1) the United States should continue to maintain an open trading relationship with the Republic of Puerto Rico after a proclamation of independence is under this title, and

(2) the President should—

(A) seek to obtain favorable treatment from other countries for exports from Puerto Rico, and

(B) encourage other countries to maintain open trading relationships with Puerto Rico and to designate Puerto Rico as a beneficiary under any preferential trade arrangements such other countries maintain.

(b) The Joint Transition Commission shall establish a Task Force on Trade to consider and develop the manner in which trade between the United States and the Republic of Puerto Rico will be governed following the Proclamation of Independence. The Task Force on Trade shall submit a report on its deliberations, along with its recommendations, to the President, the Committee on Finance of the United States Senate, and the Committee on Ways and Means of the House Representatives.

(c) Beginning on the date of the issuance of the proclamation of independence under section 307(d) of this Act, the applicable rate of duty of the general subcolumn of column 1 of the Harmonized Tariff Schedule of the United States shall

apply to products of the Republic of Puerto Rico entered or withdrawn from warehouse on or after such date.

(d)(1) Section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is amended by inserting in alphabetical sequence "Puerto Rico, the Republic of".

(2)(A) Section 213(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)) is amended—

(i) by striking "Commonwealth of Puerto Rico" in the flush paragraph at the end of paragraph (1),

(ii) by striking "(other than the Commonwealth of Puerto Rico)" in this flush paragraph at the end of paragraph (1), and

(iii) by striking paragraphs (4) and (5).

(B) Section 214(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703 note) is amended)—

(i) by striking "the treasuries of Puerto Rico or" and inserting "the treasury of", and

(ii) by striking "produced in Puerto Rico or" and inserting "produced in".

(C) Section 214 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 1319 note) is amended by striking subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(3) The amendments made by this subsection shall take effect on the date the proclamation of independence is issued under section 307(d) of this Act.

(e)(1) During the 5-year period beginning on the date the proclamation of independence is issued under section 307(d) of this Act, the President may enter into a trade agreement with the Republic of Puerto Rico that provides for the reduction or elimination of any duty imposed by the United States, the elimination of any other barriers, and the establishment of a free trade area between Puerto Rico and the United States.

(2) A trade agreement entered into under this subsection shall be reciprocal and shall provide for mutual reductions in trade barriers to promote trade, economic growth, and employment.

(3) Before the President enters into any trade agreement under this subsection, the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject

matters which would be affected by the trade agreement.

(4) The consultation under paragraph (4) shall include—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, and objectives of section 1101 of the Omnibus Trade and Competitiveness Act of 1988; and

(C) all matters relating to the implementation of the agreement under subsection (f).

(f)(1) Any agreement entered into under subsection (e) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which he enters into the trade agreement, notifies the House of Representatives and the Senate of his intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register,

(B) after entering into the agreement, the President submits a document to the House of Representatives and the Senate containing a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill,

(ii) a statement of any administrative action proposed to implement the trade agreement, and

(iii) the supporting information described in paragraph (2); and

(C) the implementing bill is enacted into law.

(2) The supporting information required under paragraph (1)(B)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, and objectives of section 1101 of the Omnibus Trade and Competitiveness Act of 1988, and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i), and why and to what extent the agreement does not achieve other applicable purposes, policies, and objectives,

(II) how the agreement serves the interests of United States commerce, and

(III) why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement.

(g) The provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) shall apply to any draft of a bill implementing a trade agreement entered into under subsection (e).

(h) Each period of time described in subsection (f) shall be computed without regard to—

(1) the days on which either House of the Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(2) any Saturday and Sunday, not excluded under paragraph (1), when either House of the Congress is not in session.

SEC. 316. TAXATION.

(a) Except as provided in this section, the Republic of Puerto Rico shall, on and after the date of proclamation of independence under section 307, be treated for purposes of the internal revenue laws of the United States as a foreign country.

(b)(1) In the case of a taxable year in the transition period, the credit under section 936 of the Internal Revenue Code of 1986—

(A) shall be allowable to a taxpayer only if such taxpayer (or a predecessor) elected the application of such section for its taxable year which included the date of the ratification under section 101(e) of the Puerto Rico Status Referendum Act, and

(B) shall be equal to the applicable percentage of the lesser of—

(i) the amount of such credit determined without regard to this subsection, or

(ii) 130 percent of the average amount of such credit of the taxpayer and its predecessors for the three-taxable year period ending with the taxpayer's last taxable year ending before August 1, 1990 (not taking into account years in which the taxpayer or any predecessor was not in existence).

If neither the taxpayer nor any predecessor has a taxable year ending before August 1, 1990, the amount under clause (ii) shall be treated as being equal to the amount of such credit of the taxpayer for its first taxable year ending on or after August 1, 1990 (adjusted as provided by the Secretary in the case of a short taxable year).

(2) For purposes of this subsection, the applicable percentage for any taxable year in the transition period shall be determined in accordance with the following table:

In the case of the following year in such period:	The applicable percentage is:
1st taxable year	75 percent
2nd taxable year	50 percent
3rd taxable year	25 percent
4th and following taxable year	0 percent

(3) For purposes of this subsection, the term "transition period" means, with respect to any taxpayer, the period beginning with the taxpayer's second taxable year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act.

(c)(1) In the case of taxable years ending on or after the date of proclamation of independence under section 307, section 933 of the Internal Revenue Code of 1986 shall continue to apply, but only with respect to bona fide residents of Puerto Rico—

(A) who are citizens of the United States under the provisions of the Puerto Rican Federal Relations Act (commonly known as the "Jones Act", 48 U.S.C. 731 et seq.) and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) solely by reason of—

(i) being born in Puerto Rico,

(ii) being a child of parents who are citizens of the United States under such Acts solely by reason of being born in Puerto Rico, or

(iii) being described in both clause (i) and clause (ii), and

(B) who, during such taxable year, have neither—

(i) earned income (as defined in section 911(d)(2) of such Code) in excess of the maximum amount of foreign earned income which may be excluded for such taxable year under section 911 of such Code, nor

(ii) income other than earned income (as so defined) in excess of the sum of such individual's standard deduction and the deductions for personal exemptions allowable under such Code to such individual for such taxable year.

(2) If an individual described in paragraph (1) of this subsection is married to an individual not described in such paragraph, paragraph (1) shall apply to the individual described in such paragraph only if such individuals file separate income tax returns.

(d)(1) In the case of calendar years beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, notwithstanding section 7652 of the Internal Revenue Code of 1986 and section 4 of the Act of April 12, 1900 (31 Stat. 78), the amount of taxes and customs duties covered into the treasury of Puerto Rico

under such sections shall be equal to the applicable percentage of such taxes and customs duties.

(2) For purposes of paragraph (1), the applicable percentage shall be determined in accordance with the following table:

In the case of the:	The applicable percentage is:
1st year	80 percent
2nd year	60 percent
3rd year	40 percent
4th year	20 percent
5th and following years	0 percent

(e)(1) Except as provided in paragraph (2), for any calendar year beginning after the date of the ratification under section 101(e) of the Puerto Rico Status Referendum Act—

(A) clause (i) of section 42(h)(3)(C) of the Internal Revenue Code of 1986 shall not apply with respect to Puerto Rico, and

(B) section 42(h)(4) of such Code shall not apply to any building placed in service in Puerto Rico after the calendar year in which such date occurs.

(2) For purposes of paragraph (1)(B), a building shall be treated as placed in service before the first calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act if—

(A) the bonds with respect to such building are issued before such first calendar year,

(B) the taxpayer's basis in the project (of which the building is a part), as of the close of the calendar

year in which such date occurs, is more than 10 percent of the estimated project costs, and

(C) such building is placed in service before the beginning of the third calendar year beginning after such date.

(f) Section 103(a) of the Internal Revenue Code of 1986 shall continue to apply to bonds issued by Puerto Rico or any political subdivision on or before (but not after) the last day of the fifth calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act.

(g) In the case of any transfer of property after September 27, 1990, and before the date of proclamation of independence under section 307 by a donor to whom section 2501(c) of the Internal Revenue Code of 1986 applies by reason of being a resident of Puerto Rico—

(1) if such donor dies on or after such date of proclamation of independence, the value of such property shall be included in the donor's gross estate if the donor or the donor's spouse retains directly or indirectly any beneficial interest in such property as of the date of death or disposes of such interest within three years before such date of death, and

(2) for purposes of applying subtitle B of such Code to any transfer. or to the estate of any decedent

dying, after such date of proclamation of independence, such transfer of property shall be taken into account in computing taxable gifts and adjusted taxable gifts.

SEC. 317. CURRENCY AND FINANCE.

(a) The Joint Transition Commission established under section 305 shall establish a Task Force on Currency and Finance to negotiate an agreement to assist the Republic of Puerto Rico in the design and establishment of a deposit insurance system, to determine the extent of financial support to be provided for the system by United States insurance organizations in which Puerto Rico's financial institutions currently participate, and to make the necessary arrangements with respect to the use of United States currency by the Republic of Puerto Rico if so requested by the Republic. Any such agreement shall be approved in accordance with the constitutional processes of Puerto Rico and the United States.

(b) The guarantees provided by the Government of the United States to investors in the secondary market for existing loans, particularly mortgage loans guaranteed by the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLM) and other United States Government instrumentalities, shall be maintained for

Puerto Rico-originated loans existing on the date of the proclamation until maturity.

SEC. 318. PUBLIC DEBT.

The debts, liabilities, and obligations of the Commonwealth of Puerto Rico, its municipalities and instrumentalities, valid and outstanding upon the date of the proclamation of independence, shall be assumed by the Republic of Puerto Rico.

TITLE IV—COMMONWEALTH

SEC. 401. PROVISIONS.

Should Commonwealth be ratified under section 101(f) of the Puerto Rico Status Referendum Act, the provisions of this title shall go into effect.

SEC. 402. PRINCIPLES OF COMMONWEALTH.

(a) The Commonwealth of Puerto Rico is a unique juridical status, created as a compact between the People of Puerto Rico and the United States, under which Puerto Rico enjoys sovereignty, like a State, to the extent provided by the Tenth Amendment to the United States Constitution and in addition with autonomy consistent with its character, culture and location. This relationship is permanent unless revoked by mutual consent.

(b) The policy of the United States shall be to enhance the Commonwealth relationship enjoyed by the Commonwealth of Puerto Rico and the United States to enable the

people of Puerto Rico to accelerate their economic and social development, to attain maximum cultural autonomy, to seek fair treatment in Federal programs, and in matters of government to take into account local conditions in Puerto Rico.

(c) The United States citizenship of persons born in Puerto Rico shall continue to be guaranteed and indefeasible to the same extent as that of citizens born in the several States.

SEC. 403. APPLICATION OF FEDERAL LAW.

(a) Notwithstanding any other provision of law, the Governor of the Commonwealth of Puerto Rico may certify from time to time to the Speaker of the House of Representatives and the President of the Senate, that the Legislature of the Commonwealth of Puerto Rico has adopted a resolution that states that a Federal law or provision thereof should no longer apply to the Commonwealth of Puerto Rico because there is no overriding national interest in having such Federal law be applicable in the Commonwealth of Puerto Rico and such applicability does not serve the interests of the people of the Commonwealth of Puerto Rico. A Federal law or laws or provision thereof so certified shall no longer apply to the Commonwealth of Puerto Rico if a joint resolution approving the recommendation of the Government of the Commonwealth of Puerto Rico is enacted.

(b)(1) This subsection is enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but is applicable only with respect to the procedure to be followed in this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith.

(2) For purposes of this subsection, the term "resolution" means only a joint resolution, the matter after the resolving clause of which is as follows: "That the House of Representatives and the Senate approve the recommendation of the Government of the Commonwealth of Puerto Rico in the certification submitted to the Congress on (date) ". Such resolution shall also include the certification received from the Governor of the Commonwealth of Puerto Rico and a copy of the resolution adopted by the Legislature of the Commonwealth of Puerto Rico.

(3) A resolution once introduced with respect to such a certification by the Governor of the Commonwealth of Puerto Rico shall immediately be referred by the Speaker of the House of Representatives and the President of the Senate, as the case may be, to the House Committee on Interior and Insular Affairs and to the Senate Committee on Energy and Natural Resources and at the same time to such other committees as the Speaker of the House of Representatives or the President of the Senate, respectively, shall determine.

(4)(A) If the committee or committees to which a resolution with respect to a certification by the Governor of the Commonwealth of Puerto Rico has been referred has not reported it at the end of forty-five calendar days after its referral, it shall be in order to move to discharge the committee from further consideration of such resolution.

(B) A motion of discharge may be made only by an individual favoring the resolution and shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same submittal), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to more to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same submittal.

(5)(A) When the last committee has reported, or has been discharged from further consideration of a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move

to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion to further limit debate shall not be debatable. An amendment to or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a submittal, then it shall not be in order to consider in that

House any other resolution with respect to the same such submittal.

(8) For the purpose of this subsection—

(A) continuity of session is broken only by an adjournment of the Congress sine die; and

(B) the days on which either House is not in session because of any adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(c) This section shall not apply to—

(1) any Federal statutory law, or provisions thereof, establishing directly or indirectly grants and/or services to citizens of the United States as individuals;

(2) any Federal statutory law, or provisions thereof, relating to legislative matters within the jurisdiction of the Committee on Finance, or the Committee on Agriculture, Nutrition, and Forestry, of the Senate;

(3) any Federal statutory law or provisions thereof relating to citizenship; or

(4) any Federal statutory law or provisions thereof pretaining to the foreign relations, defense, or national security.

(d) The Governor of Puerto Rico may enter into international agreements to promote the international interests of

Puerto Rico as authorized by the President of the United States and consistent with the laws and international obligations of the United States.

SEC. 404. REGULATORY REVIEW.

(a) For the purposes of this section, the definitions in title 5, United States Code, section 551, apply.

(b) All agencies shall be guided by the policy stated in section 402 when carrying out their duties under statutes and rules applicable in or affecting the Commonwealth of Puerto Rico. Any agency that engages in rulemaking pursuant to title 5, United States Code, section 553, shall include in the concise general statement of the basis and purpose of any final rules adopted in response to any data, views, or arguments submitted to it that raise a question of the consistency of such rules with such policy.

(c) When an agency published in the Federal Register any final rule (other than a rule issued after notice and hearing required by statute), that does by its terms apply in the Commonwealth of Puerto Rico, the Governor of the Commonwealth of Puerto Rico may submit to the agency within thirty days (or such longer period as the agency may have prescribed as the period between publication of the rule and its effectiveness the Governor's determination that such rule is inconsistent with such policy and, if appropriate, of how it could be made consistent. Thereupon, the agency shall reconsider the question of the consistency of its rule with such policy and shall, within forth-five days of its receipt of the Governor's determination, publish in the Federal Register its finding either—

(1) that—

(A) by the terms of the statute pursuant to which the rule is made the agency has no discretion to make the rule inapplicable in the Commonwealth of Puerto Rico or to vary the terms of the rule in its application to the Commonwealth or,

(B) there is a national interest that the rule be applicable in Puerto Rico in the terms in which it was published, or

(2) that the rule is not consistent with such policy, in which case the rule, whether or not previously applicable in the Commonwealth of Puerto Rico in accordance with its terms as published, shall not be so applicable or shall be applicable only in accordance with the terms specified in the agency's finding.

(3) Within sixty days of the publication by an agency of the finding provided for in paragraph (1) the Governor of the Commonwealth of Puerto Rico, if aggrieved by such finding, may petition for review thereof in the United States Court of Appeals of the First Circuit or the District of Columbia Circuit. In any such

review proceeding the scope of review shall be as prescribed in section 706 of title 5, United States Code. Federal courts shall have no jurisdiction to entertain any action brought by any other party challenging agency compliance with this subsection.

(d) This section shall not apply to any rule issued pursuant to any Federal law, or provision thereof, relating to legislative matters within the jurisdiction of the Committee on Finance, or the Committee on Agriculture, Nutrition, and Forestry, of the Senate, as described in paragraph 1(i) of Rule XXV of the Standing Rules of the Senate (as in effect on the date of the enactment of this Act).

SEC. 405. AVIATION.

The officials of the Department of State and the Department of Transportation shall seek the advice of appropriate officials of the Commonwealth of Puerto Rico when negotiating any air transportation agreements which would affect air traffic to or from the Commonwealth of Puerto Rico.

SEC. 406. CARIBBEAN BASIN ECONOMIC RECOVERY ACT AMENDMENTS.

(a) Section 214(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703 note) is amended—

(1) by striking "the treasuries of Puerto Rico or" and inserting "the treasury of", and

(2) by striking "produced in Puerto Rico or" and inserting "produced in".

(b) The amendments made by subsection (a) shall take effect on the first day of the fifth calendar year following the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs.

SEC. 407. FEDERAL PROGRAMS.

(a) GRANT CONSOLIDATION.—Section 501 of Public Law 95–134 (91 Stat. 1159, 1164) as amended, is further amended—

(1) by deleting "Virgin Islands," and inserting in lieu thereof "Virgin Islands, Puerto Rico,"; and

(2) by adding at the end of subsection (a) the following new sentence: "In the case of Puerto Rico, no consolidation of such grants may be made with respect to any programs established or operated under the Social Security Act or the Food Stamp Act of 1977.".

(b) NUTRITION ASSISTANCE AND FOOD STAMP PROGRAM.—

(1) INCREASED FUNDING LEVELS FOR THE NUTRITION ASSISTANCE PROGRAM IN PUERTO RICO.—Notwithstanding any other provision of law from the sums appropriated under the Food Stamp Act of 1977, the Secretary of Agriculture shall pay to the Commonwealth of Puerto Rico, the addition to the amounts re-

quired to be paid by the Secretary to the Commonwealth of Puerto Rico under subparagraph (A) of section 19(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)), the following additional sums for the years described—

(A) $112,500,000, for the fiscal year beginning on October 1 of the first calendar year after the date of the ratification of the "Commonwealth" status option by the people of Puerto Rico (hereinafter referred to in this subsection as the "first fiscal year after ratification");

(B) $250,000,000, for the fiscal year immediately following the first fiscal year after ratification; and

(C) $337,500,000, for the second fiscal year after the first fiscal year after ratification.

(2) FOOD STAMP PROGRAM.—Beginning on the first day of October prior to January 1 of the fifth calendar year following the calendar year in which the ratification under section 101(e) of the Puerto Rico Status Referendum Act occurs:

(A) Puerto Rico shall participate in the food stamp program under the Food Stamp Act of 1977 on equal footing with any other State of the

United States except as provided in section 19 of such Act; and

(B) the block grant program authorized under section 19 of such Act for Puerto Rico is terminated.

(3) AMENDMENTS TO THE FOOD STAMP ACT OF 1977.—Beginning on the first day of October prior to January 1 of the fifth calendar year following the calendar year in which the ratification under section 101(e) of the Puerto Rico Status Referendum Act occurs, section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended to read as follows:

"SEC. 19 (a). SPECIAL RULES.—Notwithstanding any other provision of this Act, the Commonwealth of Puerto Rico shall participate in the program under the requirements of this Act except as follows:

"(1) a household within such Commonwealth shall be ineligible to participate in the food stamp program (notwithstanding the provisions of section 5(c) of the Act) if such household's income, after the exclusions are made as provided for in section 5(d) of such Act and before the deductions in such income are made under section 5(e) of such Act, exceeds 65 percent of the poverty line as defined in section 5(c)(1) of such Act;

"(2) the standard deduction for purposes of determining benefits in such Commonwealth shall be 59 per centum of the standard deduction determined under section 5(e) of the Act for the forty-eight contiguous States and the District of Columbia; and

"(3) the maximum excess shelter expense deduction to which a household within the Commonwealth may be entitled shall be thirty-five per centum of the maximum excess shelter expenses deduction determined for the forty-eight contiguous States and the District of Columbia under paragraph (2) of the fourth sentence of section 5(e) of the Food Stamp Act of 1977 for the household.

"(b) The Commonwealth of Puerto Rico shall participate in the program under the requirements of this Act except that the Commonwealth must make benefits available through the use of intelligent benefit cards, other automated or electronic delivery system, or other benefit delivery system specifically designed to promote the integrity of the program.

(4) LEGAL RIGHT TO ADDITIONAL SUMS.—Unless otherwise provided through legislation providing Federal revenues, the Secretary of Treasury is required to pay to the Secretary of Agriculture all additional amounts required to be paid by the Secretary of

Agriculture to the Commonwealth of Puerto Rico under the Puerto Rico Status Referendum Act to operate the Nutrition Assistance Program under section 19 of the Food Stamp Act. The Commonwealth of Puerto Rico is legally entitled to receive from the Secretary of Agriculture such additional amounts.

SEC. 408. CONSULTATION IN APPOINTEES AND NOMINATIONS.

(a) In considering the qualifications of persons who may be appointed to serve as: Supervisor, Caribbean National Forest; Superintendent, San Juan Historic Site; Manager, Department of Housing and Urban Development, San Juan; Director, Caribbean Field Office, Environmental Protection Agency; Director, Farmer's Home Administration, San Juan; District Director, United States Customs Service, San Juan; District Director, Small Business Administration; and District Director, Immigration and Naturalization Service; the head of such department or agency shall consult with the Governor or other appropriate official in Puerto Rico as to whether there are special circumstances or qualifications which should be considered in making the appointment.

(b) Prior to nominating any person to serve in Puerto Rico whose appointment requires the advice and consent of the Senate of the United States, the President shall consult with the Governor as to whether there are any special circumstances or qualifications which should be considered in

deciding on a nomination. Nothing in this section requires or prohibits the disclosure of individuals under consideration for such position nor as a limitation on the ability of the heads of agencies to appoint, or the President to nominate any individual. This subsection shall not apply with respect to any position in the Armed Forces of the United States, the Coast Guard, and in agencies engaged in law enforcement.

SEC. 409. PUERTO RICO LIAISON OFFICE.

(a) There is hereby established the Office of Senate Liaison for the Commonwealth of Puerto Rico ("Office"). The Office shall be headed by an individual appointed by the Governor of Puerto Rico and who shall serve at the pleasure of the Governor and who shall be known as the Puerto Rico Liaison. The purposes of the Office shall be to facilitate the exchange of information between the Senate and the Government of Puerto Rico.

(b) The Committee on Rules and Administration shall determine what facilities and services shall be available to such Office. All personnel of such Office shall be issued such identification as will entitle them to the same privileges as are afforded to employees of the Congressional Research Service and no employee of the Office shall be permitted privilege of the Senate floor.

(c) There are authorized to be appropriated annually $600,000 for salaries and $56,000 for office expenses of the

Office. The Liaison shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office, including the Liaison, while not employees of the Senate, shall, other than as provided in subsection (b), be treated as if they were employees of the Senate with respect to pay and employment benefits, rights, privileges, and restrictions and shall be subject to all requirements otherwise applicable to employees of the Senate.

(d) The Office shall be subject to the jurisdiction of the Committee on Rules and Administration.

SEC. 410. PASSPORTS.

(a) The following new section shall be added to title 22 as section 211b:

"SECTION 211b. UNITED STATES PASSPORT OFFICE IN PUERTO RICO.

"The Secretary of State shall establish a Passport Office for the Caribbean located in San Juan, Puerto Rico.".

(b) The Secretary of State and the Attorney General of the United States shall consult with the Governor of Puerto Rico to determine what administrative actions can be taken to expedite the processing of visas and also to provide an expedited consideration of visas where the Governor makes such a request to accommodate an individual or individuals who have been invited to Puerto Rico by the Governor and

shall report to Congress on such consultations and administrative action by March 15, 1993.

SEC. 411. COMMUNITY VALUES.

(a) For purposes of this section—

(1) "antitrust laws" has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12) and shall also include section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(2) "person in the television industry" means a television network, any entity which produces programming for television distribution, including theatrical motion pictures, the National Cable Television Association, the Association of Independent Television Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the networks' affiliate organizations, and television stations and cable television operators licensed to operate in Puerto Rico and shall include any individual acting on behalf of such person; and

(3) "telecast" means any program broadcast by a television broadcast station or transmitted by a cable television system.

(b) The antitrust laws shall not apply to any joint discussion, consideration, review, action or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to (1) alleviate the negative impact of violence in telecast material, (2) alleviate the negative impact of illegal drug use in telecast material, and (3) alleviate the negative impact of sexually explicit material in telecast material, and promote local programming in the Commonwealth of Puerto Rico.

(c)(1) The exemption provided in subsection (b) shall not apply to any joint discussion, consideration, review, action, or agreement which results in a boycott of any person.

(2) The exemption provided in subsection (b) shall apply only to activities conducted within thirty-six months after the date of enactment of this Act, but may be extended for other thirty-six-month periods upon declaration by the Governor of Puerto Rico.

SEC. 412. FEDERAL PROPERTIES.

(a)(1) The President shall report to Congress by March 15, 1993, on the Federal properties listed in paragraph (3). The report shall include an assessment of the Federal need for each property, the costs or benefits, or both, of disposal of each property, and the comments of the Government of the Commonwealth of Puerto Rico regarding each property.

(2) Unless the President finds that there is a national interest which requires continued Federal ownership of each property, then he shall provide for the transfer of such prop-

erties to the Commonwealth of Puerto Rico according to such terms as he determines to be appropriate with respect to each.

(3) The Federal properties listed in this paragraph are—

(A) Former Stop 7½ Naval Residence;

(B) San Geronimo Quarters;

(C) Custom House in San Juan;

(D) Custom House in Mayaguez;

(E) Custom House in Ponce;

(F) Custom House in Fajardo; and

(G) Coast Guard facility at Puntilla.

SEC. 413. SAN JUAN NATIONAL HISTORIC SITE ADVISORY COMMISSION.

(a) There is hereby established a commission to be known as the San Juan National Historic Site Advisory Commission ("the commission") which shall regularly advise the Secretary of the Interior ("the Secretary") on the operation, management, and administration of the San Juan National Historic Site ("the site").

(b) The commission shall consist of the Governor of the Commonwealth of Puerto Rico (or the Governor's designee), the Director of the National Park Service (or the Director's designee), three members to be appointed by the Governor of the Commonwealth of Puerto Rico, and three members to be appointed by the Secretary. One of the members appointed

by the Governor and one member appointed by the Secretary shall serve as cochairpersons of the commission.

(c)(1) Members appointed to the commission by the Governor and the Secretary shall be appointed for a term of four years. A member may serve after the expiration of his term until his successor has taken office.

(2) Any vacancy on the commission shall be filled in the manner the original appointment was made.

(3) Members of the commission shall receive no additional pay, allowances, or benefits as a result of their service on the commission, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this section on vouchers signed by the cochairpersons;

(4) A majority of the members of the commission shall constitute a quorum but a lesser number may hold hearings. Each member of the commission shall be entitled to one vote, which shall be equal to the vote of every other member of the commission.

(5) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to the commission.

(d) The Secretary shall from time to time, but at least annually, meet with the commission on matters relating to the planning, management and administration of the site. Such meetings shall be open to the public and shall be held at

such times and in such places as to encourage public participation. The commission shall provide the public with adequate notice of such meetings.

(e) The commission shall prepare annually and transmit to the Secretary, the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the United States House of Representatives, a report containing such information and recommendations regarding the operation, management, and administration of the site as the commission deems desirable, including but not limited to recommendations with respect to the version of the general management plan for the site.

SEC. 414. TAXATION.

(a)(1) Section 936(a)(2)(B) of the Internal Revenue Code of 1986 shall be applied—

(A) in the case of a corporation's 4th taxable year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, by substituting "80 percent" for "75 percent", and

(B) in the case of a corporation's subsequent taxable years, by substituting "85 percent" for "75 percent".

(2) For purposes of paragraph (1), a taxpayer whose 1st taxable year begins after the date of ratification under section 101(f) of the Puerto Rico Status Referendum Act shall be

treated as if such taxpayer had such a taxable year (and subsequent taxable years) in effect on (and after) such date.

(b)(1) In the case of each fiscal year which begins in a calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, notwithstanding section 7652 of the Internal Revenue Code of 1986 and section 4 of the Act of April 12, 1990 (31 Stat. 78), the amount of taxes and customs duties covered into the treasury of Puerto Rico under such sections shall be reduced (but not below zero) by the greater of the basic reduction under paragraph (2) or the excess of—

(A) the amounts payable with respect to such year to Puerto Rico under parts A and E of title IV, title XVI (as in effect before the date of the enactment of Public Law 92–603), and title XIX of the Social Security Act, over

(B) the sum of the amount determined under paragraph (3), plus $161,000,000.

(2) For purposes of paragraph (1), the basic reduction shall be determined in accordance with the following table:

"In the case of the following years to which this subsection applies:	The basic reduction is:
1st	$120,000,000
2nd	$250,000,000
3rd	$325,000,000
4th	$443,000,000
5th and subsequent	$422,000,000

(3) For purposes of paragraph (1)(B), the amount determined under this paragraph is determined in accordance with the following table:

"In the case of the following years to which this subsection applies:	The reduction is:
1st	$0
2nd	$0
3rd	$30,000,000
4th	$80,000,000
5th and subsequent	$101,000,000

(4)(A) In the case of the 5th and following fiscal years to which paragraph (1) applies, there shall be substituted for the $422,000,000 amount in the table under paragraph (2) and for the $101,000,000 amount in the table under paragraph (3), respectively, an amount equal to such amount multiplied by the applicable ratio.

(B) The applicable ratio for any fiscal year is the percentage arrived at by dividing—

(i) the gross national product for the calendar year preceding the calendar year in which the fiscal year begins, by

(ii) the gross national product for the 2nd calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act.

(C) The gross national product for any calendar year is the last determination of such gross national product published as of October 1 of the succeeding calendar year by the

Bureau of Economic Analysis of the Department of Commerce.

SEC. 415. OPERATION OF AND TRANSITION FOR CERTAIN ENTITLEMENTS.

(A)(1) Except as otherwise provided in this subsection, if Commonwealth for Puerto Rico is ratified under section 101(f) of the Puerto Rico Status Referendum Act, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall provide, beginning on January 1 of the 2nd calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, and subject to paragraph (2), that no payments be made to the Commonwealth of Puerto Rico under title XVI of hue Social Security Act (as in effect before the date of the enactment of Public Law 92–603), or under titles I, X, or XIV of the Social Security Act, or under title XIX of the Social Security Act unless the Secretary determines that assistance levels applicable to aged, blind, or disabled in Puerto Rico under titles, I, X, XIV, or XVI are set at levels consistent with the levels provided under section 1611(a)(1)(A) and 1611(b)(1) of the Social Security Act adjusted so as not to exceed 50 percent of the per capita income of Puerto Rico (as determined on the basis of the most recent reliable data available from the Secretary of Commerce), and under section 1611(a)(2)(A) and 1611(b)(2) of the Social Se-

curity Act adjusted so as not to exceed 75 percent of the per capita income of Puerto Rico (as determined on the basis of the most recent reliable data available from the Secretary of Commerce). The Secretary shall promulgate the amounts determined under this paragraph for Puerto Rico at the same time and in the same manner as amounts are promulgated for cost of living adjustments in benefits under section 1617 of the Social Security Act.

(2) Beginning on January 1 of the 2nd calendar year beginning after the date of the ratification under section 101(e) of the Puerto Rico Status Referendum Act, the provisions described in paragraph (1), shall be implemented on a modified basis providing that benefit levels under any of the programs described in paragraph (1) shall after any reduction under the per capita limitation described in paragraph (1) be set at—

(A) 25 percent of the otherwise applicable level in such 2nd calendar year;

(B) 50 percent of such level in the calendar year immediately following such 2nd calendar year; and

(C) 75 percent of such level in the 2nd calendar year following such 2nd calendar year.

(b)(1) Beginning on January 1 of the 2nd calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, Federal

funding of the Aid to Families with Dependent Children program provided under part A of title IV of the Social Security Act shall be set at 50 percent of the total cost of providing benefits under such program.

(2) Beginning on January 1 of the second calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, the limitation on expenditures provided for under section 1108 of the Social Security Act shall not apply with respect to expenditures under the Aid to Families with Dependent Children program operated in Puerto Rico.

(c)(1) The Medicaid program provided for under title XIX of the Social Security Act shall continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act, except as may be provided for through agreement of the Government of Puerto Rico and the Secretary.

(2) Beginning on January 1 of the second calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, the limitation on expenditures provided for under section 1108 of the Social Security Act shall not apply with respect to expenditures under the Medicaid program operated in Puerto Rico, except that for the first three fiscal years beginning after the end of the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referendum

Act occur Federal payments to Puerto Rico with respect to title XIX of the Social Security Act shall not exceed an amount equal to $79,000,000, increased by the applicable percentage of the excess of the amount payable without regard to such section 1108 over $79,000,000. The applicable percentage is 25 percent for the 1st such fiscal year, 50 percent for the second such fiscal year, and 75 percent for the third such fiscal year.

(d) The Secretary shall reduce the amounts otherwise payable to Puerto Rico under parts A and E of title IV, title XVI (as in effect before the date of the enactment of Public Law 92–603), and title XIX of Social Security Act with respect to expenditures under such titles for any fiscal year beginning after the end of the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs to the extent that the sum of such amount exceeds the sum of—

(1) $161,000,000, plus

(2) the amount which, but for the provisions of section 414(b) of this Act, would have been covered over to Puerto Rico for excise taxes and custom duties under the laws in effect as of January 1, 1990, plus

(3) the amount determined under section 414(b)(3) of this Act. The Secretary of the Treasury shall make an annual determination of such amount and provide

for appropriate adjustment in such amount as determined for prior years.

(e) The Medicare Hospital Insurance Benefits for the Aged and Disabled program provided for under part A of title XVIII of the Social Security Act shall continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act, except that, the Prospective Payment Assessment Commission shall examine current levels of reimbursement under such part and advise the Secretary within six months of the date of the enactment of this Act as to whether the system in place on the date of the enactment of this Act accurately and appropriately reflects cost differentials between Puerto Rico and the States. The Secretary shall, if such study finds that the system in effect on the date of the enactment of this Act does not accurately reflect such cost differentials, submit to the appropriate committees of Congress within six months of the date of completion of such study a legislative proposal to correct any deficiencies in the reimbursement system.

(f)(1) Except as provided in paragraph (2), in the case of any fiscal year, beginning with the fifth fiscal year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, Puerto Rico shall be treated as a State for purposes of determining the amount of

its allocation of funds under title XX of the Social Security Act.

(2) Notwithstanding section 2003(b) of the Social Security Act, Puerto Rico Shall be responsible for 50 percent of the cost of the allocation of funds described in paragraph (1).

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Amendments by Senator Johnston

1 On page 5, lines 12-21, strike the text of subparagraph (2)(A) and insert the following new text:

"Any claims brought pursuant to this subsection shall be heard by a three-judge court in the Eleventh Circuit Court of Appeals which shall have exclusive jurisdiction over all such claims.";

2 On page 6, line 1, strike the words "United States Court of Appeals for the District of Columbia" and insert in lieu thereof: "Eleventh Circuit Court of Appeals";

3 On page 6, line 10, strike the existing text of subsection (e) and insert the following new text:

"The terms of this legislation represent a good faith attempt by Congress to define the status options available to the people of Puerto Rico. It is the sense of Congress that the Chairman of the Senate Committee on Energy and Natural Resources and the Chairman of the House Committee on Interior and Insular Affairs shall introduce the title of this Act corresponding to the status preference expressed in the referendum. Nothing in this Act, nor any outcome of the referendum, shall be construed as intended to incorporate, or as incorporating, Puerto Rico. Titles II, III or IV are not intended to be self-executing based upon the outcome of the referendum."

4 On page 6, line 23, strike the text of the new subsection (f) and insert the following new text:

"There shall be printed as a document of the Senate Committee on Energy and Natural Resources, a booklet entitiled "Puerto Rico Status Referendum Information". The booklet shall contain the text of this Act, a spanish translation of such text, and other appropriate information as set forth in the Statement of Managers regarding this Act. A copy of this booklet shall be provided to each voter household at least one month before the referendum. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection."

5 On page 7, line 7; page 41, line 5; and page 70, line 10 insert the following new section as section 201, 301 and 401, respectively, and renumber the existing sections accordingly:

"SEC. ___. RATIFICATION.

(a) After enactment, this Act shall be submitted to the people of Puerto Rico for approval in a ratification vote.

(b) If this Act is approved by a majority of the valid votes cast, the President of the United States shall proclaim the result of the ratification vote, and the remainder of this Act shall thereupon take effect according to its terms.";

6 On page 28, lines 9, and on page 82, line 21, strike the text of paragraph (4) and insert the following new text:

"The provisions of this subsection shall be inoperative unless and until revenues sufficient to offset the increased costs of the subsection are made available from either; (A) reductions in other programs, or (B) new revenue increases.";

J. BENNETT JOHNSTON, LOUISIANA, CHAIRMAN
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GARY G. ELLSWORTH, CHIEF COUNSEL FOR THE MINORITY

United States Senate
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
WASHINGTON, DC 20510-6150

February 20, 1991

MEMORANDUM

TO: Members, Committee on Energy and Natural Resources

FROM: Malcolm Wallop, Ranking Republican Member

SUBJECT: Substitute to S. 244
(Puerto Rican Status)

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1. Enclosed is a proposed alternative to the approach taken in S. 244 regarding the proposed status referendum in Puerto Rico and subsequent consideration of the result by Congress.

2. The proposal has several key elements. First, it affirms the validity of Independence, Commonwealth and Statehood as legitimate status options for Puerto Rico. Second, it recognizes the right of Puerto Rico to petition for a change in modification in status. Third, it expresses the view that any petition for change in status should originate in Puerto Rico and not be imposed by Congress. Fourth, it expresses the sense of Congress, that any status petition received from Puerto Rico should be considered expeditiously. Finally, it lists issues to be considered by Congress prior to adoption of enabling legislation.

3. I believe this alternative has merit for several reasons. First, it provides a process for change in status that in the case of Statehood, for example, has been followed for 200 years by Congress. Second, by eliminating the federal requirement to hold a referendum and the specifics of enabling legislation for each option, several major problems with S. 244 are also eliminated (e.g. application of the Uniformity Clause; uncertainty as to the source of funding for Food Stamps; citizenship, etc.). Finally, it eliminates the problem of having to balance the options ("leveling the playing field"), prior to the selection of an option by Puerto Rico. Once an option is selected, Congress will consider its implementation on its merits.

   In addition, this provision tells the people of Puerto Rico that choosing among the status options of Independence, Commonwealth and Statehood is a valid exercise of their right to self-determination. Moreover, it gives the Congress' sense that whatever option they choose will be considered

expeditiously without constraining the Congress to artificial time limitations. For example, were Puerto Rico to petition for Statehood, I would expect Congress to expeditiously consider how best to address the fiscal and program issues prior to actually considering an Admissions Act. Finally, it gives them the best notice that we can currently give as to what Congress will consider before implementing any status, without raising expectations which may later be dashed.

4. I urge your consideration of this approach. If you have any questions or suggestions for improvement, please contact me directly or have your staff call Jim Beirne (4-2564) or Gary Ellsworth (4-7141) of the Committee Minority Staff.

Strike all after the enacting clause and insert in lieu thereof the following:

Sec. 1. Congress affirms the validity of Independence, Commonwealth, and Statehood as legitimate status options for Puerto Rico and the right of Puerto Rico to petition for a change from the current status or request modifications to the present federal relationship.

Sec. 2. In respect for the concept of self-determination, such petition should originate from Puerto Rico and should not be imposed on Puerto Rico nor should the specific details of such petition be predetermined. Nothing in this Act shall be construed to prescribe the form or manner in which such petition may be developed nor to prohibit Puerto Rico from conducting such referenda or other activities as will fairly determine whether a majority of the people in Puerto Rico desire to submit such a petition to the Congress.

Sec. 3. It is the sense of Congress that if a petition for a change from the current status is requested, such petition should be considered expeditiously. It is further the sense of the Congress that the following issues will need to be considered and resolved prior to adoption of enabling legislation:

a) Statehood:

1) the degree to which Puerto Rico has the resources and is prepared to assume the responsibilities of State government and to contribute its share of the cost of the federal government;

2) the nature and length of any economic and fiscal transition which would be required in order for the economic and fiscal relationship with the federal government existing at the time of such petition to become consistent with Constitutional requirements which would be applicable to a State of the Union;

3) whether a majority of the electorate desire Statehood.

b) Independence:

1) citizenship of those persons who will become citizens of the new nation and questions of immigration;

2) United States security and defense requirements;

3) transition on federal programs including such provisions as are needed to enable the United States to fulfill obligations to individuals under vested entitlement programs;

4) appropriate tax and trade transitions;

5) whether a majority of the electorate desire Independence.

Sec. 4. It is the further the sense of the Congress, that if a request for a modification to the present federal relationship is requested, such request should be introduced as legislation and should be considered expeditiously.

Amend the title to read: To affirm the validity of Independence, Commonwealth and Statehood as legitimate status options for Puerto Rico, and for other purposes.

J. BENNETT JOHNSTON, LOUISIANA, CHAIRMAN

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United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
WASHINGTON, DC 20510-6150

May 20, 1991

MEMORANDUM

TO: Members, Committee on Energy and Natural Resources

FROM: Senator Wallop

RE: Amendments to S. 244, Puerto Rico

Prior to the last business meeting on Puerto Rico, I had circulated several amendments to S. 244. At the time, I decided not to offer the amendments so as not to delay the Committee consideration.

Should the Committee return to the consideration of S. 244, I may offer the attached amendments. In addition, I may ask for reconsideration of my substitute amendment which was not adopted on a 10-10 vote (a copy of the amendment and memo of explanation is also attached). If you have any questions concerning the amendments, please don't hesitate to contact Gary Ellsworth at 4-7141 or Jim Beirne at 4-2564.

AMENDMENT NO. _____ Ex._____ Calendar No._____

Purpose: To amend S. 244.

IN THE SENATE OF THE UNITED STATES 101st Cong., 2nd Session

S. 244, To provide for a referendum on the political status of Puerto Rico.

Intended to be proposed by Mr. Wallop

Viz:

1. Delete subsections (a) and (c) of section 402 and make conforming changes.

Purpose: Governor Hernandez Colon repeatedly responded to questions during last Congress's hearings by Senators Johnston and McClure that there was no intent in the Commonwealth proposal to affect the sovereignty of the United States or fundamentally change the current relationship (cf pp. 215-221, Hearings on Political Status of Puerto Rico, S. Hrg. 101-198 Pt. 1). The language proposed in S. 244 is fundamentally different from the language reported by the Committee last Congress in S. 712, and the Administration has raised serious concerns over the changes, especially the Constitutional basis for subsection (c). Since no change in the federal relationship is contemplated, there is no reason for the Committee to paraphrase various dicta in court opinions, but should rather reaffirm the Congressional views set forth in the Senate and House reports which accompanied P.L. 600,

the Puerto Rico Federal Relations Act, that the

> "bill under consideration would not change Puerto Rico's fundamental political, social, and economic relationship to the United States. Those sections of the Organic Act of Puerto Rico pertaining to the political, social, and economic relationship of the United States and Puerto Rico concerning such matters as the applicability of United States laws, customs, internal revenue, Federal judicial jurisdiction in Puerto Rico, Puerto Rican representation by a Resident Commissioner, etc., would remain in force and effect, and upon enactment of S. 3336 would be referred to as the Puerto Rico Federal Relations Act. The sections of the organic act which section 5 of the bill would repeal are the provisions of the act concerned primarily with the organization of the local executive, legislative, and judicial branches of the government of Puerto Rico and other matters of purely local concern."

In the alternative, the Committee should return to the language which was approved last Congress in S. 712, that "The Commonwealth of Puerto Rico is a self-governing body politic joined in political relationship with the United States and under the sovereignty of the United States. This relationship is permanent unless revoked by mutual consent."

AMENDMENT NO. _____Ex._____ Calendar No._____

Purpose: To amend Title II of S. 244.

IN THE SENATE OF THE UNITED STATES 101st Cong., 2nd Session

S. 244, To provide for a referendum on the political status of Puerto Rico.

Intended to be proposed by Mr. Wallop

Viz:

1. Divide Title II into two draft bills, designating sections 201-212 as the "Puerto Rico Admissions Act" and eliminating the delay in the date of admission and designating sections 213-215 as the "Puerto Rico Economic Adjustment Act" and adding at the end of subsection 101(e) the following:

"It is the sense of Congress that if Statehood receives a majority, the Puerto Rico Admissions Act should not be reported by the Committees to which it is referred in the Senate and the House of Representatives until the Puerto Rico Economic Adjustment Act has been enacted and the period for economic adjustment set forth in such Act has expired."

Purpose: The amendment would separate the Admissions process into two stages. The first would be a period of economic adjustment in which federal taxes and programs would be phased in while tax exemptions would be phased out. The economic provisions set forth

in sections 212-215 would no longer be subject to the limited time constraints set forth by the Finance Committee since the Uniformity Clause would not apply. The intent is to allow Congress to enact transitional rules in a reasonable fashion without the constraints imposed by imposition of the Uniformity Clause. The delay in reporting the Admissions Act is designed to permit Congress to make such changes in the timing or content of the Economic Adjustment Act as may be necessary after enactment if there are unanticipated problems. Upon the conclusion of the adjustment period, the Admissions Act could be considered without the need for a delay in the date on which Puerto Rico would be admitted as a State.

AMENDMENT NO. _____Ex._____. Calendar No._____

Purpose: To amend Sec. 312 of S. 244.

IN THE SENATE OF THE UNITED STATES 101st Cong., 2nd Session

S. 244, To provide for a referendum on the political status of Puerto Rico.

Intended to be proposed by Mr. Wallop

Viz:

1. Revise section 312 to read as follows:

"SEC. 312. DEFENSE.

(a) Specific arrangements for the use of military areas by the United States in Puerto Rico, and to meet United States defense interests, shall be negotiated by a task force established by the Joint Transition Commission, and approved in accordance with the constitutional processes of the United States and Puerto Rico, and shall come into effect simultaneously with the proclamation of independence. These specific arrangements shall include --

(1) detailed operating rights and status of forces agreements executed by the Government of Puerto Rico and the Government of the United States of America providing for continued use and unrestricted access, by the Government of the United States, to military installations and facilities, and Coast Guard facilities, to the same extent, and in the same manner, of use and access as existed during the period of

time prior to the referendum provided for in section 101 of this Act;

(2) an agreement by the Government of Puerto Rico to deny to third countries any access to or use of the territory of Puerto Rico for military purposes, except as specifically authorized by the Government of the United States; and

(3) an agreement by the Government of Puerto Rico that the foregoing conditions will remain in full force and effect until terminated or otherwise amended by mutual consent of the Governments of Puerto Rico and of the United States; Provided, That either party may at any time request the initiation of renegotiations of such conditions.

(b) Mutual consent by the United States to any alteration, modification, amendment, limitation, termination, or other change in the agreement referred to in paragraph (2) shall occur only pursuant to a specific Act of Congress."

Purpose: This amendment revises the language on Defense under Independence to conform to the language as reported by the Committee last Congress. The change would reinsert language providing for continued use by the United States of military facilities and installations, which would include the Atlantic Fleet Weapons Testing areas as well as Roosevelt Roads and other installations. In addition, language requiring that the provisions on strategic denial and bases be binding on the new Republic would be reinserted. On page 9 of the Administration responses to my

questions, the Department of Justice states, "DoD would emphasize, however, that our national security and defense interests would be best protected by restoring the language on operating rights and status of forces that was in the original version of section 312." This amendment would restore that language.

AMENDMENT NO. _____Ex._____ Calendar No._____

Purpose: To amend Title IV of S. 244.

IN THE SENATE OF THE UNITED STATES 101st Cong., 2nd Session

S. 244, To provide for a referendum on the political status of Puerto Rico.

Intended to be proposed by Mr. Wallop

Viz:

1. Delete the requirement for subsequent ratification of Title IV.

Purpose: The purpose of the amendment is to make clear that the provisions of Title IV, if enacted, would not be subject to mutual consent if Congress were later to decide to repeal or amend them. In his response to Senator Johnston on February 18, 1991, Governor Hernandez Colon stated,

> "Finally, you inquire whether I believe that the proposed enhancements to the Commonwealth, once effective, could be amended without mutual consent.
>
> The process set out in S. 244 clearly bases any change in the status of Puerto Rico upon mutual consent. By providing for ratification by the People of Puerto Rico of the implementing legislation developed by the Congress after the referendum , the intention of Congress is clearly to base the enhancements of Commonwealth upon a solid and legitimate

foundation of mutual consent.

The present Commonwealth relationship rests on a foundation of mutual consent, ratified by the Congress and the People of Puerto Rico as a compact. To be sure, I cannot conceive how any fundamental change in the relationship between Puerto Rico and the United States could be effected without the mutual consent of both Puerto Rico and the United States. If it were otherwise we could not support the legislation."

Some of the provisions of Title IV deal with internal Congressional procedures (Sec. 403) or matters exclusively within the jurisdiction of the Senate (such as the Senate liaison in Sec. 409). Other sections, such as the Advisory Commission for the San Juan National Historic Site (Sec. 413) or establishing a passport office in San Juan (Sec. 410) are hardly subjects for mutual consent.

February 25, 1991

MEMORANDUM

TO: Members and LAs, Committee on Energy and Natural Resources

FROM: Don Nickles

RE: Proposed amendment to S. 244

The purpose of the attached amendment is to focus on the current economic situation of Puerto Rico. Development of the Puerto Rico economy is critically needed right now and is an essential element of each status option, including Commonwealth. According to information presented at the hearings, dependence on federal transfer payments is expected to grow from over $6 billion now to over $11 billion within ten years. At the present time, unemployment levels are approximately 13%, but government accounts for 23% of all employment. Median income levels are approximately 1/3 of the national average and only 1/2 of the poorest state.

A comprehensive review of the Puerto Rico economy was undertaken by an Interagency Task Force headed by the Department of Commerce during the 1970's and a two volume report was released in 1979. This amendment would direct the Secretary of Commerce to update that report and present specific federal strategies to increase median income levels and private sector employment, of specific changes of federal law or regulations that could improve economic levels. The amendment also asks for recommendations on how to establish on-going procedures to ensure federal agencies address the impact of proposed rules or regulations on economic development in Puerto Rico.

In order for this amendment to be of maximum assistance to Puerto Rico, it is critical that the Committee begin oversight hearings on the report when transmitted and there be prompt consideration of substantive legislation.

IN THE SENATE OF THE UNITED STATES, 102nd Congress, 1st Session

S. 244, To provide for a referendum on the political status of Puerto Rico.

Viz: At the appropriate place insert the following new section:

Sec. _____. (a) The Secretary of Commerce is directed to prepare a comprehensive analysis on the economy of Puerto Rico and submit a report to the Congress within one year from the date of enactment of this Act. The analysis is to be based on the 1979 Report to the President by the Interagency Task Force that was coordinated by the United States Department of Commerce but shall be revised to reflect the most recent data available. The heads of all federal agencies are directed to cooperate with the Secretary of Commerce in conducting the analysis and in preparing the report and shall provide such information and assistance as the Secretary of Commerce may request. The Secretary of Commerce shall consult with each of the three political parties in Puerto Rico, together with such other public and private entities as he deems appropriate, in conducting the analysis and preparing the report.

(b) The report shall be based on the results of the analysis and shall include:

(1) specific strategies to reform the economic and fiscal condition of Puerto Rico, in order to meet the following objectives:

(A) reducing unemployment levels;

(B) decreasing reliance on the government sector in terms of both employment and gross domestic product, including, as appropriate, privatization of public corporations;

(C) increasing individual per capita and family mean income levels;

(D) extension of all federal programs to Puerto Rico and individuals residing in Puerto Rico on the same basis as such programs would be otherwise available in the several States, with such modifications as are necessary to achieve the objectives of such programs in a manner consistent with the other objectives of this section, and in particular with the desire to avoid creating disincentives for increasing private sector employment, and in a manner which is consistent with any Constitutional requirements applicable to the implementation of such programs in the several States.

(2) Identification of changes to existing federal laws which would further the objectives set forth in paragraph (1) of this subsection.

(3) Recommendations of procedures whereby federal agencies in formulating and applying rules and regulations will consider the particular geographic and other circumstances of Puerto Rico in order to minimize or avoid

any adverse economic impact and to further the objectives set forth in paragraph (1) of this subsection.

(c) The report shall be submitted to the President of the Senate and the Speaker of the House of Representatives within eight months from the date of enactment of this Act. The report may also include such other recommendations as the Secretary or the head of other federal agencies may deem appropriate.

Senate Committee on Energy and Natural Resources

Mark-up of S.244: The Puerto Rico Status Referendum Bill

Wednesday, February 27,1991

Roll-Call

	Vote for Wallop Amendment	Vote for Johnston's Bill
Democrats		
1. Johnston	N	Y
2. Bumpers	N	Y
3. Ford	N	N
4. Bradley	N	Y
5. Bingaman	N	Y
6. Wirth	N	Y
7. Conrad	N	N
8. Akaka	N	Y
9. Fowler	N	Y
10. Shelby	Y	N
11. Wellstone	N	Y
Republicans		
1. Wallop	Y	N
2. Hatfield	Y	Y
3. Domenici	Y	Y
4. Murkowski	Y	N
5. Nickles	Y	N
6. Burns	Y	N
7. Craig	Y	N
8. Seymour	Y	N
9. Garn	Y	N
Totals:	10/10 Amendment did not pass	10/10 Measure did not pass