THE STATUS OF PUERTO RICO OVERSIGHT, MANAGEMENT, AND ECONOMIC STABILITY ACT (PROMESA): LESSONS LEARNED THREE YEARS LATER

OVERSIGHT HEARING

BEFORE THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

Thursday, May 2, 2019

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OVERSIGHT HEARING ON THE STATUS OF PUERTO RICO OVERSIGHT, MANAGEMENT, AND ECONOMIC STABILITY ACT (PROMESA): LESSONS LEARNED THREE YEARS LATER

Thursday, May 2, 2019

U.S. House of Representatives

Committee on Natural Resources

Washington, DC

The Committee met, pursuant to notice, at 10 a.m., in room 1324, Longworth House Office Building, Hon. Raúl M. Grijalva [Chairman of the Committee] presiding.

Present: Representatives Grijalva, Costa, Sablan, Lowenthal, Gallego, Cox, Levin, Haaland, Van Drew, Cunningham, Velázquez, DeGette, Soto, San Nicolas; Bishop, Lamborn, Wittman, McClintock, Westerman, Hice, Radewagen, and González-Colón.

Also Present: Representatives García and Duffy.

The CHAIRMAN. Let me call the Natural Resources Committee hearing to order. This hearing discussion will be on the status of the Puerto Rico Oversight, Management, and Economic Stability Act, PROMESA, and the lessons learned after 3 years.

Under the Committee Rules, oral opening statements at a hearing are limited to the Chairman and the Ranking Minority Member, or their designees. This will allow for us to hear from our witnesses sooner, and help Members keep their schedules. Therefore, I ask unanimous consent that all other Members' opening statements be made part of the hearing record, if they are submitted to the Committee Clerk by 5 p.m. today, or at the close of the hearing, whichever comes first. Hearing no objections, so ordered.

Another unanimous consent request is for Representatives García and Duffy to join us at the dais and ask questions to the witnesses, if there's no objection. Thank you.

And before we get into the discussion, at this time, I would like to request that the Committee take a moment of silence to recognize the passing of former Puerto Rican Governor, Rafael Hernández Colón, who died this morning at the age of 82. Hernández Colón was one of the most prominent figures in Puerto Rican politics, serving three terms as governor, and one of the leaders of the Popular Democratic Party. With your indulgence, a moment of silence.

[Pause.]

Thank you. And thanks to Ms. Velázquez for submitting the request.

STATEMENT OF HON. RAÚL M. GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

The CHAIRMAN. Let me begin with my opening statement, and then the Ranking Member. The Committee meeting today is to assess the implementation of PROMESA, the Puerto Rico Oversight, Management and Economic Stability Act. I want to begin by thanking our witnesses, particularly the Governor, for making time, and those who traveled from Puerto Rico, for being here today.

Contrary to the view that President Trump has, the people of Puerto Rico are American citizens, and have been so for more than 100 years. Their fathers, sons, daughters, and mothers have all fought and died in every war and conflict that our country has waged since World War I.

Democrats have been fighting to secure a fair and equitable treatment of Puerto Ricans as they first faced a crippling dept crisis and then a brutal hurricane which devastated the island and caused the longest blackout in U.S. history.

In a few months, we will arrive at the 2-year anniversary of Hurricane Maria, that hit Puerto Rico. And the residents there have not received the assistance necessary from the Federal Government to rebuild their community.

When we passed PROMESA, I stated that it was not a law that I would have written. However, I voted for its passage. I've urged my colleagues to do so, because I agreed with the Obama administration that urgent action was needed to prevent an economic catastrophe, due to never-ending lawsuits that would result from creditors trying to collect uncollectable debt.

There was no question that without PROMESA, and the stay of lawsuits it provided, the Government of Puerto Rico would not be seeing a positive cash flow—not due to the Disaster Assistance Funding—that they have today.

When the Obama administration's Treasury Department proposed that we adopt PROMESA, they outlined two main goals. The first, a process to restructure all of Puerto Rico's debt, during a stay of litigation facing the island. Second, an independent oversight body to work with the Government of Puerto Rico to address the island's economic and fiscal challenges.

The record of PROMESA's Oversight Board in achieving the second objective has been mixed at best. Instead of focusing on reducing the debt to the maximum extent possible, providing for investments in the people of Puerto Rico that would bolster the economic future of that island, the Board has embarked instead on a program of crippling budget cuts, austerity measures, and reforms that most economists say would only serve to worsen the economic crisis.

Austerity alone does not work, and will only lead to further economic constriction. There has to be a commitment to protecting the island's most vulnerable populations, including the elderly, young, disabled, and low income residents.

It is my hope that starting with today's hearing, we will be able to encourage the Oversight Board to strike a more agreeable and balanced deal with the people of Puerto Rico, so that most of the severe budget cuts could be rolled back and significant debt relief can occur.

Further, Congress has not done enough to assist Puerto Rico by providing the tools the island needs. For example, we have yet to provide assistance to protect the island's pension system, full Medicaid funding, or the Earned Income Tax Credit.

While the Obama administration worked hand-in-hand with the Puerto Rican Government to assist them in addressing the crisis, this present administration has been out of sight and out of mind. Except for saying that Puerto Rico cannot be trusted to properly manage the funds they need to recover from Hurricane Maria, this White House has paid little, if any, attention to helping the island address its debt crisis or fully recover from the hurricanes.

I look forward to our witnesses' ideas for improving the implementation of PROMESA for the benefit of the people of Puerto Rico. All of us, the Oversight Board, Congress and the Administration, owe it to the Puerto Rican people to help find solutions to the problems they are facing.

[The prepared statement of Mr. Grijalva follows:]

PREPARED STATEMENT OF THE HON. RAÚL M. GRIJALVA, CHAIR, COMMITTEE ON NATURAL RESOURCES

The Committee is meeting today to assess the implementation of PROMESA, the Puerto Rico Oversight, Management and Economic Stability Act. I want to begin by thanking our witnesses, especially those who traveled from Puerto Rico, for being here today.

Contrary to the view of President Trump, the people of Puerto Rico are American citizens and have been so for more than 100 years. Their fathers, sons, daughters, and mothers, have all fought and died in every war and conflict that our country has waged since World War I.

Democrats have been fighting to secure fair and equitable treatment for Puerto Ricans as they first faced a crippling debt crisis and then a catastrophic hurricane, which devastated the island and caused the longest blackout in U.S. history.

In a few months, we will arrive at the 2-year anniversary of Hurricane Maria hitting Puerto Rico and the residents there still have not received the assistance necessary from the Federal Government to rebuild their community.

When we passed PROMESA, I stated that it was not a law I would have written. However, I voted for its passage and urged my colleagues to do the same because I agreed with the Obama administration that urgent action was needed to prevent an economic catastrophe due to never-ending lawsuits that would result from creditors trying to collect on uncollectable debts.

There is no question that without PROMESA and the stay of lawsuits it provided, the government of Puerto Rico would not be seeing the positive cash-flow—not due to disaster assistance funding—they are today.

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The record of PROMESA's Oversight Board in achieving the second objective has been mixed at best. Instead of focusing on reducing the debt to the maximum extent possible and providing for investments in the people of Puerto Rico that would bolster the economic future of the island, the Board has embarked instead on a program of crippling budget cuts, austerity measures, and reforms that most economists say will only serve to worsen the economic crisis.

Austerity alone does not work and will only lead to further economic contraction. There must be a commitment to protecting the island's most vulnerable populations, including the elderly, young, disabled, and low-income residents.

It is my hope that starting with today's hearing, we will be able to encourage the Oversight Board to strike a more agreeable deal with the people of Puerto Rico so that most of the severe budget cuts can be rolled back and significant debt relief can occur.

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I look forward to our witnesses' ideas for improving the implementation of PROMESA for the benefit of the people of Puerto Rico.

All of us—the Oversight Board, Congress and the Administration—owe it to the Puerto Rican people to help them find solutions to the problems they are facing.

The CHAIRMAN. With that, let me turn the time over to the Ranking Member, Mr. Bishop.

Mr. BISHOP. Thank you, Mr. Grijalva.

Allow me to give the first minute of my opening introduction to Mr. Duffy.

STATEMENT OF HON. SEAN P. DUFFY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. DUFFY. Thank you, Ranking Member Bishop, Chairman Grijalva, for the indulgence. And I want to thank you for inviting me to say a few words in defense of PROMESA and the debt restructuring of Puerto Rico. Governor, it's good to see you as well. Thanks for being here.

Governor ROSSELLÓ. Thank you.

Mr. DUFFY. The over-riding goal and stated purpose of the Act was for Puerto Rico to establish fiscal credibility with and access to the capital markets, and to modernize the island's economy. We have to acknowledge that PROMESA is not perfect. But this was a bi-partisan bill. Republicans and Democrats, the House and the Senate worked together to put the long-term interests of the Puerto Rican people first.

One point I'll emphasize is that Congress wrote PROMESA and created the FOMB through Article IV, plenary powers respecting territories, not through Article I. The Territories Clause in the Constitution is clear, and no judge should legislate from the bench to ascribe intent where no intent was intended. Attempts by a single judge to misdirect the law should be blown aside.

The territory government must continue to reform if the island is to thrive. The Government and the FOMB are required by law to produce regular and transparent financial statements. I'm a strong supporter of absolute and total equality for the Puerto Rican people, but it must be achieved through statehood. To prepare for statehood, we must also continue to make sure these critical reforms continue. With that, I yield back.

STATEMENT OF HON. ROB BISHOP, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. BISHOP. Thank you. I'm reclaiming my time. I want to thank those who are here today. Mr. Grijalva, thank you for holding this hearing. I want to thank the Governor for being here. We received your written testimony 15 minutes ago. I'm glad that at some time we'll have the chance to actually be able to read that. Thank you for the respect in sending it to us.

Natalie, we are happy to have you here. You are the Executive Director of the Board. I appreciate that. Mr. Pollock, I appreciate your presence here. And all the other witnesses who have traveled a great distance to be at this hearing, thank you for your time and effort to do that.

Three years ago, this Committee was assigned to come up with a process, in some particular way, to solve the looming disaster that was facing financial disaster in Puerto Rico. PROMESA was a bi-partisan compromise that came out of a Republican Congress and the Obama administration. It hoped to provide the tools, and it did play a big part in providing the territory with needed tools to cope with what was an untenable situation.

No one can forget the fact they were $72 billion in debt and $50 billion in pension liabilities, and there was no way of actually funding that.

This situation took decades to develop, and it will not be solved in a matter of years or months. It's going to take a long time to try to right it.

But as was stated by Mr. Duffy, and I want to re-emphasize: if the goal—and I think the goal from at least the majority of this side of the aisle is to see Puerto Rico eventually have statehood sooner rather than later, the ability of working together to solve these issues becomes critical.

And I say that merely because, as I mentioned when I was last in your office, I come from a state that was ready and had the qualifications for statehood in 1850, and it did not happen until 1896 for political reasons. And there had to be political things that took place in Utah, before that statehood was granted.

I understand the situation. I understand the reality. And sometimes those realities are not necessarily what I would consider to be fair. But it has to be able to face those realities and be in a situation to make that possible.

So, with that, Mr. Chairman, when Resident Commissioner González comes here, since this is dealing with one of the territorial issues, we have decided, we've always said that she would be the Chairman of these types of hearings. I would ask your permission, unanimous consent, to allow her to replace me as the Ranking Member.

With that, I thank you, and I appreciate the opportunity of being here.

[The prepared statement of Mr. Bishop follows:]

PREPARED STATEMENT OF THE HON. ROB BISHOP, RANKING MEMBER, COMMITTEE ON NATURAL RESOURCES

Good morning, I thank the Republican Leader on Insular Affairs for yielding and thank you Chairman Grijalva for holding this hearing. Let me also thank our witnesses, especially the Governor. I also want to thank Natalie Jaresko, Executive Director for the Board. Both of you have busy schedules and work that needs to be accomplished yesterday. We thank you for joining us. I also want to thank the rest of our panel, including Mr. Pollock.

It's been 3 years since this Committee crafted and signed into law the Puerto Rico Oversight, Management and Economic Stability Act. PROMESA was enacted as a bi-partisan compromise between the Republican-controlled Congress and the Obama White House to help bring control to Puerto Rico's quickly unraveling debt crisis.

This Committee played a big part in providing the territory with needed tools to cope with an untenable situation. By 2016, Puerto Rico had amassed roughly $72 billion in bonded debt and $50 or more billion in unfunded pension liabilities. The Island had effectively lost access to the capital markets. We can all debate how we go here and who or what is to blame, but the fact of the matter is that Puerto Rico needed help. The Island faced impending defaults that would result is mass litigation both against the Commonwealth and amongst their different creditors, further paralyzing its institutions and economy.

PROMESA created mechanisms the Island did not have: a framework for managing the unavoidable restructuring of its debts, a structure for financial oversight, and a path forward for these Americans that did not exist at the time. The situation on the island was created over decades and was—and is—unprecedented in scope and complexity. Nothing Congress could do would fix it overnight, but we have made progress. We need to see more of it. I look forward to hearing from our panel on how we do so.

I thank the Resident Commissioner for yielding, I yield back the remainder of my time.

The CHAIRMAN. Let me inform the Members, at 10:30, 10:40, first votes will be called. We will go ahead and take a recess, and hopefully we will get through the Governor's testimony and initial questions. The follow-up will be after the recess. Governor, with that, let me join the Ranking Member in commenting on, we got your testimony 15 minutes or so before the hearing. Staff hasn't had a real opportunity to go through it to generate the questions that we'd like to generate from your testimony. And that puts us in a situation where we are not as prepared as we should be to follow up with any questions based on your full testimony. So, with that, we welcome you. Thank you for your time, and for being here.

Governor, the floor is yours.

STATEMENT OF HON. RICARDO A. ROSSELLÓ, GOVERNOR, COMMONWEALTH OF PUERTO RICO

Governor ROSSELLÓ. First of all, thank you for giving me the minute of silence, commemorating Governor Rafael Hernández Colón. It's very important to me, and it's very important to our people. Thank you for the opportunity to appear before you to discuss the Puerto Rico Oversight Management and Economic Stability Act, PROMESA, and to address the lessons learned in the 2 years since its enactment.

Congress intended PROMESA to provide Puerto Rico tools that could be used to restructure its debt, achieve financial, fiscal stability and spur economic growth, under the public policy direction of the elected Government of Puerto Rico. Those tools were necessary because, due in large part to its unequal treatment under Federal laws as a U.S. territory, as well as years of mismanagement, both on and off the island.

Puerto Rico, and certain of its instrumentalities, accrued over $70 billion worth of public debt and over $50 billion in unfunded pension liabilities that could not be satisfied with the available revenues. There is, however, a naïve and problematic narrative that the Government is not doing its job, that we refuse to make structural reforms, and that the Oversight Board is the solution to address said mismanagement. Allow me to correct that notion here in front of all of you. When I ran for governor, there was no Oversight Board. There wasn't even the idea in the public discourse.

Notwithstanding, my team and I developed a platform, the Public Policy Roadmap, that included structural reforms, expense reduction and government downsizing measures, the re-negotiation of our debt, and economic and social reforms.

With obstacles both natural and man-made, our Government has followed our Policy Roadmap, achieving the following: (1) The biggest operational budget cuts from one year to the other in the history of Puerto Rico, and any state in the past couple of decades. We reduced $1.4 billion, or 17 percent of the operational budget for FY 2018. (2) We saved the payment for the retiree pensions. Pension funds were essentially depleted. Our government assumed the responsibility to pay for pensions, implementing a new PayGo system. Simply put, if we had not made the budgetary cuts above, we could not meet our obligations with pensioners, something we would have not failed to do. (3) We moved forward, implementing structural reforms with our government platform. These include: education reform; local Earned Income Tax Credit, because we don't have the Federal kind; energy transformation at PREPA, with the new energy public policy mandates and statutes; the creation of entities external to the government to promote investment and to promote tourism in Puerto Rico; labor reforms; we commenced a reform of our public service systems; a tax reform; a new public healthcare model for the medically indigent; promoting new markets, such as medical cannabis, e-gaming, amongst others; and we commenced government agency rightsizing to reduce the amount of agencies and increase accountability. (4) Some of our results, based on this, include: the reduction of over 20,000 employees, without having a single layoff; we reduced about 20 percent of our agencies; we reduced 20 percent in 2 years of our operational budget costs; we arrived at a Title VI agreement with creditors at GDB to restructure its liabilities outside of court; and unemployment has been at an all-time low in Puerto Rico. We created over 18,000 jobs within a year. The PREPA transformation is well on its way, and we expect to have a concession of the transmission and distribution system by December 2019. We worked together with our Board to restructure $21 billion of our debt and we did all of this without the initially mandated furloughs, layoffs, decreased or impaired access to health care, or further reducing pension benefits.

On the other hand, this is the FOMB scoreboard: Proposal of austerity measures that hinder economic growth and would have been devastating on a social level; complete failure on Title V economic development projects; insistence in overstepping their boundaries, such as attempting to overtake PREPA, and constant intermission into our policy development process; constant operational delays on budget reapportionments—it takes the Oversight Board sometimes 1 to 3 months to approve the budgetary reallocations that are really minor amounts; a continuous reformulation of fiscal plans that delay proper execution of measures—note that no fiscal plan certified by the Board has lasted more than 6 months; zero results on their objectives to identify economic development initiatives for Puerto Rico, particularly on the Federal level; spending twice as much on lobbying in Washington, DC than the Government of Puerto Rico invests in its Washington, DC office to this day, and no one knows what they're lobbying for; while the elected Government must face scrutiny and is accountable to the public, the Oversight Board conducts all of its business in secret executive meetings where the public and the Government are denied access.

Clearly, the Oversight Board has not achieved the objectives for which it was created, and worst of all, has overstepped its boundaries, making it an even more un-democratic entity.

To add insult to injury, the Oversight Board has gone out of its way to create uncertainty in Puerto Rico. It takes actions and makes public pronouncements that are not supported by PROMESA, and then refuses to recognize their mistakes. Just 2 days ago, alone, the Oversight Board sued hundreds of local Puerto Rican suppliers. This includes health clinics and centers for education for our most vulnerable children. How is the Puerto Rican Government supposed to receive goods and services if everyone must fear litigious harassment?

Therefore, with regards to PROMESA, I would recommend that Congress consider the following. First, the Oversight Board should not infringe on the day-to-day operations of government. It is critical to the legitimacy of the process that the Government of Puerto Rico always retain its democratically derived powers for setting public policy, operating the government and implementing solutions. Other reapportionments should be handled by the Government of Puerto Rico——

The CHAIRMAN. With all due respect, Governor, if we could just wrap it up, so that we can get to the questions?

Governor ROSSELLÓ. Sure. I will just briefly mention a few, some of the descriptions of these items are in my written statement. We propose to eliminate the role of the Oversight Board as the exclusive Title III representative. Revise this——

The CHAIRMAN. We can do that during the questioning process, I think.

Governor ROSSELLÓ. OK.

[The prepared statement of Governor Rosselló follows:]

PREPARED STATEMENT OF THE HON. RICARDO ROSSELLÓ, GOVERNOR OF PUERTO RICO

Chairman Grijalva, Ranking Member Bishop, and members of the Committee, thank you for the opportunity to appear before you to discuss the Puerto Rico Oversight, Management and Economic Stability Act (PROMESA) and to address the lessons learned in the 2 years since its enactment. Congress intended PROMESA to provide Puerto Rico tools that could be used to restructure its debts, achieve fiscal stability, and spur economic growth, under the public policy direction of the elected government of Puerto Rico. Those tools were necessary because, due in large part to its unequal treatment under Federal laws as a U.S. territory as well as years of mismanagement both on and off the Island, Puerto Rico and certain of its instrumentalities accrued over $70 billion in public debt and over $50 billion in unfunded pension liability that could not be satisfied with available revenues.

There is however a naïve and problematic narrative that the Government is not doing its job, that we refuse to make structural reforms, and that the oversight board is the solution to address said mismanagement.

Allow me to clear and correct that notion.

When I ran for governor, there was no oversight board. It wasn't even an idea in the public discourse. Notwithstanding, my team and I developed a platform with a public policy road map that included, structural reforms, expense reduction and government downsizing measures, the renegotiation of our debt, and economic and social reforms.

With obstacles, both natural and man-made, our government has followed our policy roadmap, achieving the following:

1. **The biggest operational budget cuts from one year to the other in the history of Puerto Rico, and of any state in the past couple of decades at least.** We reduced 1.4 Bn or 17 percent of the operational budget on FY 18.
2. Saved the payment of retiree pensions: Pension funds were essentially depleted. Our government assumed the responsibility to pay for pensions, implementing a new PayGo system. Simply put, if we had not made the budgetary cuts above, we could not meet our obligations with pensioners—something we have not failed to do.
3. **We moved forward and implemented structural reforms from our government platform.** Some of these include:
    a. Education reform
    b. Local earned income tax credit
    c. Energy transformation at PREPA and new energy public policy statutes
    d. The creation of entities external to government to promote investment and tourism known as Invest Puerto Rico and Discover Puerto Rico
    e. Labor Reforms
    f. Commenced a reform of our public service system
    g. Tax Reform
    h. A new public healthcare model for the medically indigent
    i. Promoting new markets, such as medical cannabis, e-gaming, amongst others
    j. We commenced government agency rightsizing to reduce amount of agencies and increase accountability.
4. Some of our results include:
    a. Reduced over 20,000 employees without layoffs
    b. Reduced 20 percent of our agencies
    c. Reduced 17 percent of our operational budget expenditures
    d. We arrived at a Title VI agreement with creditors of GDB to restructure its liabilities outside of court
    e. Unemployment has been at an all-time low in Puerto Rico
    f. Created over 18,000 jobs within a year
    g. The PREPA transformation is on its way, and we expect to have a concession of the transmission and distribution system by December 2019
    h. Worked together with the board to restructure $21 billion of our debt
    i. All of this without furloughs, decreased or impaired access to health care, without layoffs, or further reducing pension benefits

On the other hand, the FOMB's scoreboard:

1. Proposal of austerity measures that hindered economic growth and would have devastating social impact.
2. Complete failure on Title V economic development projects.
3. Insistence on overstepping their boundaries such as:
    a. Attempting to take over PREPA
    b. Constant intromission into our policy development process
4. Constant operational delays on budget reapportionments; it take the oversight board sometimes 1–3 months to approve budget reallocations that are minor amounts.
5. A continuous reformulation of fiscal plans that delays proper execution of measures. Note that no fiscal plan certified by the board has lasted more than 6 months.
6. Zero results on their objectives to identify economic development initiatives for Puerto Rico, particularly Federal initiatives.
7. Spending twice as much on lobbying in DC than the Government of Puerto Rico invests in its Washington, DC office and to this day, no one knows what they are lobbying for.

8. While the elected government must face scrutiny and is accountable to the public, the oversight board conducts all of its business in secret executive meetings where the public and the government are denied access.

Clearly, the Oversight Board has not achieved the objectives for which it was created, and—worse of all—has overstepped its boundaries, making it an even more undemocratic entity.

To add insult to injury, the Oversight Board has gone out of its way to create uncertainty in Puerto Rico. It take actions and makes public pronouncements that are not supported by PROMESA and then refuse to recognize their mistakes. Two days ago alone, the Oversight Board sued hundreds of local Puerto Rican suppliers. This included health clinics and centers for education for our most vulnerable children. How is the Puerto Rican government supposed to receive goods and services if everyone must fear litigious harassment?

Therefore, with regard to PROMESA, below you will find a thorough review, events that have occurred and our recommendations and petitions to Congress.

The Operational Reality of Two Years Under PROMESA

The Oversight Board was not appointed until August 31, 2016 and did not select an Executive Director until March 20, 2017, almost 3 months after I took office on January 2, 2017. Hurricanes Irma and Maria delayed the PROMESA process even further when they hit the Island in September 2017, causing widespread devastation and requiring drastic alterations to the fiscal plans and budgets and a virtually complete reset in the pending Title III proceedings.

Since that slow beginning, the Government of Puerto Rico has cooperated with the Oversight Board to craft and adjust the fiscal plans and certified budgets to meet the evolving needs of Puerto Rico in a way that not only addresses the fiscal imbalances of the past, but also prioritizes pro-growth structural reforms in our economy and reforms our government structures to better reflect and respond to the needs and carrying capacity of our society. Our undeniable commitment to collaboration with the Oversight Board is evidenced by our near constant dialogue with the Oversight Board and its advisors including in weekly meetings.

The relationship with the Oversight Board has been tremendously challenging at times—and I believe requires significant reform—but I am proud of the progress we have been able to make for the people of Puerto Rico despite the tension and inefficiencies of the process.

Fiscal Plans and Budgets

The process of developing, drafting and certifying fiscal plans and budgets has been time consuming and fraught with challenges. We have worked diligently to meet the Oversight Board's requirements for submission of fiscal plans and budgets despite unreasonably short deadlines and burdensome information requests.

When my administration took office, we immediately turned our attention to amending the first fiscal plan submitted by our predecessor—a process that was truncated by the Oversight Board requiring submission on a short time frame. Despite the short deadline, we submitted our first fiscal plan for the Commonwealth of Puerto Rico on February 28, 2017. The Oversight Board considered it for certification on March 13, 2017 and certified it with corrections on April 18, 2017. My administration then submitted its first Commonwealth budget to the Oversight Board on May 31, 2017.

On April 28, 2017, my administration submitted fiscal plans for each of the Puerto Rico Aqueduct and Sewer Authority (PRASA), the Puerto Rico Electric Power Authority (PREPA), the Puerto Rico Highway and Transportation Authority (PRHTA), and the Government Development Bank for Puerto Rico (GDB). The PRHTA and PRASA fiscal plans were certified on April 28, 2017 and the GDB and PREPA fiscal plans were certified on May 3, 2017. The Oversight Board certified budgets for each of those entities on June 30, 2017.

After the certification of the initial fiscal plans and budgets, we have worked with the Oversight Board on the following:

1. Fiscal plans for the Commonwealth of Puerto Rico certified on April 19, 2018, May 30, 2018, June 29, 2018, and October 23, 2018, and a budget certified on June 30, 2018.
2. Fiscal plans for the University of Puerto Rico certified on April 20, 2018, June 29, 2018, and October 23, 2018, and a budget certified on June 30, 2018.
3. Fiscal plans for PRHTA certified on April 20, 2018 and June 29, 2018, and a budget certified on June 30, 2018.

4. Fiscal plans for PREPA certified on April 19, 2018 and August 1, 2018, and a budget certified on June 30, 2018.
5. Fiscal plans for PRASA on certified on April 19, 2018 and June 29, 2018, and a budget certified on June 30, 2018.
6. A standalone fiscal plan for COFINA certified on October 18, 2018, and a budget for Fiscal Year 2019 certified on February 11, 2019.

Since our initial fiscal plan, we have submitted at least 10 drafts of Commonwealth fiscal plans and numerous drafts of other fiscal plans in response to deadlines from the Oversight Board. Each of those drafts has been accompanied by information requests and diligence from the myriad advisors to the Oversight Board. The Oversight Board's approach to fiscal planning and budgeting has become a full-time job with continual information requests and sometimes obsessive revising, reworking and amending of fiscal plans and budgets. That approach has taken what could have been a powerful tool and turned it into a bureaucratic nightmare that strains Puerto Rico's resources and takes the focus away from moving Puerto Rico forward. The constant amendments and modifications to the fiscal plans have also had the effect of eroding the confidence of stakeholders in the information presented in the plans.

Worse, the Oversight Board has used the fiscal plan and budgeting process to attempt to supplant government policy and force austerity measures on our most vulnerable. For example, as part of the fiscal planning process, the Oversight Board insisted on specific private-sector, human capital and labor reforms, specific plans for governmental agency consolidations and compensation and benefit reductions for public employees. The Oversight Board has also engaged in a crusade to cut public pensions.

The Oversight Board rightly and appropriately should assist Puerto Rico in setting fiscal targets, but decisions on how to achieve those targets should belong to the duly elected Government of Puerto Rico. The Oversight Board should not be permitted to use the fiscal planning and budgeting process to dictate public policy choices for Puerto Rico.

Title III Filings

PROMESA provided for a litigation stay so that the Commonwealth could reach consensual arrangements with creditors. That stay was unrealistically short and the Oversight Board did not focus on negotiating forbearance agreements with creditors prior to expiration. When the stay expired on May 1, 2017 without forbearance agreements in place, creditors immediately began commencing lawsuits against the Commonwealth. I was left with little choice but to request that the Oversight Board commence a Title III proceeding for Puerto Rico, which I did on May 2, 2017. Title III filings followed for the Puerto Rico Sales Tax Financing Corporation (COFINA) on May 5, 2017, PRHTA and Employees Retirement System of the Government of the Commonwealth of Puerto Rico (ERS) on May 21, 2017, and PREPA on July 2, 2017.

The Title III filings sparked intense litigation initiated by various bondholder constituencies, the creditors committee and the Oversight Board. To date, that litigation has included proceedings addressing complex issues such as the application of retained revenues to non-GO debt expenses, whether certain GO bond issuances are invalid, the status and scope of the liens purportedly supporting the PRHTA bonds, the claims of Bonistas del Patio, Inc. in COFINA, various issues related to the validity of the ERS bonds and pension reform, attempts to lift the stay to seek a receiver in PREPA, and whether the Puerto Rico Public Building Authority leases are true leases or disguised financing transactions.

The litigation has been a significant burden for Puerto Rico and has delayed the restructuring process. In addition, professional costs have been astronomical. In addition to its own professionals, Puerto Rico pays for the fees and expenses of the professionals retained by each of the Oversight Board, the creditors committee appointed by the Title III Court, the Commonwealth and COFINA agents appointed by the Oversight Board to address the restructuring of COFINA, and the mediation team appointed by the Title III Court. Each of the bondholder groups has its own professionals and, in connection with any consensual restructuring, expects those fees to be paid by Puerto Rico. The high price tag is exacerbated by the fact that certain of the bondholders and the creditors committee pursue extensive litigations that do not have the opportunity to create value for Puerto Rico.

Role of Government and Oversight Board

From the beginning of the Title III proceedings, the Government of Puerto Rico and the Oversight Board differed on the proper role of the Oversight Board under

PROMESA. The Oversight Board's continued insistence on dictating public policy choices by the Government has been a source of tension and, at times, blunted the effectiveness of PROMESA.

Disputes between my administration and the Oversight Board over expenditure controls began shortly after the certification of the March 13, 2017 Commonwealth fiscal plan. As part of the fiscal planning process, the Oversight Board tried to force us to institute a furlough program and reduce Christmas bonuses. We rejected those recommendations by the Oversight Board. The Oversight Board continued to insist on cutting Christmas bonuses in its fiscal plans despite our explanation that paying the bonus was critical to recognize the dedication and service of public employees who went above and beyond in aiding recovery efforts across the Island after the hurricanes.[1]

We have also struggled to reach common ground with the Oversight Board on the terms of a consensual fiscal plan for the Commonwealth. Most recently, a tentative agreement was reached on May 20, 2018 but that agreement collapsed over the Oversight Board's requirement that the Puerto Rico legislature repeal Puerto Rico's Wrongful Termination Act, Law No. 80 by June 27, 2018. I worked with the Oversight Board in an attempt to pass the repeal of Law 80 but the Puerto Rico legislature determined, in an appropriate exercise of its legislative powers, not to do so.

The Oversight Board responded to the failure to repeal Law 80 by certifying a draconian and ill-conceived Commonwealth fiscal plan. That plan, among other things: (i) eliminated the annual appropriation for the Christmas bonus for public sector employees; (ii) eliminated the annual appropriation of $25 million for student scholarships at the University of Puerto Rico; (iii) eliminated the annual appropriation of $50 million for economic development initiatives for municipalities; (iv) eliminated the multi-year fund of $345 million for various economic development and reform implementation initiatives as requested by the Government; (v) maintained the previous elimination of the Christmas bonus for both public sector and private sector employees, as well as the reduction in sick days and paid leave for private sector employees; and (vi) maintained the previous cuts to the budget of the legislature and judiciary.

Since that action by the Oversight Board, we have been engaged in litigation over the appropriate powers of the Oversight Board. The Oversight Board has fought for expansive powers and has failed to recognize the importance and role of the duly elected Government of Puerto Rico. As part of this over-reaching attempt by the Oversight Board, they have also engaged in active lobbying in Congress by hiring numerous lobbying firms with Puerto Rico taxpayer money and then, at times, using those lobbyists to advance the Oversight Board's concerns rather than focusing on the interests of the Puerto Ricans who are paying for this lobbying effort. This anti-democratic approach has hindered the restructuring process under PROMESA.

Successes under PROMESA

Notwithstanding tensions and disagreements with the Oversight Board and aggressive litigation from certain of our creditors, I am proud that we have made real progress toward fiscal responsibility and renewed access to the capital markets. Some highlights are below.

Debt Restructurings

In recent months, we have restructured more than $21 billion in funded debt obligations. And we have done it largely consensually, balancing the needs and legal rights of Puerto Rico with the rights of the creditors. My administration has been at the forefront in negotiating with creditors and executing on complex new bond issuances.

In November 2018, we consummated a deal that restructured more than $4 billion in bonds issued by the GDB. We reached consensus with on-Island and mainland financial creditors in a highly innovative transaction that represented the first-ever use of Title VI of PROMESA.

[1] At times, the Oversight Board has more directly attempted to take over functions of the government. In a filing on October 26, 2017, the Oversight Board attempted to take control of PREPA through a motion to appoint a Chief Transformation Officer. The Title III Court ruled against the Oversight Board but its attempted power grab cost us valuable time and money and created an environment of distrust. Notwithstanding that, the relationship with the Oversight Board has not been wholly broken as we have cooperated with respect to ERS, where the Board and Government have seen eye to eye on strengthening the retirement system through fiscal plan, budget and legislative measures, as well as a coordinated legal approach in the Title III case.

We also recently obtained court approval of a Title III plan adjusting more than $17 billion of COFINA debt. We brought together bondholders, insurers and other parties to provide recoveries for creditors (many of whom are American citizens residing in Puerto Rico who invested their retirement funds in COFINA) in a deal that reduced debt and provided the central government with access to billions of dollars in revenue over the next 40 years. This money can be used to shore up our finances and take care of our most vulnerable residents.

In addition to our success in restructuring GDB and COFINA, we have also been working with an ad hoc group of PREPA bondholders and Assured Guaranty, a significant monoline insurer of PREPA bonds, toward finalizing a definitive restructuring support agreement (including complex and technical securitization, legislative, and demand protection term sheets). We hope to file that restructuring agreement with the Title III court soon.

After years of hesitancy from the capital markets, we are seeing investors and investment begin to flow back to the Island, and we are determined to ensure that the human capital will follow. This marks a critical first step on our road to financial recovery.

Structural Reforms

Again and again, Puerto Rico has demonstrated a willingness to make the sacrifices needed to achieve fiscal responsibility and meaningful structural change. We have consolidated numerous agencies through legislation and strengthened our underfunded pension system by moving to a "PayGo" retirement system. I am also proud to report that we have fulfilled my "Pledge for Puerto Rico" to reduce the size of the territorial government without firing anyone and while making it more efficient. We have reduced by 10.7 percent the number of government employees and are working to support those employees' transition to the private sector. We have implemented the largest budget reduction from one year to the next in the last 40 years in all the United States. Additionally, we have passed local tax reform to reduce rates, simplify the tax code and broaden the tax base, as well as executing countless other reforms that seek to increase the ease of doing business and spur private sector investment.

Despite the challenges of PROMESA, and that much remains to be done in terms of structural reforms, I am very proud of the economic progress we have made in Puerto Rico during my tenure. For the first time in the past 12 years, Puerto Rico's economic activity index has grown—up 3 percent. Our unemployment rate is down to 8.8 percent from 12 percent when I took office. Other indicators are also positive: (i) March jobs were up 18,100 over the same period 1 year ago; (ii) bankruptcies are down 4 percent over the past 12 months; (iii) retail sales in October 2018 increased 18.4 percent over the same period in 2017; (iv) housing sales in February 2019 were up 19 percent over the same period last year; (v) mortgage foreclosures have decreased to their lowest rate in 9 years; and (vi) March automotive sales were up 16 percent over the same period last year. All of these indicators suggest that there is great confidence in Puerto Rico's recovery.

Transforming the Energy System

We are also extremely proud of the progress we have made toward transforming our electric system. From the early days of my administration, I set a goal of assuring that all of our citizens had access to safe, reliable and affordable energy. Last June, I signed into law the Puerto Rico Electric System Transformation Act to begin the process of privatizing PREPA and, as discussed below, we are making steady progress in that direction. We also recently passed the Puerto Rico Energy Public Policy Act, which requires the island to obtain 100 percent of its electric energy from renewable sources by 2050, with an interim target of 40 percent by 2025, and to eliminate the use of coal in the generation of electricity by 2028. Both of those laws were critical steps to insuring the energy future of Puerto Rico.

The process to transfer the transmission and distribution (T&D) system to the private sector is well underway. In late October 2018, the Puerto Rico Public-Private Partnerships Authority (P3 Authority) issued a Request for Qualifications (RFQ) seeking statements of qualification from companies and consortia interested in managing and operating Puerto Rico's electric power T&D. The RFQ defined the project goals as: (i) delivery of low-cost electricity to ratepayers of Puerto Rico; (ii) increasing system resiliency and reliability; (iii) deployment of new technologies; and (iv) implementing industry best practices and operational excellence. Four qualified RFQ respondents—Duke Energy Corporation, Exelon Corporation, PSEG Services Corporation, and a consortium formed by ATCO, Ltd, IRM and Quanta Services—were invited to submit responses to a Request for Proposal (RFP) issued in late January 2019. The process of developing RFP responses is ongoing.

We are also addressing the generation assets as part of remaking our energy sector. Our objectives with regard to generation include:

1. Transferring existing generation assets to private ownership and/or operations and establishing a framework wherein future generation assets are privately owned/operated;
2. Reducing reliance on fuel oil and overall fuel cost;
3. Modernizing the generation fleet, retiring inefficient units and increasing the development of renewable energy and natural gas-fired facilities;
4. Investing in facility repairs and enhancements to improve system resiliency;
5. Leveraging proven energy storage, distributed energy, and "mini-grid" technologies to provide greater flexibility, reliability, and resiliency of energy supply;
6. Improving dispatch capabilities by implementing modern technologies; and
7. Improving overall system operational flexibility.

Consistent with these objectives, we expect all new generation assets will be owned and/or operated by private entities and existing generation to be sold or otherwise privately managed. Although the ultimate plan for the privatization of the existing generation assets has not yet been finalized, we have taken several concrete steps toward this process.

First, PREPA recently executed a San Juan natural gas conversion contract, which should provide a framework for future fuel supply conversion. The fuel conversion project involves upgrading Units 5 and 6 of the San Juan Combined Cycle Power Plant so that those units can operate on liquefied natural gas (LNG). The transaction, announced in December 2018, is one of the most flexible LNG/gas agreements in the world and undeniably the most flexible fuel supply agreement in PREPA's portfolio. This transaction should produce material savings for PREPA customers.

In addition, on February 13, 2019, PREPA filed a new Integrated Resource Plan ("IRP") with the Puerto Rico Energy Bureau for review and approval. The IRP envisions the establishment of a series of mini-grids, which are a design for energy transmission and distribution networks that systematically improves resiliency by separating the existing grid into pockets of critical loads served by distributed resources that can operate in both grid-connected and islanded modes. These mini-grids are distinguished from microgrids in that they utilize existing distribution infrastructure and can be sized much larger than typical microgrids; for example, one mini-grid will encompass the San Juan region. The proposed mini-grids will cover most of the island and will be able to withstand or recover very quickly from a catastrophic weather event.

Also, through the P3 Authority, PREPA has issued a request for proposals to install the first wave of energy storage projects, which would consist of lithium-ion battery storage facilities and has developed a request for qualifications to solicit third-party investment and operation/maintenance experience to restore hydroelectric generating capacity to the existing system. In addition, PREPA has initiated discussions with a number of renewable energy project developers that have existing power purchase agreements in various stages of pre-development. Many of these proponents have engaged in contract re-negotiations in the context of the Title III process, to reduce the contracted prices and expedite project development. PREPA is currently engaged in negotiations with project sponsors who could break ground on approximately 350 MW of solar PV projects before the end of 2019, with commercial operations achievable in 2020, each of which would deliver significant cost savings versus their current contracted pricing. PREPA, through the P3 Authority, has also drafted a request for qualifications to solicit third-party development of rooftop solar projects utilizing public building roofs. This request for qualifications is currently being finalized and is expected to be published in the next few weeks.

Putting in place the mini-grid concept, adding more distributed generation resources, including more renewable resources, and adding new, highly efficient natural gas-fired generating facilities, as the IRP envisions, will significantly reduce Puerto Rico's vulnerability to hurricanes and other weather events, and permit the island to respond quickly and effectively when they occur. At the same time, the planned changes to Puerto Rico's electric infrastructure will improve energy efficiency, reduce fuel costs and dramatically reduce air emissions. We are excited by the opportunity to lead the way into a future in which electric systems are more efficient, more reliable, more resilient and greener.

The Good and the Bad of PROMESA

What Is Working About PROMESA?

The tools provided in PROMESA have been helpful in facilitating debt restructurings as evidenced by COFINA, PREPA and GDB. Both Title VI and Title III of PROMESA have features that can be effectively used to structure and implement debt restructuring transactions that might not be possible without PROMESA. When a deal is good for Puerto Rico, the Government of Puerto Rico is committed to executing and delivering deals as evidenced by the support of both my administration and the legislature for the GDB deal, COFINA deal, and the PREPA negotiations and transformation process. The Oversight Board has also generally been cooperative and helpful in the debt restructuring process.

What Is Not Working About PROMESA?

The Oversight Board has tried to use its powers to control the decisions of the duly elected Government of Puerto Rico and to implement its own view of public policy. These attempts by the Oversight Board to usurp governmental powers have delayed the restructuring process, created an environment of distrust and resulted in unnecessary litigation.

The fiscal plan and budgeting process has been inefficient and has eroded confidence and credibility in what could be a good planning tool. The Oversight Board and Government worked closely together on much of the fiscal planning process, but the process is burdensome. Moreover, the Oversight Board has attempted to use the fiscal plan to impose detailed policy recommendations and even legislation on Puerto Rico rather than recognizing it as a financial planning tool. Through the fiscal plan process, the Oversight Board has also attempted to impose its view of critical public policy issues—such as labor reform—that result in projected speculative 30-year surpluses that create unrealistic expectations for creditors. So far, the Oversight Board has also failed to deliver any meaningful progress in terms of infrastructure revitalization under Title V of PROMESA.

Recommendations

With regard to PROMESA, I recommend that Congress consider the following changes:

- **The Oversight Board should not infringe on the day to day operations of government:** It is critical to the legitimacy of this process that the Government of Puerto Rico always retain its democratically derived powers for setting public policy, operating the government and implementing solutions. Budget reapportionments should be handled by the Government of Puerto Rico, complying with a commitment NOT to increase the set overall budget expenditure goals.
- **Eliminate the Role of the Oversight Board as Title III Representative:** The insertion of the Oversight Board as the Title III representative creates confusion and results in litigation within the Title III process. The Title III debtor is already subject to the scrutiny of the court process. While the Oversight Board has a critical role to play, it is not necessary to create conflicting roles by giving the Board both the debtor role and the oversight function in the Title III process.
- **Revise Fiscal Planning Process:** The fiscal plan and budgeting process should be revamped to provide a focus on 1-year budgets to make sure that Puerto Rico is not spending more than it is taking in and that an objective and reliable assessment is made each year to determine how much the Government needs to pay for essential services. The fiscal plan and budgeting process should not be used as a public policy tool or turned into an endless modeling exercise.
- **Address Professional Costs:** The costs and expenses of the Oversight Board and its professionals should be carefully scrutinized to assure that money is being spent appropriately and in the best interests of Puerto Rico.
- **Require Oversight Board Transparency:** The Oversight Board must be held accountable for its use of public funds. Reports of a lack of transparency and potential conflicts of interests of the Oversight Board's consultants are deeply concerning and not surprising given the way the Oversight Board has conducted itself throughout the process. Our Government also supports efforts to apply basic transparency principles to the Oversight Board through Federal legislation.
- **Improve Title V Process:** The Title V process is one that could be of substantial benefit to Puerto Rico. The challenge with Title V is that, as

drafted and implemented, it is disconnected from the rest of PROMESA, creates further bureaucracy, and is not tied to either the fiscal reforms set forth in the fiscal plan or the public policy of Puerto Rico. Title V effectively created yet another path for someone to try to restructure Puerto Rico without checks and balances. Title V should be restructured not to create a parallel path but rather to be a tool that can be used effectively by the Government of Puerto Rico and the Oversight Board to implement the determined fiscal reforms and public policies.

As I did at the outset of my testimony, I also note that the success or failure of PROMESA is also dependent on much more than the words of the statute or even the efforts of my administration of the Oversight Board. The unfortunate reality is that Federal policy toward Puerto Rico is oftentimes executed as an afterthought and without a proper understanding of the circumstances of the island and its residents. There are countless examples of Federal policies and practices that harm or limit Puerto Rico's economic development potential. These issues must be addressed if the process set forth in PROMESA is to be successful.

To that end, I call upon Congress and the Federal Government to address the following: [2]

- **Cure the Inequity in Disaster Recovery Funding:** Congress must work with us to end the inequity in the disaster recovery funding provided to Puerto Rico relative to other jurisdictions stateside. The discrimination against Puerto Rico is evident in the approach FEMA has taken to Puerto Rico and in the Administration's application of the existing statutes. The discrepancy in the way Puerto Rico is treated is startling and represents discrimination by parts of the Federal Government against the 3 million Americans living in Puerto Rico.
- **Assure the Nutritional Assistance Program (NAP):** The disaster NAP relief provided by Congress in 2017 ran out at the end of February of this year, and beginning in March, NAP recipients experienced a reduction in benefits, averaging 25 percent. Still the island's most vulnerable populations continue experiencing food insecurity at high levels. I urge Congress to approve an additional $600 million in disaster NAP relief funding so that the Government can provide the same basic nutritional assistance as the states through the end of FY 19. In the longer-term, I urge Congress to transition Puerto Rico from NAP to Supplemental Nutrition Assistance Program (SNAP) so that the island's nutritional assistance needs are adequately met for the more than 1.3 million U.S. citizens who participate in the program.
- **Create Equality in Federal Programs & Tools for Economic Growth:** Congress must end the unequal treatment of Puerto Rico under multiple Federal laws, programs (such as Federal Highways, Child Tax Credit, Earned Income Tax Credit), and many other policies. New tools to support economic growth, such as are also needed for Puerto Rico to succeed. Failure to do so, creates an uneven playing field for economic performance, leads to an overall quality of life in Puerto Rico that is below the standard in the states, and encourages outmigration.
- **Saving the Healthcare System:** The Federal Government's inconsistent and incoherent healthcare funding and policy decisions toward Puerto Rico has put the stability of the Island's entire healthcare system at risk and has contributed to a mass exodus of medical and health professionals which cannot be easily replaced. Urgent action is needed. Congress must provide funding stability to our Medicaid system for at least 5 years as it works on a longer-term solution and should also work to address our inequality in Medicare.
- **Federal Tax Law Revisions to Help Spur Economic Growth:** Congress should adopt tax policies that support economic growth in Puerto Rico rather than treating Puerto Rico as a domestic entity for some tax issues and a foreign entity for others.[3]

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[2] For a more detailed exposition of recommendations to Congress see: Written Statement Hon. Ricardo Rosselló, Governor of Puerto Rico, U.S. Senate Committee on Energy & Natural Resources Hearing, "Examine the State of U.S. Territories," February 26, 2019. Available at: https://www.energy.senate.gov/public/index.cfm/2019/2/full-committee-hearing.

[3] Although some argue that this has worked to our benefit because of the lack of Federal income tax for island residents on their Puerto Rico derived income, this seeming advantage is nullified for the vast majority of island residents because of their unequal treatment or outright exclusion in Federal programs and tax benefits like the Child Tax Credit (CTC) and the Earned

- **Resolve Undemocratic & Unequal Territorial Status:** The question of Puerto Rico's ultimate political status and relationship with the Federal Government is intimately linked to the island's prospects for economic growth, fiscal stability, and successful disaster recovery. Congress must resolve Puerto Rico's status to unleash its full potential and should implement the democratically expressed will of voters who have expressed twice in the last 6 years a clear desire to end the current territory status and to achieve statehood for Puerto Rico.

Conclusion

Despite our many challenges, the state of the U.S. territory of Puerto Rico is optimistic, determined and full of potential. In the 19 months since the Hurricanes of 2017 and in the 2 years since PROMESA was enacted, Puerto Rico has been challenged by the most damaging storms in U.S. history, significant outmigration, and an island-wide recession. Despite these long odds, Puerto Rico continues to endure and recover. Our goal is to re-imagine, revitalize and rebuild Puerto Rico so that it can develop to its full capacity for the benefit of not only island residents, but for America as a whole. To do this we must recognize and acknowledge our past mistakes and work together diligently to correct them. If America's most challenged jurisdiction, Puerto Rico, can turn itself around and be transformed into a place of thriving prosperity, it can serve as a beacon of hope for all Americans, and a sign to the world that the best is yet to come. Statehood for Puerto Rico is not only about realizing Puerto Rico's full potential. It is about America living up to its most noble values by creating a more perfect Union.

QUESTIONS SUBMITTED FOR THE RECORD TO THE HON. RICARDO A. ROSSELLÓ, GOVERNOR OF PUERTO RICO

Questions Submitted by Chairman Grijalva

Question 1. Section 2141(b)(1)(B) of PROMESA requires that Fiscal Plans approved by the Fiscal Oversight and Management Board (FOMB) for Puerto Rico "ensure the funding of essential public services." In your testimony, you mentioned that you and your administration have not formally defined the term. How do you define "essential public services"?

Answer. From the Government's perspective, "essential public services" consist of the government services that the Government believes are necessary to operate the government of Puerto Rico and preserve our economy and the well-being of our citizens. When the Government submits fiscal plans and budgets, those proposals reflect what we believe are essential public services. We refer the Committee to the contents of the Commonwealth fiscal plan, as certified on May 9, 2019, for the details of those services.

Question 2. What framework and targets has your administration implemented to ensure that "essential public services" are available to the residents of Puerto Rico? Also, do you consider PROMESA should be amended to include a more specific definition of "essential public services"?

Answer. Every year, each government agency works closely with our Office of Management and Budget to determine how best to protect our people and our economy through appropriate budgeting for essential services. PROMESA should not be amended to include a more specific definition of "essential public services" as essential services will vary and will be a function of available resources and the policy initiatives of the duly elected territory government.

Question 3. How are the PROMESA Fiscal Plans developed? Does the FOMB write them and send them to you for your approval or is it a collaborative effort?

Answer. PROMESA section 201 sets forth the process by which fiscal plans must be developed and certified by the Financial Oversight and Management Board ("FOMB" or "Oversight Board"). Under PROMESA, the fiscal plan process begins

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Income Tax Credit (EITC).The passage of P.L. 115–97, the Tax Cuts and Jobs Act of 2017, added yet another challenge to Puerto Rico with the imposition of the Global Intangible Low-Taxed Income Tax (GILTI) as if we were a foreign jurisdiction. While we do not yet know the full impact GILTI will have on Puerto Rico's manufacturing sector and the local tax revenues they generate, it's clear that the way this new tax was applied will do nothing to help Puerto Rico attract new investment and economic activity.

when the Oversight Board "deliver[s] a notice to the Governor providing a schedule for the process of development, submission, approval, and certification of Fiscal Plans."[1] The Oversight Board may consult with the Governor in establishing the fiscal plan schedule but retains sole discretion to change the schedule dates as it deems "appropriate and reasonably feasible."[2]

After receiving the schedule notice, the Commonwealth or the appropriate governmental entity or public corporation (as applicable) must develop its fiscal plan proposal, which the Governor must submit to the Oversight Board by the deadlines established under the schedule.[3] The Oversight Board then reviews the Governor's fiscal plan proposal to determine whether it satisfies the 14 requirements set forth under PROMESA section 201(b)(1) (the "Certification Requirements").[4] If the requirements are satisfied, the Oversight Board can certify the proposed fiscal plan.[5] If the requirements are not satisfied, the Oversight Board must provide the Governor with a "notice of violation" and "an opportunity to correct" the fiscal plan proposal.[6] The Governor may submit as many revised fiscal plans to the Oversight Board as permitted under the fiscal plan schedule.[7] However, if the Governor fails to submit a fiscal plan proposal that the Oversight Board determines in its sole discretion satisfies the Certification Requirements, then the Oversight Board may develop and certify its own fiscal plan.[8] Alternatively, PROMESA section 201(f) provides that the Governor and Oversight Board may jointly develop a fiscal plan that meets the Certification Requirements.

The Government takes the fiscal plan process very seriously. It submits thoughtful, fulsome fiscal plans that include detailed data and projections as well as many substantive policy proposals for how to continue Puerto Rico's rebuilding and revitalization.

Importantly, my administration has complied with all aspects of the fiscal plan process since taking office in January 2017 and has met all deadlines established by the Oversight Board for the submission of fiscal plan proposals.

Question 4. Other than opposing the various labor reforms that the FOMB proposed, has your administration been supportive or opposed to the cuts to education, the University of Puerto Rico and healthcare? Have you proposed budgets to restore those cuts that were rejected by the FOMB?

Answer. My administration is committed to ensuring that Puerto Rico residents have access to affordable healthcare and education. In fact, these are among our highest priorities. The elected Government agrees with the Oversight Board that the University of Puerto Rico ("UPR") must increase its revenues through modest increases in tuition and other charges while also transitioning to a leaner operational structure. However, we disagree on the means to achieve these ends. Although the elected Government has proposed to gradually increase UPR tuition by fiscal year 2023, the Oversight Board has sought a more aggressive 65 percent tuition increase, while also reducing scholarships for low-income students. To reduce UPR's overhead, the Government has proposed a voluntary transition program, which allows eligible workers to transition to non-profit and non-governmental organizations or the private sector in exchange for a tax-free economic incentive. The Oversight Board would take this program a step further by eliminating any vacated positions while also imposing involuntary terminations and reductions in federally funded personnel.

My administration vehemently objects to short-sighted, draconian measures that would save some money now while forfeiting our investments in the future. In light of the Commonwealth's current financial crisis, modest cuts to these programs may be inevitable. But the entire burden should not fall on the island's young people, who are the foundation of the prosperous future that we are all striving to build for Puerto Rico.

Questions 5 and 6. The Middle States Commission on Higher Education has placed the University of Puerto Rico (UPR) in show-cause status due to its fiscal situation and financial projections. The UPR is at risk of losing its accreditation and access to Federal funds. Has your administration engaged and collaborated with other stakeholders, such as the University Board, to develop the UPR's budget and

[1] PROMESA § 201(a).
[2] Id.
[3] See id. § 201(c)(2).
[4] See id. § 201(c)(3).
[5] See id. § 201(c)(3)(B).
[6] Id. § 201(c)(3)(B).
[7] See id. § 201(d)(1).
[8] See id. § 201(d)(2).

Fiscal Plan? Please share information about the stakeholders that have participated in the process and the extent of their participation.

Answer. UPR has maintained accreditation for each of its 11 campuses for an additional year, as it was able to deliver fiscal year 2016–2017 single audit, audited financial statements and show substantial compliance with the Middle States Commission on Higher Education ("MSCHE") Standards. After the UPR was placed into a "Show Cause" status by MSCHE, it provided sufficient evidence to maintain its accreditation for an additional year, while it continues to take concrete steps in the accreditation process.

After duly complying with MSCHE's request, on March 18, 2019, UPR maintained accreditation for all campuses during the "Show Cause" process, which will last an additional year.

In its letter, MSCHE stated that UPR "provided compelling evidence" that:

- the quality of the learning experience for the student has not been at risk at any time;
- the Institution has the potential to remedy the non-compliance issues identified by the MSCHE within the extension period;
- the Institution has developed reasonable plans to meet the reaffirmation expectations of the MSCHE within the period of extension;
- the UPR has the support of the Central Administration of the UPR, the Fiscal Oversight Board and other entities for the institutional compliance in progress; and
- the Institution has been affected by other circumstances beyond its control.

On or before May 1, 2019, the UPR was required to submit a report regarding the status of completion of the single audit and the audited financial statements for the 2017–2018 fiscal year to MSCHE and the U.S. Department of Education to meet the aforementioned Standards and Requirements. On April 30, 2019 the UPR submitted its single audit and audited financial statements for the 2017–2018 fiscal year to the MSCHE. The Puerto Rico Fiscal Agency and Financial Advisory Authority ("AAFAF" by its Spanish acronym), as the Government's fiscal agent and financial advisor, has provided support to the UPR Board and its central administration on the development of all its fiscal plan and budget submissions, including the latest April 5, 2019 fiscal plan.

Questions 7 and 8. The agreement reached between PREPA and a good part of its creditors will cause an increase of up to 4.6 cents per kilowatt hour, which when added to other scheduled adjustments for the rate, would imply an increase of up to 30 percent in the cost of energy in Puerto Rico in several years. Has the Government considered how this will hurt workers in Puerto Rico who on average make less than $20,000 per year, or slow down the creation of jobs by local businesses? Can local businesses and the people of Puerto Rico afford a 30 percent increase in energy cost? Wouldn't a rate increase hurt the ability of Puerto Rico's economy to recuperate?

Answer. The agreement reached between PREPA and a significant percentage of its creditors paves the way for the transformation of the electric system and results in a fair outcome for all stakeholders. Key benefits of the transaction are:

1. The transition charge is fixed and capped (i.e., no floating charge or uncapped charge to consumers). It is low in the early years to provide time for the expected efficiencies and upgrades to the electric system to be realized.
2. The transaction will achieve $2.1 billion in debt service savings for the period from 2020 through 2039 as compared to the contractual terms of the debt. These savings represent $3.3 billion in additional savings versus the terms of the restructuring support agreement that was not certified before the PREPA Title III filing.
3. Creditors are taking meaningful haircuts to claims.
    - Includes haircuts to Assured's claims (and not just those of the uninsured bondholders).
    - The Government eliminates the possibility of risk of a loss in litigation that could result in materially higher recoveries to creditors (and locks in the agreed to haircuts regardless of the outcome of any litigation).
    - 10 percent of the bondholder recovery is contingent and based on performance.

Questions 9 and 10. The Trump administration has expressed concerns regarding financial controls in Puerto Rico to justify reluctance to provide further funding for disaster relief and recovery for the island. In terms of financial controls, what is the division of fiduciary responsibilities among the Governor's office, the Puerto Rico Fiscal Agency and Financial Advisory Authority, the Puerto Rico Comptroller, and the FOMB?

Answer. The financial controls of the Government of Puerto Rico and its instrumentalities are carried out by multiple entities. The Office of the Governor exercises a general oversight role over the Executive Branch of the Government of Puerto Rico and ensures that its public policies are duly implemented by the agencies. AAFAF serves as fiscal agent, financial advisor and disclosure agent of the Government of Puerto Rico, its instrumentalities and municipalities. AAFAF also serves as liaison between the Governor and the Oversight Board, oversees the implementation of the Fiscal Plan and the Certified Budget and represents all government entities in the renegotiation of the public debt. On the other hand, the Office of the Comptroller of Puerto Rico was created by Article III, Section 22 of the Constitution of Puerto Rico and is attached to the Legislative Branch. The main duties of the Office of the Comptroller are to examine all revenues, accounts and disbursements of the Government of Puerto Rico, its public corporations and municipalities to determine if they have been made in accordance with the law. The Office of the Comptroller also administers the centralized registry of contracts of the Government of Puerto Rico. Finally, the Oversight Board's powers are established in PROMESA and are mainly related to the certification of Fiscal Plans and Budgets and to the restructuring of public debt.

Questions 11 and 12. Section 208(b) of PROMESA requires a report on discretionary tax abatement agreements. Your administration has avoided publicly disclosing the contents of the report. However, without this information it is difficult to track how much revenue Puerto Rico is losing from individually tailored corporate tax breaks. Why has that information not been disclosed? Please provide an analysis of how much Puerto Rico benefits from these tax breaks versus how much controlled foreign corporations (CFCs) bring to the island's economy.

Answer. The Government of Puerto Rico has prepared a tax expenditure report that is compliant with PROMESA Section 208(b). This report has been shared in draft form with the FOMB. The FOMB has indicated it has comments and may require additional information. Once the FOMB and Government finalize the report, the intent is to make key information, analysis, and conclusions public.

Puerto Rico provides approximately $180 million in annual tax credits to certain corporations through incentives aimed at attracting foreign direct investment, promoting economic development, and social betterment.

Separately, Puerto Rico provides customized tax incentive packages to certain CFCs. In aggregate, these CFCs provide well over $2.0 billion per year in Act 154, non-resident withholding, and other tax revenues. This is in addition to investing in a work force with thousands of high-paying job opportunities. Without a competitive tax incentive structure, many of these corporations would not remain in Puerto Rico, thereby depriving the Commonwealth of much needed industry, jobs, and tax revenue.

Individual taxpayer information has not been published because it is confidential under Puerto Rico law. However, aggregated data on tax abatement agreements has been published. Furthermore, the Government is in the process of enacting the Incentives Code of Puerto Rico, which will completely reform the process of granting tax credits and other tax abatements to incorporate ROI analysis. The Incentives Code will also provide for the periodical publication of aggregated data regarding tax abatements.

Questions Submitted by Rep. Rob Bishop

Questions 1 and 2. Please provide a list of all the supposed laws and reforms your Administration has enacted since taking office. Please provide a list of all supposed laws and reforms that your administration has actually been able to implement since taking office.

Answer. I am proud to report that my administration has enacted and implemented more laws and reforms than any other administration in Puerto Rico's history. My administration's record speaks for itself, including achieving a series-low unemployment rate, the highest private sector nonfarm payroll numbers in 4 years and 8 consecutive months of positive year-over-year job creation. Please see listing below of all laws enacted and implemented since we took office:

- Act 1–2017—The Participative Public Private Alliances Act. This act strengthens the P3 legal framework to facilitate critical infrastructure investments and improve public services.
- Act 2–2017—The Puerto Rico Fiscal Agency and Financial Advisory Act. Creates the necessary legal framework to implement and comply with PROMESA and with the Fiscal Plan.
- Act 3–2017—The Act to Attend Puerto Rico's Fiscal, Budget and Economic Crisis and to Guarantee the Operation of Government of the Government, which allows for taking immediate emergency and cost cutting measures to reduce the Government's operating expenses.
- Act 4–2017—The Labor Transformation and Flexibility Act, which amended several labor legislations with the intention of improving labor market competitiveness, improving the labor participation rate, and halting the migration of citizens to external labor markets.
- Act 5–2017—The Puerto Rico Financial Emergency and Fiscal Responsibility Act, which amended the prior Act 21–2016 to prioritize essential services over debt payments and extended the emergency period for revenue claw-backs to August 1, 2017 pursuant to Executive Order 2017–31.
- Act 8–2017—The Act for the Administration and Transformation of Human Resources in Government, which allows for the transfer of workers across the Government to achieve savings through mobility and attrition.
- Act 13–2017—Enterprise Puerto Rico Act, which creates a not for profit corporation to promote the economic development of Puerto Rico, attract foreign direct investment and incentivize investments in technology in collaboration with the private sector.
- Act 15–2017—Created the Office of the Inspector General of Puerto Rico.
- Act 17–2017—Act to Promote Puerto Rico as a Destination; enables the creation of a destination marketing organization (DMO).
- Act 18–2018—Reforms, simplifies and expedites the permitting process.
- Act 20–2017—Department of Public Safety Act, which consolidates law enforcement and other public safety agencies under a Public Safety Department.
- Act 24–2017—Increases transit violation penalties and fines to increase the Government's revenues.
- Act 25–2017—Provides measures for enforcing collection of sales taxes on internet transactions to generate $35 million to $55 million in new revenue.
- Act 26–2017—The Fiscal Plan Compliance Act, which levels out marginal benefits across the Government and its instrumentalities to generate $130 million in savings, increases revenues, and expedites the process of asset disposition.
- Act 37–2017—Reorganizes PREPA's Board of Directors to comply with the Fiscal Plan for said public corporation.
- Act 43–2017—Includes medical tourism services and telemedicine facilities as eligible services under this Act 20–2012 and eliminates bureaucratic requirements that restricted conferring tax incentives to applicants.
- Act 45–2017—Amends Act 22–2012 to require investor to make an annual contribution of at least $5,000 to non-profit entities that operate in Puerto Rico; places a 5 percent tax on Individual Resident Investor's long-term net capital gains recognized 10 years after becoming a Puerto Rican resident, but before January 1, 2036, on stocks and bonds that he or she possessed before becoming a Puerto Rican resident; and eliminates bureaucratic requirements that restricted conferring tax incentives to applicants.
- Act 46–2017—Extends the emergency period established by Act 5–2017 and authorizes the Governor to further extend such period by executive order.
- Act 81–2017—Establishes the Office of Municipal Management attached to the Office of Management and Budget and eliminated the Office of the Commissioner of Municipal Affairs.
- Act 106–2017—Establishes a pay-as-you go ("PayGo") system and creates a new Defined Contribution Plan similar to a 401K Retirement Plan for public employees.
- Act 109–2017—Establishes the legal framework to restructure the Government Development Bank (GDB) debt pursuant to the Restructuring Support

Agreement ("RSA") authorized by the Fiscal Oversight and Management Board under Title VI of PROMESA.

- Amended by Act 147–2018.
- Act 122–2017—Establishes a procedure for the reorganization of agencies and corporations of the Government of Puerto Rico, in order to create agile and more efficient governmental entities. Authorizes the Governor to submit Plans of Reorganization to the Legislative Assembly, for its review, approval or rejection, to create, outsource, conglomerate, coordinate and consolidate agencies, functions, services, programs and powers of the agencies.
- Act 120–2018—Creates the Puerto Rico Electric Power System Transformation Act to establish the legal framework for the sale, disposition or transfer of assets, operations, functions and services of PREPA.
- Act 131–2018—Implements the Model Forest Reorganization Plan.
- Act 141–2018—Implements the Department of Economic Development and Commerce Reorganization Plan.
- Act 171–2018—Implements the Department of Natural and Environmental Resources Reorganization Plan.
- Act 211–2018—Implements the Public Service Regulatory Board Reorganization Plan.
- Act 212–2018—Implements the Education Council Reorganization Plan.
- Act 241–2018—COFINA Reorganization/POA implementation.
- Act 257–2018—Tax Reform (multiple amendments to the Internal Revenue Code).
- Act 17–2019—Establishes the Puerto Rico Energy Public Policy Act, which adopts the regulatory framework applicable to the P3 transaction of PREPA.

Question 3. We've often heard you say the Oversight Board is interfering with public policy and that's not their mandate yet the law, PROMESA, requires the Board to certify your Government's budget. How is the Board able to do their job without having a say in policies that have to be funded by the budget?

Answer. In contrast to the powerful control board mode I used to restructure the District of Columbia's debts in 1995, PROMESA embodies a dual scheme of shared powers for Puerto Rico. Under PROMESA section 303, Congress clearly intended to preserve the self-determination of the people of Puerto Rico by reserving all "political and governmental powers of the territory" to the elected Government of Puerto Rico.[9] This dual scheme was acknowledged in PROMESA's legislative history[10] and has also been recognized by the U.S. District Court for the District of Puerto Rico overseeing the Commonwealth's Title III cases.[11]

With PROMESA's enactment, Congress sought to strike a careful balance between preserving the representative Government's flexibility to make policy decisions to achieve fiscal responsibility and entrusting the Board with a meaningful oversight role.[12] Congress granted the Board oversight authority to prevent past abuses, such as funding deficits through borrowing. In that regard, ensuring financial transparency and accountability to the Government's stakeholders is an essential element of the fiscal plan process.[13]

Under PROMESA's framework, the Board can make recommendations to the Government as to the policy choices needed to meet fiscal targets established in the certified fiscal plan. But the Board cannot, through a series of anti-democratic

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[9] See In re Fin. Oversight & Mgmt. Bd. for P.R., 583 B.R. 626,635 (D.P.R. 2017) ("PROMESA section 303 reserves the territory's political and governmental powers to the territory.").

[10] See H.R. Rep. 114–602(1), 2016 WL 3124840 at *110 (PROMESA "pairs a comprehensive debt restructuring mechanism . . . with an independent and temporary oversight board (which is not a Federal entity)—not a heavy-handed control board—to help ensure that the Puerto Rico government conducts itself in a responsible, transparent, and disciplined manner").

[11] See In re Fin. Oversight & Mgmt. Bd. for P.R., 583 B.R. 626,633 (D.P.R. 2017) ("The degree of unilateral power that Congress has granted to the Board stands in contrast to the powers Congress granted to the [D.C. Board].").

[12] While the Board's fiscal planning powers "give it a strong and substantially determinative voice in overall strategy regarding the Commonwealth's revenues, expenses, and general direction for responsible financial management," the Board does not have the power to impose specific policies on the Government." In re Fin. Oversight & Mgmt. Bd. for P.R., 583 B.R. 626, 633 (D.P.R. 2017). Rather, "Congress did not grant the [Board] the power to supplant, bypass, or replace the Commonwealth's elected leaders and their appointees in the exercise of their managerial duties whenever the Oversight Board might deem such a change expedient." Id.

[13] PROMESA § 201(b)(1)(F) (fiscal plan must "improve fiscal governance, accountability, and internal controls").

measures,[14] control or usurp the elected Government's exclusive authority to determine the policies within the fiscal plan's parameters that are appropriate to protect the interests of the electorate to whom the Government is accountable. Congress intended for the "Governor and the board to work together for the benefit of the people of Puerto Rico, not to have parallel governing structures."[15]

If the Oversight Board were to adopt a policy over the Government's objection, the District Court has correctly noted that the Oversight Board would "face[] the challenge of managing implementation of the policy in a way that garners the genuine cooperation of Puerto Rico's elected government and the citizens of the island who voted for them, as well as the confidence of stakeholders and potential new investors whose interest in doing business with the Commonwealth will be crucial to the Oversight Board's ability to fulfill its charge in providing a method to achieve access to the capital markets."[16] As a practical matter, the Oversight Board's ability to impose its own policies on the Government is highly constrained. The Governor and the Legislature were elected to serve the people of Puerto Rico. The people look to the leadership of its elected officials to guide and implement the policies for which they voted for. Ultimately, the Governor and Legislature—not the Oversight Board—are accountable to the electorate and can be replaced in future elections if the people of Puerto Rico so choose. Accordingly, the Oversight Board and the Government must work together to find common ground on policies that will put the Commonwealth on stronger financial footing, while also preserving the goals and ambitions of the people. It is through this dialogue that the Oversight Board has influence over Government policy, but its implementation has always rested solely with the Government. As the U.S. District Court recognized:

> [T]he Oversight Board has not been given power to affirmatively legislate. Thus, with respect to policy measures that would require the adoption of new legislation or the repeal or modification of existing Commonwealth law, the Oversight Board only has budgetary tools and negotiations to use to elicit any necessary buy-in from the elected officials and legislators. Elected officials and legislators, on the other hand, have the ability to obstruct implementation altogether, or complicate it in such a way as to cripple Puerto Rico's ability to use it to promote the needed return to fiscal responsibility and access to capital markets.[17]

The statutory structure of PROMESA, therefore, ensures that neither the Government nor the Oversight Board holds all of the cards, which should "motivate the parties to work together, quickly, for positive change" rather than engaging in "mutual sabotage."[18]

Questions 4 and 5. There have been instances where the Oversight Board has advised your administration not to take a particular action because they judged such action would violate either the certified fiscal plan, budget, or cause harm to the local economy. For example, you chose to ignore the Board and continue issuing Christmas Bonuses to Public sector employees against their recommendation. Another example, your Executive Order 2018–33 which raised the minimum wage to $15 for public infrastructure projects that utilize Federal disaster relief funding, against the recommendation of the Oversight Board and local business sector. What led to these decisions you made to ignore the recommendations of the Board?

Answer. As previously discussed, the Oversight Board is not a control board and PROMESA always intended to preserve the self-determination of the people of Puerto Rico. Hence, the Board can issue "recommendations" on public policy, not "commands." And, as such, may use its fiscal plan and budget certification powers to establish broad parameters within which the Government must operate, but cannot use those powers to micromanage policy. In other words, the Board can define the size of the room, but only the Government can decide where to place the

[14] H.R. Rep. 114–602(1) (2016) ("Under H.R. 5287, the anti-democratic provisions empowering the oversight board to impose its recommendations over the objection of the Puerto Rico government has been removed. The board is still authorized to make policy recommendations and to obtain a written response from the Puerto Rico government regarding whether it will, or will not, implement those recommendations. Section 201 does require the fiscal plan put forward by the Puerto Rico Governor to 'adopt appropriate recommendations' submitted by the oversight board under Section 205, but the term 'appropriate' provides the Governor with significant flexibility to adopt sound recommendations and to decline to adopt unsound recommendations.").

[15] H.R. Rep. 114–602(1), at *114.

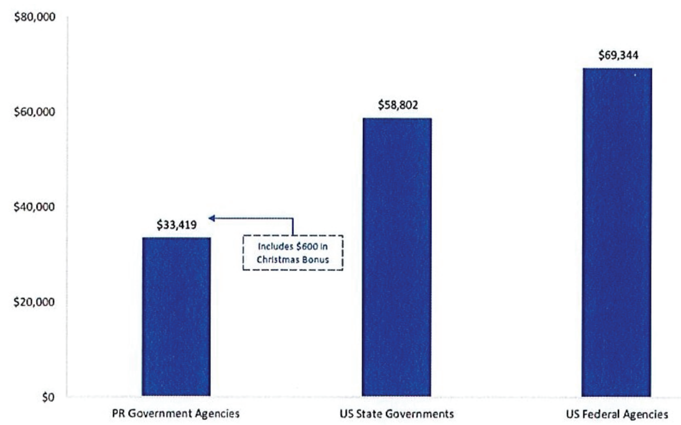
[16] Rosselló Nevares v. The Fin. Oversight & Mgmt. Bd. for P.R., 330 F.Supp.3d 685, 701 (D.P.R. 2018).

[17] Id.

[18] In re. Fin. Oversight Bd. for P.R., 583 B.R. 626,637 (D.P.R. 2017).

furniture. In the various iterations of its certified Commonwealth fiscal plans, the Board recommended measures affecting government-employee compensation, including: (i) maintaining a payroll freeze; (ii) limiting paid holidays to 15 days annually across all public employees; (iii) prohibiting carryover of sick and vacation days between fiscal years; (iv) prohibiting any future liquidation of sick and vacation days; (v) eliminating Christmas bonuses for all public employees; and (vi) standardizing employee healthcare benefits so that all employees receive $125 worth of benefits per month. Notably, the Government was in favor of several compensation-related reforms. For example, in 2017, the Government enacted Act 26, which implemented public-sector labor reforms, including: (i) implementing a maximum 15 holidays each year for Government agencies and public corporations and (ii) limiting Christmas bonuses to a maximum of $600. While these reforms overlapped with the Board's recommendations, the Board sought to make these measures permanent and, in the case of the Christmas bonuses, sought to expand Act 26 by eliminating Christmas bonuses entirely. Because the Government viewed the Oversight Board's aggressive recommendations as too draconian, the Government rejected those recommendations. In addition, the Government opposed those measures because they would reduce government employee compensation and increase outmigration when Puerto Rico could least afford it by stripping important protections from working families. Furthermore, many of those measures required legislation to implement, which the Oversight Board cannot compel. Importantly, the limited areas of disagreement between the Government and Oversight Board on labor reform issues are insignificant as compared to Commonwealth's overall budget. For example, the cost of implementing the annual Christmas bonus is only approximately $70 million per year, representing a miniscule percentage of the Commonwealth's $8.7 billion annual General Fund budget. This is only slightly more than approximately $65 million annual budget for the operation of the Oversight Board during fiscal year 2019. In addition,

Commonwealth employees make far less than Federal employees, even after receiving the Christmas bonus.[19]



Eliminating the Christmas bonus would amount to an immediate reduction in the already low average worker's compensation. As such, the Government declined to adopt these measures because they would effectively reduce compensation for all employees when Puerto Rico's residents are still suffering the dramatic economic effects of Hurricanes Irma and Maria.

Question 6. A key component of establishing PROMESA and the Oversight Board was to promote financial transparency on the island. The Commonwealth has only produced [1] set of audited financial statements (for the fiscal year 2014–2015), which was not a clean audit, which meant external auditors were unable to verify that the information provided by the Commonwealth was reliable. Has the Government completed Financial audits for fiscal years 2016, 2017, or 2018? What's the

[19] Source: OMB Budget (unaudited), Office of Personal Management, compensation for PR government employees includes salary and benefits excluding PayGo. PR Government data is for FY19. Data for US States and Federal employees is for 2017.

delay with completing these audits? Shouldn't a timely completion of these audits be a priority? It would seem to me that completing these audits would go a long way toward helping restore Puerto Rico's credibility and commitment to responsible fiscal management.

Answer. Reliability of Financial Statements:

While we recognize the importance of the audited financial statements, I must stress that my administration is providing to the FOMB and others more current financial information than ever before on government tax receipts and disbursements, including monthly tax revenue reports, weekly cash balance reports, among others.

The Commonwealth recently released the fiscal year 2016 financial statements on May 3, 2019. We must highlight that the audit opinions for fiscal year 2016 showed a marked improvement from 2015. The fiscal year 2015 audit report included a disclaimer of opinion in 3 of 13 opinion units and an adverse opinion in another opinion unit. **There are no disclaimers and no adverse opinions in the fiscal year 2016 audit report.**

There are only two specific matters causing the disclaimers, adverse opinions and modified opinions in fiscal year 2015 and the modified opinions in 2016. These matters are the following:

1. *Implementation of Governmental Accounting Standard No. 68, Accounting and Financial Reporting/or Pensions ("GASB 68")*—This Pronouncement was effective for financial statements ending on June 30, 2015. The actuarial report required by this accounting pronouncement was issued by the Retirement Systems in 2018. As a result, a majority of the public corporations issued their 2015 financial statements before the actuarial information was available was available to determine their proportional share of the net pension obligation. Those financial statements did not include either the proportional share of the net pension obligations or amounts based on preliminary unaudited analyses resulting in the modifications to the audit opinions.

   As discussed further below, lack of planning by the prior administration was a factor in the delay of the actuarial report and a contributing factor to the delay in the completion of the 2015 audit.

2. *Government Development Bank Liquidity Issues*—A substantial portion of cash held by agencies and public corporations was deposited in the Commonwealth's Government Development Bank. The Bank had liquidity and solvency issues that eventually resulted in a loss of those deposits to the depositing agencies, corporations and municipalities. The prior administration did not issue instructions requiring the assessment of a potential custodial credit loss until October 2016, after many of those entities had already issued their 2015 financial statements. As a result, their financial statements did not take into consideration the custodial credit risk loss on deposits in GDB and consequently led to modifications to the audit opinions.

   The Commonwealth determined that the custodial credit loss should be recognized in the financial statements for fiscal year 2015 that were issued on June 2018. This determination needed extensive investigation and analysis to determine the facts and the evaluation of accounting guidance applicable required consultations directly with the Governmental Accounting Standard Board as well with the auditors to determine when to recognize and how to measure the custodial credit risk loss. This process was also a factor in the delay in the completion of the 2015 audit.

We must note that these matters could have been corrected in the 2015 financial statements and the opinion modifications by requiring the restatement and reissuance of the component unit financial statements. This, however, would have caused further delays in the issuances of financial statements. We expected that these issues should not affect the 2017 financial statements and anticipate further improvements in the audit opinions.

Timeliness of Financial Statements:

Several situations have contributed to the lengthy delay in completion of the audited financial statements. The prior administration issued the fiscal year 2014 financial statements in June 2016, a delay of over 1 year from the deadline for Consolidated Annual Financial Report.

1. When my administration took office in January 2017, we found the following:
   a. The accounting books of the central government for the fiscal years ending on June 30, 2015 and 2016 were not closed;
   b. As discussed earlier, there was no planning for the implementation of the GASB 68, which required extensive work, including actuarial evaluations;
   c. Late instructions to all Commonwealth entities of Puerto Rico for the assessment of the custodial credit loss caused by the liquidity problems at the GDB, as discussed earlier;
   d. Outdated accounting systems, including multiple systems that do not interface with each other; and
   e. Lack of personnel and resources due to budgetary constraints.
2. Hurricane Irma and Maria further complicated the process causing:
   a. Temporary delays in the accounting and auditing processes to deploy resources to address emergency situations;
   b. Further delays at various agencies and corporations due to lack of reliable power;
   c. Damage to some of government buildings and contamination of the accounting and employee records; and
   d. Migration of public employees.
3. Informational requirements from the FOMB and others: In addition to the daily accounting processes, the limited personnel at central accounting and at the agencies and public corporations must deal with multiple requests for financial information and assistance from internal units, the FOMB, Commonwealth and Federal Inspector Generals, among others, including:
   a. Information for the preparation of the multiple iterations of fiscal plan and budgets;
   b. Support for the financial statement audits;
   c. Periodic reports to FOMB reports;
   d. Bank account investigation made by the FOMB;
   e. Information for the Title III claims handling process;
   f. Participation in the implementation of new operational and accounting systems critical to providing timely and accurate financial information in the future; and
   g. Changes to budgetary practices by the FOMB that have, in turn, require changes in reporting practices and recasting of prior year information.
4. New accounting pronouncements: The Governmental Accounting Standards Board periodically issues or updates accounting guidance. In some instances, the implementation of that guidance is time-consuming and complex, as was the case for GASB 68, as discussed above. For fiscal year 2017, a new rule requiring disclosure of Tax Abatements will be implemented.
5. Disclosure requirements: The Commonwealth's fiscal situation and the legal and other matters being dealt with by the FOMB and the Title III court require extensive up-to-date disclosures in the financial statements. Updates for recent events will often cause last minute delays in issuance of the reports.
6. New Developments: My administration is taking bold steps to address the territory's fiscal challenges. Some of these actions will have financial reporting implications that will require time and efforts to address and resolve. An example of that was the impact of the GDB liquidity issues in 2015. For fiscal year 2018, the transition to a PayGo system for employee pensions will pose new financial reporting challenges. Similarly, the restructuring of debt by the GDB and COFINA will impact fiscal year 2019.

The completion of the 2017 and 2018 audits and returning to timely financial reporting in the fiscal year 2019 audit cycle is a priority for my administration. We continue to work diligently with our auditors and advisors with that objective. The audit for 2017 is in process and we expect completion by October 2019. We are concurrently working on the closing of the books at central accounting for fiscal year 2018. Audits at many agencies and corporations has already been completed for 2017 and work on their 2018 audits is already in process.

> The systems and resource limitations, incremental requirements from the FOMB and the Title III processes, and implementation of new accounting rules will continue to present challenges in the near term. We are committed to working through those challenges with the ultimate goal of producing timely, reliable financial information as soon as possible.

Questions 7 and 8. The Oversight Board recently notified your Chief Financial Officer that 28 public corporations and 66 municipalities have accrued $340 million in debt since implementation of the PayGo system in 2017. What is your administration doing to rectify this and ensure that government pensions are paid at all times as is required by law?

Answer. First of all, it must be clarified that the information included by the Oversight Board in its April 30, 2019 letter regarding the outstanding PayGo debt of municipalities and public corporations is not up-to-date and does not reflect payments made by municipalities and public corporations in recent weeks. However, the Government recognizes that these entities have certain outstanding PayGo debts. The Retirement Board of the Government of Puerto Rico is working closely with the Office of the Chief Financial Officer ("CFO") so that these debts are paid as soon as possible. Said process includes the implementation of various collection mechanisms and procedures provided in Act 106–2017. Finally, it should be emphasized that the disbursement of the pensions is guaranteed by the General Fund, so notwithstanding the outstanding debts, the payments to retirees has not been interrupted.

Question 9. Your administration and the Oversight Board were working together to enact substantial labor reforms that would have made it easier for people to find jobs and reduce the administrative burden of formal employment in the market. How did this effort fail? Will your administration continue to pursue these necessary reforms?

Answer. First of all, I would like to establish for the record that my administration has enacted and implemented substantial labor reform to help improve the prospects for Puerto Rico's job market. On January 26, 2017, the Government enacted Act No. 4 of 2017 ("Act 4") to improve Puerto Rico's competitiveness and foster economic development, while relaxing certain legal requirements for hiring and retention of employees. Specifically, Act 4: (i) established lower accrual rates for both vacation days and sick leave; (ii) approximately doubled the work hours required for accrual of Christmas bonuses; (iii) placed a $600 cap on such bonuses; and (iv) reduced severance pay for unjust termination, among other reforms. These reforms were sufficient to increase labor market efficiency and revive economic growth, but their effects were forestalled as a result of the hurricanes in September 2017. Allowing the Act 4 reforms to take hold will afford the Commonwealth and its people more time to recover from the hurricanes before introducing dramatic, and potentially disruptive, changes to Puerto Rico's labor market.

In addition, the Government has instituted an "Earned Income Tax Credit" ("EITC") initiative and a work requirement for the Commonwealth's Nutritional Assistance Program ("NAP") as further enhancements to its already instituted comprehensive private-sector labor reform package of 2017. It is simply inaccurate to say that labor reform efforts have failed in Puerto Rico. The Government has worked substantially with the Oversight Board to implement many of its recommendations regarding private-sector human-capital and labor reforms to drive economic grown and competitiveness in Puerto Rico. For example, in connection with the May 2018 Commonwealth fiscal plan, we made substantial efforts to facilitate a comprehensive labor reform deal. As a result of those negotiations, the Oversight Board agreed to drop its demands for the elimination of the Christmas bonus and the reduction of minimum vacation and sick days for private sector employees in exchange for the repeal of Puerto Rico's Wrongful Dismissal Act ("Law 80"). The repeal of Law 80 would have made Puerto Rico an at-will employment jurisdiction, which the Oversight Board believed was a necessary change to provide more flexibility in reducing the Government's labor costs. However, the Puerto Rico Legislature lawfully exercised its powers and rejected the repeal of Law 80 in June 2018. Since then, the leadership of the Puerto Rico Legislature has not changed its view on this issue and, as a result, there are no plans to continue raising the repeal of Law 80 as a potential avenue of compromise regarding labor reforms.

Questions Submitted by Rep. Hice

Question 1. My understanding is that sections of the electrical grid either have been transitioned or are in the process of transitioning to natural gas. One of the problems being forecast is that there is a transport shortage due to the Jones Act and that a temporary waiver would allow for greater access to U.S. stores. What action have you taken to pursue a waiver?

Answer. Puerto Rico's energy sector is undergoing a historic transformation following my administration's new policy announcements in January of 2018. As a result of our revised policy announcements, Puerto Rico and PREPA are transitioning to cleaner, more modern, efficient and compliant electric generation, including natural gas-fired generation supplied by liquified natural gas ("LNG") and renewable sources that include solar and wind. We are advancing in the transition to more LNG based generation to reduce our dependency on fuel oil and are sponsoring multiple generation projects to meet those objectives for the benefit of our citizens. We are seeking a waiver of the Jones Act that would permit these generating facilities to be supplied with LNG produced in the United States, rather than LNG obtained from other, less secure, more costly sources.

These projects that will used natural gas derived from LNG as their primary fuel include:

1. The conversion of San Juan power generation units 5 & 6 to LNG:
    a. PREPA executed a contract in March 2019 with New Fortress Energy (NFE) for the conversion and supply of LNG, which is expected to generate ~$500M of savings over 5 years.
    b. This project is located adjacent to PREPA's San Juan Power Plant, near the main load centers in the North; the NFE facility will provide 25 TBtu of natural gas to San Juan Power Units 5 & 6.
    c. The dual-fuel conversion cost of the power units is provided by NFE resulting in no capital outlay on the part of PREPA—and the conversion is expected to be completed by Q4-19.
2. New Palo Seco Power Plant Initiative:
    a. Natural gas is planned for generation capacity at this existing site also in the North, close to the island's main load centers. LNG is an affordable primary fuel, cleaner than fuel oil, and anticipated to yield ~$135M in annual savings (based on Integrated Resource Plan (IRP) assumptions and modelling conducted in 2019).
    b. Repowering Palo Seco is a core component to PREPA's IRP Action Plan. PREPA has begun the development of a Request for Proposals for new generation at Palo Seco.
3. Additional projects contemplated in the 2019 IRP include:
    a. Developing LNG terminals at Mayagüiez & Yabucoa. PREPA has already begun conversion of four power generation units in Mayaguez, located in the western section of the Island to LNG use.
    b. Possible development of a land-based LNG terminal in San Juan to supply a new combined cycle gas turbine (CCGT) and the San Juan 5&6 Combined Cycle.

With respect to the Jones Act, in December 2018, the Government of Puerto Rico requested a waiver from certain provisions of the Jones Act. It took this action because the Jones Act precludes deliveries of natural gas produced in the United States to Puerto Rico. This waiver would apply until a sufficient number of qualifying LNG carriers can be made available to transport LNG from the U.S. mainland to Puerto Rico. Without such a waiver, the advantages of cost-effective, favorably located LNG supply sources will be denied Puerto Rico as it modernizes its electric generation fleet, and the opportunity for mainland U.S. LNG suppliers to penetrate the Puerto Rico market will be lost for many years to come. Key attributes of the request are:

1. The petition addresses barriers to long-term supply contracts with domestic producers of natural gas based on national security interests.
2. It is limited to 10 years or until Jones Act compliant vessels become available (which is currently not the case).

3. Jones Act exemption benefits to Puerto Rico and the mainland United States include:
   a. Ability to contract long-term fuel supplies from geopolitically stable resources (domestic suppliers).
   b. Cost reductions from a Jones Act limited waiver helps support U.S. critical industries like pharmaceuticals and biopharmaceutical operations located in Puerto Rico which serve the mainland and international pharmaceutical markets.
   c. Providing stable, cost-effective sources of electricity to U.S. military installations in Puerto Rico.
   d. Economic benefits:
      i. Fuel savings to customers that reside in Puerto Rico;
      ii. Spur economic development due to more cost-effective fuel; and
      iii. Improve public health and environmental standards given the availability of clean burning alternative fuel supplies.

Since filing this waiver request, the applicants have supplemented the request once and have had a meeting on the request with representatives of the U.S. Department of Homeland Security ("DHS"), Customs and Border Protection, to discuss the request. The waiver request remains pending.

PREPA is hopeful that DHS and the Defense Department will grant its request to permit LNG to be transported in bulk from U.S. sources to Puerto Rico on vessels that are not Jones Act qualified pending availability of enough suitable LNG carriers that can qualify under the Jones Act. If they do, Puerto Rico energy consumers stand to save hundreds of millions of dollars in fuel costs, and U.S. LNG producers will have a secure domestic market for their projects.

Question 2. Puerto Rico experienced 710 homicides in 2017, and 641 in 2018—more than any U.S. state and mostly gang related. Your police force is not only underpaid ($40k/yr—24% below avg) and in many cases owed money, but Colonel Michelle Fraley, who was the superintendent of the Puerto Rico police in 2017 during Hurricane Maria, told CBS News this past January that she wouldn't go outside past 6 p.m. unless it was an absolute emergency requiring a hospital visit.

Twenty-one months after Hurricane Maria what is being done to protect your civilian women and children?

Answer. Over the past year, the Government has consistently expressed to the Oversight Board that the Puerto Rico Police Department ("PRPD") cannot sustain the level of expense reductions as set forth in various iterations of Certified Fiscal Plans. The Government, including Department of Public Safety officials, PRPD, AAFAF, OCFO, have held numerous meetings with the FOMB to address concerns surrounding both the magnitude of expense reductions and the lack of reinvestment in PRPD. Additionally, PRPD has been experiencing high levels of attrition in FY19 putting additional strain on an already fragile system.

As a result of the aforementioned meetings, the Fiscal Plan certified on May 9, 2019 has included a number of revisions to ensure the police who protect Puerto Rico and its citizens are fairly compensated and PRPD is adequately staffed. These new investments include:

1. ~$11,500 increase in officer salaries relative to FY 2019 levels phased in over 2 years.
2. FY2019 salaries already included a $1,500 raise per sworn officer instituted at the beginning of FY2019.
3. Increase life and disability insurance to $250 per year per sworn officer starting in FY2020.
4. Social Security contributions for all police will begin in FY2020.
5. Payments to sworn officers for past services of $122 million in FY2019, FY2020, and FY2021.
6. ~200 cadets will be hired each year to offset some of the 3 percent expected attrition.
7. $42 million in funding for capital expenditures to purchase bullet proof vests, radios, and vehicles.

These reinvestments should help stabilize the Department and provide PRPD with the necessary budget to provide the safety that Puerto Rico and the 3.2 million U.S. citizens who live there deserve.

In addition to reinvestment, the Government continues to work closely with the Federal Government in the fight against crime on the island. I signed an agreement extending and expanding the collaborative efforts between the Government of Puerto Rico and Federal law enforcement agencies. The memorandum of understanding includes, but is not limited to, the following:

1. Extending the drug enforcement task force created under a previous agreement;
2. Coordination between the police and district attorney's for drug-trafficking cases;
3. Government corruption;
4. White-collar crime;
5. Sexual exploitation of minors;
6. Human trafficking; and
7. Cruel treatment of animals.

Question Submitted by Rep. González-Colón

Question 1. As you know, the Congressional Task Force on Economic Growth in Puerto Rico—which was established by PROMESA—issued a report in 2016 with various recommendations to help address Puerto Rico's fiscal crisis. Among those recommendations was permanently lifting the cap on the rum tax cover over. While Congress did pass legislation lifting the cap through 2022, we have yet to permanently lift the cap. Can you please discuss how Puerto Rico would benefit from such legislative action?

Answer. Under the current construct, permanently lifting the cap on the cover-over to $13.25 per barrel would result in an incremental $25 million–$30 million in revenues to Puerto Rico's general fund while Puerto Rico rum producers would receive an additional $60 million–$65 million annually. Increased incentive payments to local rum producers help keep Puerto Rico competitive and retain a valuable industry for the island as well as providing additional funds to continue providing services such as public safety, education and healthcare to our citizens.

The CHAIRMAN. Thank you very much.

Dr. HICE. Mr. Chairman——

The CHAIRMAN. Go ahead.

Dr. HICE. Could I ask, in light of the fact that we are just getting this written statement, we have not had the opportunity to read it and develop, do the homework that we should do, that we postpone this hearing until we have time to go over the written statement ourselves and do adequate homework?

The CHAIRMAN. I think at this point, with all due deference, my friend, that we're going to proceed with the hearing. We've had people that have made the arrangements to be here. I understand the dilemma. I mentioned it. The Ranking Member mentioned it. But I think for the sake of the Committee and the sake of the witnesses that it's probably best, with all due respect, that we continue this hearing.

Dr. HICE. OK. Thank you, sir.

Mr. BISHOP. Mr. Grijalva, if I could just quickly jump in on this?

The CHAIRMAN. Yes, please.

Mr. BISHOP. I realize the dilemma, the legitimacy of the request. I also realize the dilemma the Chairman is in, in this particular situation. And obviously, because of the lateness, and actually during the testimony especially, the specifics you've started to go into, it would be wise, once again, to replicate this hearing and do it again. But I think the Chairman is right. For all those who have traveled great distances to be here, it would be a shame for them to not be able to at least express themselves. And then, to add to it, obviously we're not going to have the final conclusion here. This should be the first of some of those discussions. But I think your point is well-taken.

Dr. HICE. I agree, sir. It's just tremendously disrespectful to this Committee to——

The CHAIRMAN. Thank you very much. With that, let me begin the questioning, if I may. Governor, I think you've repeatedly said that you respect the authority of the Board to set financial limits for the territorial government. But the Board should not, as you were stating, make territorial policy or micromanage governmental organizations. Policy should be made by Puerto Rico's elected officials. We shouldn't make administrative management decisions as well. Can you define the word "policy," in that? Because a wide range of policies also affect financing. Just for clarification.

Governor ROSSELLÓ. Well, here's the other—and let me just state for the record, that I've made myself available previously. I've made myself available afterwards as well to answer these and any other questions concerning Puerto Rico, so should you need more time, I would of course oblige to that. Over the policy argument, what I'm stating is that there is a fiscal and financial consideration in Puerto Rico, and we've recognized that. Originally, and this was said by several of the board members, that the role of the Oversight Board was to set the size of the room, which means the amount, the broad amount that would be spent, but that the Government of Puerto Rico would be able to fix it and establish where the furniture and where the structure was.

So, based on that, the interpretation is, we recognize that there is a top-level spending limit. But when it becomes problematic is when it goes on a granular level to itemized actions within the budget that inhibit the proper execution of government, and inhibit the proper flexibility of government.

If there is any event that exemplifies the need to quickly adjust, it was Hurricane Maria in Puerto Rico. Priorities changed quickly then, and we need to make sure that we have flexibility to adjust to that. But even in the aftermath of Maria, waiting for budget reapportionments for months, items that should be determined quickly should not be a problem, number one. Number two, there should be no strong-arming efforts by the Oversight Board in limiting some of those pockets, in order for us to agree to other policy measures that quite frankly are, in our understanding, not in the best interest of the people of Puerto Rico.

So, designing the platform in terms of socially and the future of Puerto Rico, those policy decisions lying within the grasp of the Government of Puerto Rico. And I'm very sure, because I saw the legislative attempt was that the people of Puerto Rico and the Government of Puerto Rico held that power.

The CHAIRMAN. Let me see if I, I'll try to get one more question in, and then turn it over to the Ranking Member. History is littered with examples of poorly designed debt restructuring exercises that soon unraveled at a great economic and human cost. Is the COFINA agreement one such poorly designed restructuring exercise, because it saddles Puerto Rico with escalating debt payments over the next 20 years? Does the COFINA deal also set a dangerous precedent, because the General Obligation bondholders will not accept anything less at this point than the same terms?

Governor ROSSELLÓ. Well, the objective of setting a fiscal plan and establishing a debt sustainability model was that we could start renegotiation of the debt, and within Title III, start getting to some agreements. We sat down. In this effort, we've worked with the Oversight Board to identify what are decisions that would be in the best interest of Puerto Rico. We have dealt with over $21 billion of the outstanding debt. We have restructured that debt in the benefit, in my view, of the people of Puerto Rico, reducing significantly the amount of that debt. Within the instrument that we have, and within the fiscal plan that's being established with having the surplus, we feel that it is a decision that is in the best interests of the people of Puerto Rico, a reduction in the debt payments moving forward. And again, the remaining credits, we're going to have to continue on dealing with that, and eventually have a decision on Title III court.

The CHAIRMAN. Ms. Colón, go ahead.

Ms. GONZÁLEZ-COLÓN. Good morning, Mr. Chairman. And good morning and thank you, Ranking Member Bishop. Welcome, Governor. Obviously for your statement, I think the first question in a hearing like this is, is the very existence of PROMESA not an example of the effects of the inequality that Puerto Rico has been treated for more than 100 years?

Governor ROSSELLÓ. Yes. I think this is, this is part of the statement that I wanted to address. There are certain things and certain petitions, aside from changes making to PROMESA. There is an inherent inequality with the treatment of the people of Puerto Rico. So, while I hear some of you mention that we need to wait, I don't think that that is appropriate. Civil rights don't wait. The democratic rights don't wait. And inequality does not wait. We need to find a path forward, and the people of Puerto Rico have voted twice for that. There are outstanding petitions, many of which you have submitted as well, Madam Congresswoman, in order for us to have equal treatment on certain areas. Earned Income Tax Credit, for example. We have to implement our own. We don't have the Federal kind. Child Tax Credit. Fair treatment in Medicaid so that we don't have to be on the cusp of a cliff every other year.

NAP relief. So, an equal treatment on the NAP program, which by all accounts, essentially every other jurisdiction within the United States is treated under this NAP program, and that puts us in a less competitive area, receiving about $1.2 billion for those vulnerable populations that would receive under the NAP program.

But, of course, on top of all of that is the underlying inequality of being a territory of the United States, a colonial territory of the United States. And until we address that problem, we will always be finding what the differences are in Puerto Rico and why these differences are therein. So, I ask this Committee and I ask Congress to move along with this agenda as well. Help us prosper with economic initiatives that you are proposed in a bi-partisan, bicameral report, and that we get some results for the people of Puerto Rico, and true equality.

Ms. GONZÁLEZ-COLÓN. You just talked about the report of PROMESA in 2016. And that was a bi-partisan report and a bi-cameral report as well. That report mentioned more than 40 Federal laws that treat Puerto Rico differently than a state.

Governor ROSSELLÓ. Yes.

Ms. GONZÁLEZ-COLÓN. And a lot of the issues that Puerto Rico is facing today regarding healthcare, infrastructure, security, among others, are included in that report. A lot of those measures are being introduced in last quarter and this one in a bi-partisan way, but still some of those issues are not being managed. Do you think that projections for growth in revenues under the approved fiscal plan, Puerto Rico can recover and we can begin a final legislation agreement, as they are expected?

Governor ROSSELLÓ. There's a lot of variability. Just take the Medicaid bill. If you extrapolate it toward the future, we're talking about dozens of billions of dollars difference, one way or the other. If you tack onto that other of the items that are being established, it's the difference between Puerto Rico having a sustainable path forward or relapsing into a problematic past. Listen, if there are bills, as you mentioned, Congresswoman, that have been submitted in a bi-partisan way, in a bicameral way, why are they not moving forward? Would this happen elsewhere? Let's see how we can address the growing problems that Puerto Rico has structurally. As I mentioned in my statement, we're doing our part. We're making budget cuts. We're changing different items, so it's time for the Federal Government to step up.

Ms. GONZÁLEZ-COLÓN. Governor, what is for you the main challenge Puerto Rico got under PROMESA in order to reform government?

Governor ROSSELLÓ. The main challenge is the continuous day-to-day operations problems that we entail by having the Oversight Board overstep its boundaries. The Oversight Board should make sure that the expenditure at the high level doesn't go beyond that. It should also be potentiating economic growth initiatives. That's what the statute says. It's not doing that. And it should also be working with the Title III and debt restructuring efforts. Unfortunately, most of its effort has been on a very granular level, trying to micromanage certain aspects of government. That is having more government. That is having a lot of areas of lack of accountability and that is delaying some of the execution of things that we want to implement, so that, I would say is the single biggest problem. It's the day-to-day pragmatic operations, the insistence in overstepping those boundaries that I would hope that after this Committee ends, we could consider attacking and tackling that problem.

Ms. GONZÁLEZ-COLÓN. Thank you, Governor. I yield back.

The CHAIRMAN. Mr. Michael San Nicholas.

Mr. SAN NICHOLAS. Thank you, Mr. Chairman. Governor, going through your written testimony, I was particularly drawn to page 11, where you list what is working about PROMESA and what is not working about PROMESA. And I wanted to go ahead and maybe use a minute or two of time to elaborate on what is working and also more particularly what is not working, and perhaps what your recommended solutions would be to address what is not working about PROMESA.

Governor ROSSELLÓ. Yep. So, I think that we did need a restructuring-type of platform, and that, as we have shown with COFINA, with the efforts in GDB, and the discussions that are being had with PREPA, things are moving along, and we are being able to restructure that. So, folks might have an opinion on how that restructuring is working, but the truth of the matter is that it is moving forward. It is working. We are reducing the debt load on Puerto Rico.

The problems, again, and I will enumerate them. I think I stand by the main objective being the insistence of infringing in the operational day-to-day efforts of government, and on the overstepping the boundaries to impose public policy that should be directed by the elected government of the people of Puerto Rico. So, I would say that those are essentially the most glaring problems.

Of course, I reiterate my position prior to the PROMESA bill and so forth. An Oversight Board, by its nature, it is all democratic. It allows for a lot of the problems that we are seeing, the delayed processes, the more expended government, lack of accountability on their part to inhibit the process of rebuilding Puerto Rico. So, those would be my higher-level comments on PROMESA.

Mr. SAN NICOLAS. Could you give us maybe two of the biggest, most glaring examples of the overstepping into public policy and the operations of government?

Governor ROSSELLÓ. Yes. So, the first one, it was treated in court, was trying to take over PREPA. Trying to take over PREPA, mind you, with the same person that was running a failed effort on Title V. So, that is clearly one of the problems. The second one is we have established public policy measures that we want for our folks in order to have resources and they have just been stricken out on the budget. Completely stricken out.

I will give you a few examples. After the hurricane, particularly, there is a lot of investment on roads to be built back up, and there should be because there has been, in the past, monies allocated to cleaning those roads. There were no monies allocated to cleaning those roads when we asked for them. We asked for a reapportionment of that, and it was denied. So, something that might seem very simple, but that it is a clear indication of how things are going in Puerto Rico when you have cleaner roads structured and so forth, and we can have the money to invest.

That was denied because even in our first budget that we submitted, they struck it out, they put zeroes on it, and the reapportionment did not flow through.

Mr. SAN NICOLAS. So, your position is that the decisions like that by the Board is actually an impediment to Puerto Rico being able to achieve its goals of being able to restructure its debt and meet its obligations on its own terms?

Governor ROSSELLÓ. Listen, all of us have to take public policy decisions, right? And if we want to invest on education, we have to establish—let's say we want to implement the STEM program. That has a cost. We have to establish that cost, and I recognize that we have to reduce the costs in Puerto Rico. As I mentioned earlier, we ran on a platform of reduction, and we are doing it, but you have to let the Government of Puerto Rico decide where it invests and where it doesn't.

It is not up to the Board to decide that and this is a singular, but very important point. If the Board sets the limit on the expenditures, we, as policy makers, have to decide where we are going to invest that money, where we are going to invest more, as I proposed in this occasion, investing more on education, and where we are going to invest less, as I proposed reducing 50 percent of the operational cost in other areas of government.

So, those are the decisions that should be left to the Government of Puerto Rico, but that we have been having endless and litigious battles at some times to achieve.

Mr. SAN NICOLAS. Thank you, Mr. Bishop. I yield back.

Mr. BISHOP. Thank you, Governor. Once again, thank you for being here. I appreciate that in your opening statement you did say that when you were running for governor, the idea of an Oversight Board was not even contemplated. That is just factually wrong, but I appreciate your willingness to be here, and I am going to look forward to reading the testimony that we got from you 15 minutes ago.

I do have a couple of questions, though, if we can get through this in the time that is allotted. Your administration and the Oversight Board were working together to enact substantial labor reforms that would have made it easier for people to find jobs and reduce the administrative burden of formal employment in the market. When that failed the legislature, I believe the Board, and we will ask Natalie to verify this later, removed the structure reform from their certified fiscal plan and with that, also removed the corresponding economic growth projections that were there.

Without this kind of incremental structure reform, the island's economy probably will grow at an anemic pace and the level unable to sustain long-term budgetary needs of the people. So, can you tell me why this or how this effort failed, and then how is your administration going to continue to try, or will your administration continue to try to pursue these types of reforms?

Governor ROSSELLÓ. Sure. I will do so, but I would also like for the record to correct the initial statement that you made, Ranking Member. I started the policy-making process in 2011. By that point, there was no talk of the Oversight Board, and that——

Mr. BISHOP. You said it was when you were running for governor.

Governor ROSSELLÓ. No. That is part of the effort of running for governor, establishing a policy——

Mr. BISHOP. OK. And how you are going to actually get the reforms in there?

Governor ROSSELLÓ. The what?

Mr. BISHOP. Why did it fail? Are you going to try to keep those reforms going?

Governor ROSSELLÓ. So, you are just talking about one reform. You are talking about one of the labor reforms that was established. I would like to remind you that we did pass labor reform in Puerto Rico in our first month in office, and that——

Mr. BISHOP. Then tell me why that reform failed. How did that reform fail?

Governor ROSSELLÓ. We submitted. We achieved an agreement on the executive level with the Oversight Board.

Mr. BISHOP. OK.

Governor ROSSELLÓ. There were certain elements that were agreed upon. It went to the legislature, and it did not pass on one of the chambers of the legislature.

Mr. BISHOP. So, are you going to re-enact that? Are you going to still work forward to try to pursue that reform?

Governor ROSSELLÓ. Listen, getting stuck on that one reform is missing the big picture. There are other reforms that are going——

Mr. BISHOP. I don't care about the big picture. I am asking you about that reform. Is your administration going to be working to try to implement that reform?

Governor ROSSELLÓ. No.

Mr. BISHOP. All right. Then, when the Board actually comes up for their testimony, I think that one of the questions I will have for you is, "How does that make your projection? What is the impact of that kind of reform on your projections?" In fact, one of the things, if you are willing to do it, because we will obviously run out of time with everything that is going on here and I want to give some other Members a chance to ask some questions, there are a list of potential reforms that are structural, from labor, to welfare to work, to ease of doing business, physical planning. If I were to send that list to you, could you give us in a written statement a response to how those should or could be implemented going forward in the future?

Governor ROSSELLÓ. Yes, of course, and many of those are already being implemented.

Mr. BISHOP. All right. Thank you——

Governor ROSSELLÓ. I will give you an update on how they are being——

Mr. BISHOP. Wait a minute. I'm sorry, but there is a red light in there. I have to watch that one. I want to yield back so that other Democrats have a chance to ask questions before we have to go vote. I have another minute and a half? Give it to somebody.

The CHAIRMAN. Next on our list in terms of arrival, Ms. DeGette. Any questions, comments?

Ms. DEGETTE. I believe Mrs. Velázquez was here before I was.

The CHAIRMAN. Mrs. Velázquez?

Mrs. VELÁZQUEZ. Welcome, Governor.

Governor ROSSELLÓ. Good morning.

Mrs. VELÁZQUEZ. Do you think any of the debt issued by the Commonwealth or its instrumentality is illegal?

Governor ROSSELLÓ. What I think, there is a process that should evaluate that and if it is illegal, then the proper proceeding should occur.

Mrs. VELÁZQUEZ. So, if the debt issued is illegal, what should be the consequences?

Governor ROSSELLÓ. Well, those are the elements. There are several things that our lawyers have told us about if the issuance is illegal. There is a school of thought that the payment shouldn't happen. There is another school of thought that the full payment incurred by the creditor should be accredited to that group. So, there is a wide range of results on that basis.

Mrs. VELÁZQUEZ. Do you support the Board actions to invalidate the $6 billion once issued during Governor Fortuno and Garcia Padilla's administration?

Governor ROSSELLÓ. I support the examination of all of the credits, and a proper examination, and seeing that everything was done under——

Mrs. VELÁZQUEZ. The Board concluded that it is going to invalidate.

Governor ROSSELLÓ. Right. That is going to take it and there is going to be a process and, of course, it will be determined in the court.

Mrs. VELÁZQUEZ. And do you support the Board taking action against government officials or advisors that recommended those from issuance?

Governor ROSSELLÓ. I don't have the elements with regarding to that. If there is evidence that there was wrongdoing in anything within the government, of course it should be pursued——

Mrs. VELÁZQUEZ. OK, and if it is proven that individuals or firms that participated in the issuance of illegal debt, if it is proven, at minimum, do you think that they are morally responsible?

Governor ROSSELLÓ. Well, again, it has to go through a—we are a jurisdiction of law and order. We respect the courts and that process and whatever the determination, we will follow it.

Mrs. VELÁZQUEZ. And if the Board could demonstrate that the debt issuance was illegal, would you or the government fire any of such individuals if they are currently working for the government?

Governor ROSSELLÓ. Of course, if there is any wrongdoing, our position has been very clear.

Mrs. VELÁZQUEZ. So, has your administration ever persuaded the Oversight Board to reverse a decision to reduce a budget that, if implemented, will harm essential services.

Governor ROSSELLÓ. We have had a lot of discussions with the Board. A lot of the things that come outside are a lot of the controversies that we have, but there are certain things that we have been able to work throughout. The recent rightsizing of government, and there have been measures in order to implement that.

We have identified several areas, and now the best evidence will be in this budget where we are making a change from a traditional budget to a policy-based budget, and there are going to be clear indications of where we are investing, and where we are reducing. After that budget process has passed, we will see that answer more clearly.

Mrs. VELÁZQUEZ. And Governor, I heard you loud and clear regarding the interference of the Board micro-management. That is your characterization of it. Do you support Senate confirmation of the current seven members that have been nominated by the Trump administration?

Governor ROSSELLÓ. Well, I support the process to be evaluated. It eliminates uncertainty. There was a lot of uncertainty in this process. Now, it is going to be up to the wisdom of the Senate to determine if these seven members are qualified. They have evidence. They can ask questions. They should evaluate. There should be accountability, and on the basis of that, then they should make their recommendations.

Mrs. VELÁZQUEZ. And have you ever proposed debt cuts to the University of Puerto Rico's budget in your fiscal plan?

Governor ROSSELLÓ. Based on the initial petitions, higher level petition of the Oversight Board, we had been working through those. Of course, the University has autonomy and the president of the University and the governance board of the University are working to try to meet those goals. Of course, it is a significant challenge, and one of the things that we are trying to identify is outside resources to come to the University so that they can yield services and get more resources for their efforts.

Mrs. VELÁZQUEZ. I am sorry, I didn't follow you when I asked you if you have ever proposed cuts to the budget. A cut in this fiscal plan——

Governor ROSSELLÓ. There has been a fiscal plan. The fiscal plan is not determined by the governor. It has been worked with the efforts of the governance board and the president of the University.

Mrs. VELÁZQUEZ. I yield back. Thank you, Mr. Chairman.

The CHAIRMAN. We leave thereafter. I appreciate your indulgence, Governor. We will be back immediately if other Members have questions. Thank you very much.

Governor ROSSELLÓ. I will stay here.

[Recess.]

The CHAIRMAN. Let me call the hearing back to order. And, turning to Mr. Lamborn for your comments, questions.

Mr. LAMBORN. All right. Thank you, Mr. Chairman.

Governor Rosselló, there have been instances where the Oversight Board has advised your administration not to take a particular action because they judged such action would violate either the certified fiscal plan, the budget, or cause harm to the local economy. Specifically, you chose to ignore the Board in continuing issuing Christmas bonuses to public sector employees against its recommendation, and you also, under Executive Order 2018–33, raised the minimum wage to $15 an hour for public infrastructure projects that utilize Federal disaster relief funding. This was against the recommendation of the Oversight Board and the local business sector.

Why did you ignore the recommendations of the Board?

Governor ROSSELLÓ. Thank you for your question, sir, and in terms of the Christmas bonus, it is important to compare what public servants in Puerto Rico earn, their cost of living, and how we compare them to those public servants that are in the states. We can facilitate that for the Committee for their evaluation, but in general, we are talking about anywhere from 1½ times to 2½ times higher earnings in the states for similar jobs than what they're receiving in Puerto Rico.

The Christmas bonus—yes, it has that name, but essentially it makes an attempt to mitigate for what is clearly inequality in terms of the earnings of these public servants, and have them have that additional access. And even with that access, still the differential is enormous.

So, while the Oversight Board recommends that it is law, and we are committed to providing that service. We heard their arguments, but our view is that this is something that's important for Puerto

Rico in terms of the minimum wage—or do you want me to answer something regarding that part?

Mr. LAMBORN. Yes. Yes, please finish and then I'll ask another question.

Governor ROSSELLÓ. OK. In terms of the minimum wage, we have to look at this in the context of everything that is happening in Puerto Rico. We have a labor force in the construction industry that numbers only 45,000. The estimates are that we're going to need 150,000 folks to join the construction industry for these efforts. We're going to have to drive either people, folks, that are out of the labor force in the informal economy to the formal economy. That is why we have supported welfare-to-work efforts, Earned Income Tax Credit. But we really wanted to drive them to the construction sector.

One of the incentives that we wanted to give as a driver and as a measure to tackle the gross inequality that exists in Puerto Rico, which in terms of the Gini index, it is the highest in the United States and it is one of the highest 10 jurisdictions in the world.

Mr. LAMBORN. Let me interject at this point. Thank you. I have one last question. I just want to comment and say I understand your intentions, but in light of the massive deficits, I think you made the wrong decision.

OK. However, having said that, another question. A key component of establishing PROMESA and the Oversight Board was to promote financial transparency. However, the Commonwealth has only produced one set of audited financial statements, and that was for Fiscal Year 2014 and 2015, which was not a clean audit, and this meant that external audits are unable to verify that information provided by the Commonwealth was reliable.

Has the Government completed financial audits for Fiscal Years 2016, 2017 or 2018?

Governor ROSSELLÓ. Yes, we are in that process, sir, and if I may, I'd like to explain why this has taken so long. Particularly, 2015 was a critical year. The way that government used to operate, there was a lack of visibility as to how government itself would borrow from other, say, public entities, if they were accountable within the budget or not, and it turns out in many cases they weren't.

So, there had to be a robust effort to get those 2015 audited financial statements out, and I think that the CFO just made some comments about this about a week ago, and our commitment is that, within the next weeks, we're going to have the 2016s and then, hopefully, the rest of them can follow soon. We want to make sure we're on time with that. We recognize that this is a tool for accountability and we are working hard in order to get those audited financial statements.

Mr. LAMBORN. I'm glad you're working hard on those. Those are way overdue. It will help establish credibility for responsible fiscal management when you can finish that, so thank you for doing that.

Mr. Chairman, I yield back to you.

The CHAIRMAN. Thank you.

Mr. Soto.

Mr. SOTO. Thank you, Mr. Chairman, and thank you, Governor, for your strong leadership to help Puerto Rico recover from the brink of collapse—the brink of collapse from Hurricane Maria and

Hurricane Irma—dealing with the crisis of the debt and of PROMESA, and literally doing it with one hand tied behind your back based upon the colonial status and based upon having to lead within the confines of the PROMESA Board. So, thank you for that and thank you for being here today.

I just wanted to make sure we're clarifying right, so the PROMESA Board should be helping to determine the big budget number, but the day-to-day operations, the individual line items, those should be the sovereignty of the Puerto Rico legislature along with the governor.

Governor ROSSELLÓ. That's right. That's our petition. It just makes sense, not only on the democratic level, but also just pragmatically.

Mr. SOTO. And then, would you support having some priority status for worker pensions and potentially the University of Puerto Rico? We heard a lot on our recent trip down there about trying to help those two areas.

Governor ROSSELLÓ. Yes. I mean, we've been working, we've been sitting down with both areas. Of course, again, within the confines of the University there is high-level ceiling. One of the alternatives that we are trying to provide is higher outside funding, own funding from the University. They can get that through services, for example, that could be given to our community.

As a matter of fact, I would like to point out one executive order that I signed, which was directed toward that. It was signed before the storm. We started doing some effort so that the University of Puerto Rico could give some of the services that our central government was asking for in the private sector and elsewhere. We are retaking that effort again and, hopefully, giving it the resources it needs.

Mr. SOTO. And then with regard to the audit of the debt, I know the PROMESA Board has undergone an audit that audits public, but the underwriting documents aren't public, to allow for other independent audits. Is that something that you think would be helpful to allow for—to have those underwriting documents be public so that there can be independent audits?

Governor ROSSELLÓ. With me—over here is a former president of the bank and current member of the Oversight Board, representative of the Oversight Board. When this discussion was had in Puerto Rico, he opened up his office so that anyone that would want to do an audit could get the papers, and I think that invitation—all of the documents—and that invitation is still open.

So, yes, anybody that wants to run an audit, anybody that wants to utilize the public information that we have accessible, can certainly come and get it and we would, of course, support that effort.

Mr. SOTO. You know, it's important to remember where we used to be and where we are now. In 1984, for reasons unknown, Puerto Rico was actually removed from Chapter 9 bankruptcy, and that's what set off this issue of it not being able to declare bankruptcy and having to come to the Congress and, obviously, that was something that was done under great stress.

Walk me through, because we're talking about different changes that you're suggesting from the Child Tax Credit to Earned Income Tax Credit to Medicaid parity. How much of the debt that was accumulated before you ever got to office was because of those shortfalls, like Medicaid parity, and having to make up for those Federal inequities?

Governor ROSSELLÓ. Well, let's take Medicaid, for example. The initial step is you visualize it as, of course, resources for health care, but at the same time if those resources are necessary and you still want to provide health care as a priority, you're going to have to get that money from somewhere else.

So, what it provokes to us, as opposed to other jurisdictions within the United States, is that we're going to have to get more from our general fund to pay for those resources. Aggregate that across a whole host of programs, some that we get that we don't get the fair share, and yes, that is one of the reasons. I mean, I'm not saying that there hasn't been mismanagement. As a matter of fact, we are tackling that effort. We recognize that there needs to be transparency, and one of the reasons with the audited financial statement was precisely because of that lack of accountability and lack of mismanagement.

But make no mistake about it. The biggest driver over here is the inequality that we have in Puerto Rico. Yes.

Mr. SOTO. And I'm glad you mentioned that because it appears that when you look at the debt or you look at the recovery crisis, a lot of those are symptoms of the ultimate issue of status. If there was sovereign immunity, we wouldn't need a PROMESA Board. If there was a full delegation fighting for disaster relief, I wonder whether Puerto Rico would have the same treatment it's getting now. Obviously, those are issues I'm working on with Congresswoman González-Colón and issues that we look forward to tackling here in the Natural Resources Committee, and I yield back.

Governor ROSSELLÓ. Yes. And I thank you both for your leadership on this matter because it is the single most important issue on the table right now: how do you get equality so that all of these chronic problems that we have in the past, with structural reforms, and we can solve them, but that we can solve them in a sustainable fashion, and second, just being fair, just and equal as U.S. citizens.

The CHAIRMAN. Thank you.

Mr. McClintock.

Mr. MCCLINTOCK. Thank you, Mr. Chairman. First I need to distance myself from some of the praise of PROMESA we've heard from several of our Members. I think PROMESA has been a disaster. Certainly, it has not accomplished what we were promised it would accomplish or you wouldn't be here today and we wouldn't be here today rehashing it over and over. And I think one of the damages that PROMESA caused was to shatter the trust that investors have when a state or territory pledges its full faith and credit to the repayment of debt. Some of the fiscal problems that are facing Puerto Rico right now, I think, arise from that breach of trust. I warned at the time that we considered PROMESA that this would happen, and I'm saddened to see that that warning proved accurate.

What particularly concerns me is that underwriters and investors are looking at PROMESA's repudiation of debt, and now they have to recognize that whenever a state or territory pledges its full faith and credit, there's a risk that didn't exist before that they're now going to have to price into the rates that they're willing to loan at. And in short, Puerto Rico's fiscal irresponsibility—that was enabled by this Congress through the PROMESA—is now increasing borrowing costs throughout the municipal bond markets, which means higher costs for infrastructure in our communities.

Governor, you said that the Financial Oversight and Management Board is undemocratic. I couldn't agree with you more. I think that one of the very damaging parts of PROMESA was that it diffused the responsibility over the fiscal affairs of Puerto Rico; it confused accountability over who was responsible; it made Congress a party to the mess that was created in Puerto Rico and should have stayed in Puerto Rico. And again, I think that's the greatest tragedy of all of PROMESA.

My state, particularly a few years ago under Governor Schwarzenegger, was very badly managed to the point where he came to Congress asking for a bailout. As a Californian, I said no—a mess that is made in Sacramento needs to stay in Sacramento, and I think the same principle applies to San Juan.

All of that said, we look at the recommendations of the Financial Management Board and find how few of them are mentioned. For example, the Oversight Board recently notified your chief financial officer that 28 public corporations and 66 municipalities have accrued $340 million in debt since implementing the PayGo system in 2017.

So, my first question would be, what's your administration doing to rectify this and ensure that government pensions are paid at all times, as required by law?

Governor ROSSELLÓ. Right. Certainly, by changing to a PayGo system, the central government needs to make sure that it has the proper systems in place so that the revenues can get to where they need to achieve. We have been having problems that have dated back previously. Even when it was a fund, there were also limitations on what the municipalities could share.

But it is our job to continue on examining this first iteration of the PayGo system to make sure that we make the appropriate cuts where we need to, and that we invest on the PayGo system, and that's why——

Mr. MCCLINTOCK. But again, according to the Board, though, you're not doing that. The president of the Board was in print recently suggesting a whole range of reforms—labor reforms, welfare to work—that the Board has recommended that the Government has simply refused to implement. My colleague mentioned the Christmas bonuses. I could mention the enormous fees being charged for consoling, the failure to adopt a uniform health care benefits savings measure that was proposed. I could go on and on through a long list of things—audits that have never been prepared that are owed. All of these things recommended by the Management Board and the Puerto Rican Government drops the ball.

Governor ROSSELLÓ. No, let me correct you on that, sir. We have been implementing measures. We have been reducing cuts. We've made the biggest, budget-wise, in the modern history of the United States: 17 percent from one fiscal year to the other. We've consolidated agencies. We're about at 20 percent consolidation. We've reduced over 2,000 employees with certain transition programs that we've implemented. And we've started executing a lot of the transformational reforms.

You talk about labor reform. We actually did a labor reform on my first month in office that had always been talked about but never executed. Now, welfare to work—we welcome that. We are establishing that as part of a policy. It's a matter of how do we implement that and where do we implement it.

But a lot of these things—sometimes we fixate on one issue of labor or one other issue. When we see the whole stratosphere of and platform of efforts that we are making and the transformational impact that's going on in Puerto Rico, it is significant and it is different to any other point in time.

The CHAIRMAN. Mr. Gallego.

Mr. GALLEGO. Thank you, Mr. Chairman.

Governor, thank you so much for being here today to testify. According to the Puerto Rico Fiscal Agency and the Financial Advisory Authority's latest public statement, Hacienda has a total cash balance of $5.75 billion. Currently, while there's a stay on debt-service payments and with money slowly trickling in, some creditors are suggesting that because Puerto Rico's financial position is stronger, they should be getting "better deals."

How would you respond to this suggestion? Additionally, what would the consequences be if Puerto Rico did not have access to a comprehensive authority, like PROMESA, to allow it to restructure its debt?

Governor ROSSELLÓ. Yes. I think, as I mentioned in my written statement, there are some good things and some bad things. Having a restructuring platform is important for us to move over because, before, we didn't have anything.

Regarding the cash balance that Hacienda has, really, if you look at it, it's because we're in Title III, and that includes monies from COFINA, that includes excess Federal funds, say, from Medicaid and other sources that will be used appropriately as they need to. So, it is not an indication of just all of these things all of a sudden getting this enormous cash balance that will be sustained. No, it is in large part an artifact of Title III, and obviously, once you get to the renegotiation or restructuring of the debt, then a lot of that money is going to be used for that.

Mr. GALLEGO. Just to follow up, could you tell us what public asset bondholders would have legal rights and claims to if Puerto Rico didn't have this debt structuring authority?

Governor ROSSELLÓ. So, we didn't have any outlet, so this was necessary. The only thing that we had in our hands was I would say the space to renegotiate, sit down in goodwill terms, but not a legal framework to do so.

Mr. GALLEGO. Great. Moving on. Section 21(b)(1)(B) of PROMESA requires that fiscal plans certified by the Oversight Board ensure the funding of "essential public services." However, PROMESA does not provide a definition of those services and neither the Oversight Board nor the Government of Puerto Rico have so far provided a definition of that concept.

That's very worrisome for me given that the Board has already certified fiscal plans for the Commonwealth of Puerto Rico and many of its public corporations and it has approved two debt-adjustment plans so far.

Governor, how would you define essential public services, and do you think PROMESA needs to be amended to include a more specific definition of the term?

Governor ROSSELLÓ. Here is one of the challenging parts about all of this, is how we decide that and how does that definition interfere with priority setting from a government, and what are more tactical processes that are going about.

Here's the way I see it. The way I see it is we have to take a good look into our government and see what processes are ineffective and which ones we need to eliminate. We've been doing that. We have to see which other services or processes can be externalized either to the private sector, not-for-profits or otherwise.

But, of course, there are certain larger-scale components that I think should be essential services, such as education, such as health care, and so forth. But also within that is the process for an administration to determine what its priorities are within a limited budget, and sometimes it's kind of the battle of not having accountability. If you ask somebody where there is a platform without accountability what's your priority or this A, B and C are priorities, they'll say yes to all of them.

But really, once you have a limited budget, you're really going to have to be very clear if you want to invest in certain areas. We've been very clear, for example, that we want to invest in this coming budget $400 million on education. It is important for us. We see Puerto Rico has opportunity to flourish as one, where we develop our human resource and given the opportunity to learn. And whether we have to cut back on other areas, that one should be one of the ones that are priority-based, and they should be flexible for the administrations to determine.

Mr. GALLEGO. Great, thank you. I yield back.

The CHAIRMAN. Ms. Radewagen.

Ms. RADEWAGEN. Thank you, Mr. Chairman. I'd like to yield back my time to Ms. González-Colón. And welcome, Governor. Good to see you.

Governor ROSSELLÓ. Thank you, Madam Congresswoman.

Ms. GONZÁLEZ-COLÓN. Thank you, Ms. Radewagen, for your time.

And, Governor, a few minutes earlier we were talking about labor reform, and I think one of the issues that was included in that petition from the Board was including a law requiring severance pay for employees fired without a cause.

Governor ROSSELLÓ. Yes, of course. Yes.

Ms. GONZÁLEZ-COLÓN. And the Board said that it was needed to stimulate investment to create many new jobs on the island. So, many of that revenue from the economic growth will be about a billion dollars per year, not just in 5 years, but in the first fiscal plan. The Senate passed that repeal requested, but for all new hires, not for the existing ones.

Firing current employees without a cause will contribute nothing to the Board's stated purpose of creating new jobs. That's one of the issues that was included in the law—in the labor reform.

Governor ROSSELLÓ. Right.

Ms. GONZÁLEZ-COLÓN. Can you please provide in the next days all the items that were included in the labor reform that were approved, and at the same time, all the measures and reforms that have been implemented since you've been sworn in as a governor in terms of reducing cost and making the reforms that the Board has asked for?

Governor ROSSELLÓ. Yes, of course.

Ms. GONZÁLEZ-COLÓN. My second question will be there is an issue about the PROMESA and the Financial Board, saying that the Board is part of the territorial government. This was done in PROMESA to try to actually insulate it from the government, from cost to Puerto Rican bankruptcy, especially in light of the 2017 Supreme Court decision concerning Guam bonds, recognizing that insolvency for a territory government created and ultimately controlled by the Federal Government will cost the Federal Government more money.

Having said that, the U.S. Court of Appeals for the First Circuit and the Congressional Budget Office have judged that the Board should be a Federal agency, and the U.S. Court of Claims has rejected this argument, saying it's not. The Board does not answer to the legislative assembly of Puerto Rico or to you, as governor, and people on the island even refer to the Board as a Federal entity.

Do you consider the Federal Board as territorial government?

Governor ROSSELLÓ. Well, I certainly see that there is a space where there is lack of accountability for this entity that we need to push forward. That is why I am recommending that for us, as stakeholders, U.S. Congressmen and Congresswomen, myself in the executive, we have to be held accountable and we have to showcase a lot of things in a novel manner that hadn't been done previously in Puerto Rico.

What we're asking is that the same bar of accountability be applied to the Oversight Board so that we can see what they're spending the Commonwealth of Puerto Rico's money on, and see how it is impacting one of the three items that they are designed to comply with, which are either allowing us to have fiscal sustainability, economic growth toward the future, or attending to the debt restructuring effort.

Ms. GONZÁLEZ-COLÓN. One of the issues—and I think this should be clear in terms of the PROMESA law—it's supposed to be about long-term debt restructuring and returning to sound fiscal management, as it states, and about economic stability. Too much has been focused on fiscal accounting instead of the proposals for economic growth that were part of the PROMESA Task Force report that I just mentioned, in 2016.

Without the economy growing, there's no fiscal measure that can be itself providing stability, and that should be the focus of what other issues can we manage here in Congress.

So, my question will be in terms of what specific measures do you recommend this Committee to be looking for and taking place in order to help to accomplish both the mission of the Board but, at the same time, the growth and stability of the island? And I know you have just 30 seconds, so whatever is left, you can send it in writing.

Governor ROSSELLÓ. OK, I'll be quick. For all Congress, NAP funding is critical—equality in that treatment; Medicaid parity and Medicaid sustainability as measures that we need to move forward; Earned Income Tax Credit so that we can potentiate a growth of the labor market; Child Tax Credit so that we can start reducing the enormous poverty rates in Puerto Rico; and, of course, working with our tax system so that it's one that works for everybody.

But the final one and the most important one is getting equality for Puerto Rico. If we continue as a colonial territory, we will always be treated unequally, there will always be a debate for one reason or another. Until we have equal treatment and the will of the people of Puerto Rico is followed, as has been executed twice in the past 7 years, then we will always be treated unequally.

Ms. GONZÁLEZ-COLÓN. Thank you, Governor, and I will want to file the rest of my statement for the record, and I want to introduce unanimous consent to include the statement for the record from the Senate president of Puerto Rico.

The CHAIRMAN. Without objection.

[The information follows:]

STATEMENT FOR THE RECORD

Hon. Thomas Rivera Schatz
President of the Senate of Puerto Rico

Chairman Grijalva, Ranking Member Bishop, Members of the Committee, thank you for the opportunity to share with you the Impact that the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) has had on the 3.1 million United States Citizens residing in Puerto Rico. We have been consistent in our opposition to PROMESA and the actions taken so far by the Financial Oversight and Management Board (FOMB). PROMESA and the FOMB have been instrumental in perpetuating Puerto Rico's undignified and unequal political status. Instead of helping Puerto Rico establish a path toward fiscal responsibility that would lead to access to the capital markets, the FOMB has exceeded its powers over the affairs of the Government of Puerto Rico with no tangible results. Furthermore, the FOMB has spent excessive amounts of funds in its operations, which could have been used to reduce the debt, improve our fiscal credibility and, in turn, facilitate access to the capital markets.

We should point out that PROMESA was enacted by Congress under the broad powers granted to it by the Territorial Clause. Art. IV § 3, Cl. 2 of the United States Constitution gives Congress the "Power to dispose of and make all needful Rules and Regulations respecting the Territory [. . .] belonging to the United States." *See:* U.S. Const. Art. IV § 3, Cl. 2; 48 U.S.C. § 2121(b)(2). Congress has no constitutional authority to impose oversight boards on the states of the Union, as they rely on "authority originally belonging to them before admission to the Union and preserved to them by the Tenth Amendment." *See: Puerto Rico v. Sanchez Valle*, 136 S.Ct. 1863, 1871, 195 L.Ed. 2d 179 (2016) (citing *Heath v. Alabama*, 474 U.S. 82, 88, 106 S.Ct. 433, 88 L.Ed. 2d 387 (1985)). Therefore, the only reason why PROMESA is feasible today is because Puerto Rico is an unincorporated territory of the United States and not a state of the Union.

However, in 2012 and 2017 the absolute majority of Puerto Ricans rejected the current Commonwealth status and voted in favor of statehood. Had Congress acted on the results of those plebiscites, Puerto Rico would today be in the process of completing the transition to become a full-fledged member of the Union. Had that happened PROMESA would not have been necessary. Becoming a state would have given Puerto Rico political and economic stability that no law could provide. Today, seven years after their first vote in support of statehood, Puerto Ricans would have had the right to vote for the President, have full representation in Congress, and access to resources in the same proportion as other states. There is no doubt that statehood would have strengthened Puerto Rico's economy in the same way it has done for all fifty states. A more stable and stronger economy would have attracted the investment necessary to generate the much-needed income for debt re-payment.

Instead, in 2016, Congress imposed on Puerto Rico an oversight board with such broad powers that it has effectively overridden the powers vested by the Puerto Rico's Constitution in its elected officials. PROMESA, as well as the oversight board it created, was imposed by Congress in detriment to the democratic principles that support a republican and democratic form of government. As recently stated by the United States Court of Appeals for the First Circuit:

> [. . .] PROMESA authorizes the Board to adopt Fiscal Plans and Budgets incentivizing the Legislative Assembly to enact the Board's recommended policies and accounting for the Legislative Assembly's responses to those recommended policies. See id. §§ 2141–2151. Indeed, it is difficult to see how, without such powers, the Board could be effective in achieving Congress's "purpose" of "provid[ing] a method for [Puerto Rico] to achieve fiscal responsibility and access to the capital markets." Id. § 2121(a) (stating Board's purpose).
>
> **[. . .] Under PROMESA's preemption provision, the grants of authority to the Board at §§ 201 and 202 to approve Fiscal Plans and Budgets "prevail over any general or specific provisions of territory law," including provisions of Puerto Rico's Constitution that are "inconsistent with [PROMESA]."** Id. § 2103; see also Maldonado-Burgos, 844 F.3d at 346. PROMESA does generally reserve "the power of [Puerto Rico] to control, by legislation or otherwise, the territory." 48 U.S.C. § 2163. But this reservation of power is expressly "[s]ubject to the limitations set forth in [Titles] I and II of [PROMESA]," where §§ 201 and 202 appear. Id. When the Board certified the 2019 Fiscal Plan and Budget, then, it exercised authority granted to it under PROMESA In re Fin. Oversight & Mgmt. Bd. for Puerto Rico, 916 F.3d 98 (1st Cir. 2019) (Emphasis)

Section 108 of PROMESA states that the elected Governor and Legislature cannot "exercise any control, supervision, oversight, or review over the [FOMB] or its activities." As a result , the FOMB acts without review, in terms of its expenditures. While the FOMB imposes cuts in pension obligations, salaries, and fringe benefits, and promulgates the elimination of governmental services and entities; it spends more than $64 million annually in its operation, including salaries for some of its officers, many of which exceed those of the Vice-President of the United States and the Speaker of the House of Representatives. In fact, the annual salary of the FOMB's Executive Director is $625,000.00, in contrast with the $400,000.00 annual salary of the President of the United States. Moreover, while the Government of Puerto Rico is under a stay of debt payment to bondholders and other creditors, the process to restructure the debt under Title III of PROMESA is costing over $256 million a year in legal fees.

Three years after the enactment of PROMESA and the appointment of the seven members of FOMB, Puerto Rico continues in bankruptcy, buried under billions of dollars in debt and in an enduring state of fiscal and economic uncertainty. In fact, not a single initiative has been developed by the FOMB to strengthen Puerto Rico's economic development, to allow the Government access to capital markets, or to afford much needed resources for the United States citizens residing in Puerto Rico. Three years after the enactment of PROMESA, the benefits it has brought to the island do not justify the extraordinary curtailment of the self-governing rights encompassed in Puerto Rico's Constitution.

According to the FOMB's own admissions, during the process to approve a Fiscal Plan and Budget for Fiscal Year 2018–2019, one of its initiatives was to "improve" Puerto Rico's economic development through the repeal of local Act No. 80; a statute that provides protections for over 800,000 employees and employers *in the private sector*. On April 26, 2018, the FOMB sent a proposed bill to the Puerto Rico Legislature that, if approved, would have repealed Act No. 80. Nonetheless, the FOMB was never able to prove to the majority of the members of the Senate of Puerto Rico how Act No. 80 was having a negative impact on the economy, nor was it able to show how repealing it would result in any economic benefit. The Senate of Puerto Rico reached a compromise, and instead of fully repealing Act No. 80, approved a prospective repeal that only affected newly appointed employees while preserving the rights of existing employees. Following the Senate rejection of the FOMB proposal to repeal Act No. 80, the FOMB approved a new Fiscal Plan in which it rejected the budget already approved by the Legislature as non-compliant. The budget approved by the Legislature, and signed by the Governor, was a balanced budget that complied with the Fiscal Plan that was in place during the budget discussions. In reprisal for the Senate's voting against the Act No. 80 repeal, the FOMB threw away the budget drafted by the Legislature and substituted it with its own budget. The FOMB budget reduced the operating funds of the Legislature in over $19 million dollars, among other budget cuts.

PROMESA doesn't need to be amended—it needs to be repealed. In its place, a new law to implement the mandate admitting Puerto Rico as a state of the Union should be enacted, with all the benefits and responsibilities granted to citizens of the other fifty states of the Union. Such a law should provide a transition period during which Puerto Rico could transform from a debt-ridden territory to a self-sustaining state of the Union. This will help sustain a true sovereign and democratic government for the people of Puerto Rico.

The time has come for the United States Congress to grant equal treatment to the people of Puerto Rico through statehood and end the condition of indignity, inequality, and abuse to which its 3.1 million citizens are subjected to under an outdated colonial regime. This is the only viable path to achieve political stability and economic development that would allow Puerto Rico to recover from the financial crisis that the status has led it into.

Cordially,

THOMAS RIVERA SCHATZ

The CHAIRMAN. Mr. Sablan.

Mr. SABLAN. Thank you, Mr. Chairman, for holding today's hearing. Governor, welcome.

Governor ROSSELLÓ. Thank you, sir.

Mr. SABLAN. And just a little heads-up because you mentioned Medicaid. We're in the same situation as you are, all the insular areas, and with the concurrence of the Committee's Chair, Mr. Grijalva, we are looking at planning a sort of a hearing. Although the issue is also the jurisdiction of another committee, we need to continue to highlight and bring attention to the impending Medicaid leave that all of us are facing.

Governor ROSSELLÓ. Yes.

Mr. SABLAN. And I, just as you, would like to see a Medicaid program that's no different from any of the other states and the District of Columbia. And if that materializes, we'll send an invitation to probably one of your staff.

But, Governor, yesterday Puerto Ricans, including teachers, gathered to protest the austerity measures being imposed on them as a result of the fiscal plans, and the Oversight Board is responsible for approving and certifying the fiscal plans and budgets for Puerto Rico. However, these plans are developed and submitted by your administration also.

We all realize that sacrifices—sometimes painful—have to be made. The Marianas Commonwealth Government is also going through a difficult place. And your administration sets budget priorities for the island.

So, do you think austerity measures are being evenly spread around and not disproportionately hurting certain groups of Puerto Ricans? And how will you ensure essential services are received by those most in need?

Governor ROSSELLÓ. Well, I'll give you one example that's clear. It is the pensions, right? The pension recipients in Puerto Rico have already suffered cuts, and there is an insistence from the Oversight Board to cut pensions even further. Now, let me—you know, we're talking about 10-some percent on the pensions cut. We have assumed that as a PayGo responsibility.

What we are saying is let us define what those priorities are, and one of the priorities would be paying those pensions. And look, I recognize, again, that there are many issues. Here's what I want to provide the people of Puerto Rico with. I want to provide them with a new budget that's policy-based so that people can see where we're investing. When you have that sort of visibility, people know what your priorities are. If you increase on education but you decrease on marketing or operational costs of a certain kind in government, people can see what your priorities are.

So, that is what we are proposing. I know that there will be differences, but if we have a limited budget, at least let us have a discussion on the policy basis of it. At least let us say the priority for us is making sure that one of the most vulnerable populations, which are the pension recipients, don't get another cut. This is important and it shouldn't be an ideological argument. It should be the decision of the elected Government of Puerto Rico, and my commitment is to fight for that.

And these stem again from what are these problems that we're having with the Oversight Board. They want to interject into some of these decisions that are, in my view, more ideologically inclined than from a pragmatic basis. Listen, if we have to shrink down government more in order to pay for the pensions, you know what? I'll make that call. I'll make that call. But you need to allow me, as a decision maker, to do it. You can't be putting obstacles all the way through, and if we can get there, then I will be accountable for whatever cuts we make, but I will also be able to protect those sectors that are important for our policy to thrive.

Mr. SABLAN. Fair enough. Thank you very much, Governor. I yield back.

The CHAIRMAN. Governor, thank you very much.

Governor ROSSELLÓ. Thank you, Mr. Chairman.

The CHAIRMAN. We thank you for your time, and other questions, as they arise, will be forwarded to you so that the Committee can have those responses. I have some. All the Members have here some. But in the interest of both your time and the Members' time and the next series of witnesses, thank you so much for your time and your responses to their questions.

Thank you a lot.

Governor ROSSELLÓ. Thank you, Mr. Chairman.

Thank you, Committee.

The CHAIRMAN. Let me invite the next set of witnesses, please.

Thank you very much for your patience, but the interruption for the votes was unavoidable, and I very much appreciate your patience. Let me begin with Ms. Jaresko, the Executive Director of the Financial Oversight and Management Board of Puerto Rico. Good to see you again, and the floor is yours for your initial statement, and then we will follow up with each one with questions as we go along.

Thank you.

STATEMENT OF NATALIE A. JARESKO, EXECUTIVE DIRECTOR, FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO

Ms. JARESKO. Thank you, Chairman and members of the Committee. I am Natalie Jaresko, the Executive Director of the Oversight Board. And thank you for this opportunity to update the Committee on the work of the Board on behalf of the people of Puerto Rico. I've submitted written testimony for the record and I look forward to your questions.

When the Board began its work, Puerto Rico faced an unsustainable burden of more than $70 billion in debt and $60 billion in unfunded pension liabilities, exacerbated by decades of little economic growth and significant out-migration. Congress and PROMESA provided a way forward for Puerto Rico.

The Board began exercising its authority to change the fiscal culture of the government, and as we were underway, Hurricanes Irma and Maria inflicted the most horrific devastation to strike the United States in 100 years, and the people of Puerto Rico deserve better. The efficiency and quality of government services on the island remain a challenge. Residents do not receive the same speed of police and emergency response as their U.S. mainland counterparts, and the Government has struggled to provide the level of education necessary for its residents to achieve job security on the island.

As the Governor just said, fiscal policy is about choices. Years of spending have not created a safe and prosperous Puerto Rico with opportunities for residents on the island. The Oversight Board's mission is to help lay that foundation for the prosperity through debt restructuring, fiscal discipline, and structural reforms.

One of the most important components of our work is the certified fiscal plan and the series of structural reforms that enhance Puerto Rico's ability to create quality jobs, to improve educational outcomes, to enhance the business climate and transform the energy sector.

Unfortunately, 3 years later, there are many areas where the Government has not yet implemented many of the planned reforms. The fiscal plans are not a menu from which options can be selected, rejected, or ignored. It is a rigorous, multi-year, ambitious transformation plan that must be proactively managed and implemented over time.

To ensure fiscal responsibility, we have moved to a pay-as-you-go pension system that allows retirees to receive their pensions without interruption. The Board has prioritized critical spending, allocating funds to pay 10 years of back pay that was owed to the police in Puerto Rico, funding safe kits for the Forensic Science Bureau, ensuring funding for pay increases for teachers and police, and spending up to $200 million annually, as the Governor described, for a locally funded Earned Income Tax Credit.

The Board has led efforts to improve transparency and visibility into Puerto Rico's financing, notwithstanding the lack of timely audited financial statements. And within the certified fiscal plan for PREPA, the Board required and supported the transformation of PREPA.

The Board secured a completion of the restructuring of approximately 30 percent of Puerto Rico's total debt. At the Government Development Bank, legacy creditors took a 45 percent reduction in the face amount of the claim. At COFINA, with COFINA's $18 billion of debt, we reduced the par amounts by $6 billion and we reduced total debt service by 32 percent, saving for the Commonwealth approximately $17.5 billion.

On an annual basis, that settlement meant that we could reduce the maximum annual debt service for COFINA from $1.85 billion to just under $1 billion, and allow the Government to spend that difference on its own general expenses.

And finally, we've reached an agreement in principle with a variety of PREPA bondholders to reduce PREPA's debt by over 30 percent.

Yes, the University of Puerto Rico is the island's crown jewel, and in many ways the future of Puerto Rico depends on a vibrant and sustainable UPR. No student will be priced out of a university education at UPR. The targeted measures to increase revenues and reduce expenditures will allow UPR to operate sustainably and ensure that UPR remains at the center of Puerto Rico's successful economic development.

In many areas, the Government and the Oversight Board are aligned in the transformation that is needed. The PREPA transformation is an example. In other areas, however, we have found it more complicated to work together. The legislature, for example, refusing to approve a package of labor reforms which would have made it easier for people to find jobs in the private sector.

It is unrealistic to believe that the elected government and the Oversight Board would be 100 percent aligned in every aspect. We do, however, make every effort to consult, to advise, and to work toward full implementation together. It is important to note that the Board supports the important efforts of the Members of this U.S. Congress advocating for fairness for Puerto Rico in the distribution of Federal funding and programs.

When PROMESA was passed, there were different expectations from all sides as to the role of the Oversight Board, and the reality is that this has been a balancing act with a balanced board thanks to the law's bi-partisan appointment system.

I understand that many in Congress expect the island's economy to be turned around immediately, but 40 years of fiscal mismanagement cannot be fixed in 3 years. While the Board has the power to certify the budget and restructure the debt, much of Puerto Rico's economic future and sustainability is in the hands of the elected government. Puerto Rico's future depends on a strong commitment to implement structural reforms that change the island's underlying economic model.

What I have the greatest faith in is the people of Puerto Rico. Their level of loyalty and their love for this island is remarkable. Thus, I remain confident and optimistic that Puerto Rico's problems can and will be solved.

Thank you.

[The prepared statement of Ms. Jaresko follows:]

PREPARED STATEMENT OF NATALIE JARESKO, EXECUTIVE DIRECTOR, FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO

Chairman Grijalva, Ranking Member Bishop, and members of the Committee, I am Natalie Jaresko, Executive Director of the Puerto Rico Financial Oversight and Management Board (the "Board" or "Oversight Board"). Thank you for this opportunity to update the Committee on the work the Board has done for the benefit of the people of Puerto Rico and its substantial progress toward achieving the Board's mandate under PROMESA. We have been working diligently to put in place the critical fiscal building blocks for Puerto Rico's economic success: ensuring the Government's fiscal responsibility, securing a fair and sustainable exit from bankruptcy, and restoring access to the capital markets.

Introduction

When the Board began its work, Puerto Rico faced an unsustainable burden of more than $70 billion in debt and $60 billion in unfunded pension liabilities, exacerbated by a decade of economic decline and significant outmigration. To put it in context, when Congress mandated the establishment of the Oversight Board, Puerto Rico's largest pension system was about 1 percent funded, whereas states like New Jersey and Illinois, two of the states with the lowest funded ratios, are in the 30 percent range. By then, the sitting Governor had already declared the debt was unsustainable and could not be paid, and more than 300,000 people, 10 percent of the population, had already left the Island. Despite that reality, Government spending remained bloated, government services were inefficient, liquidity shortfalls impaired strategic decision making, and no multi-year, coordinated strategy existed to restore growth and opportunity to the U.S. citizens living and working on the Island. Congress and PROMESA provided a way forward for Puerto Rico.

Mindful of the severe challenges faced by many of the Island's residents, the Oversight Board began exercising its authority under PROMESA to change the fiscal culture of the Government of Puerto Rico, instituting long-term fiscal planning and balanced budgeting. As those efforts were underway, Hurricanes Irma and María inflicted the most horrific natural disaster devastation to strike the United States in 100 years. The tragic, unimaginable damage to the Island and its people compounded this financial distress.

My testimony before this Committee on November 7, 2017, detailed the extensive joint post-hurricane efforts of the Board and the Government, including the singular importance of restoring electricity and transforming the power sector to be more reliable, resilient, and cost effective.

Today, the Board is responsible for administering the largest public entity restructuring in U.S. history and is party to hundreds of lawsuits, many in opposition to the Board-formulated debt restructuring, others by parties opposed to PROMESA, and inevitably actions by the Board implementing PROMESA. Moreover, the Board is monitoring more than 120 reform implementation plans across the Government, which requires a significant amount of resources and expertise. These plans translate into thousands of individual reform milestones that need to be monitored and tracked. Since the inception of the Board, we have held hundreds of working meetings with the Government and Legislature, organized many diligence sessions with creditors, and held numerous public hearings on issues of keen interest to stakeholders.

The Oversight Board has also improved financial transparency of the Commonwealth so that residents have full access to the way their taxpayer dollars are spent, as well as accountability from their Government. This includes public records, available online, of budgeted versus actual spending, cash and bank balances, submission of reform implementation plans for all agencies, and mandated oversight over all outside contracting and new debt issuance. All of the Board-approved budgets of the Commonwealth and its instrumentalities are also accessible online, as are the financial records of the Board itself. Board meetings are open to the public, webcast, and posted to the Board's website. Many of these documents are available in English and Spanish to ensure as many people as possible have access to complete information regarding the Board's efforts.

The Board is also committed to responsible stewardship and transparency in its operations but there is always room for improvement. Representatives Velázquez and Bishop have filed a bill to strengthen the legislated disclosure requirements of third parties hired by the Board, and the Board supports steps toward greater transparency.

I will now walk you through the Oversight Board's main accomplishments in the areas of fiscal plan implementation, fiscal responsibility and debt restructuring.

Fiscal Plan Implementation

As you know, the Board's authorities under PROMESA center around the development and certification of multi-year fiscal plans. These fiscal plans must balance competing priorities enumerated in the law. Prior to and since the hurricanes, the Board certified fiscal plans successfully balancing those interests and delineating a path forward for the Island.

To date, the Oversight Board has successfully certified more than a dozen transformative fiscal plans with multi-year forecasts for the Commonwealth and several of its instrumentalities. These fiscal plans are specifically designed to guide long-term planning and promote the Island's transformation and fiscal recovery. They are based on collaborative efforts with the Government and extensive stakeholder input, including listening sessions with major sectors of Puerto Rico's economy.

One of the most important components of the certified fiscal plans are the series of structural reforms that enhance Puerto Rico's ability to compete and create quality jobs, including reforms to increase Puerto Rico's labor force participation rate of 40 percent. They also seek to improve educational outcomes, enhance the business climate, and transform the energy sector. In addition, the fiscal plans must transform the Government to reflect changed demographics and the fact that Puerto Rico is in financial distress. Embracing the reforms in the fiscal plan will undoubtedly lead Puerto Rico out of its financial and economic crisis.

The fiscal plans include overdue right-sizing by the Government while improving the delivery of services to residents. The Government's proposal and implementation of around 250 school closures is a direct response to these changing demographics and the desire to provide a better education to all students by focusing limited resources in the remaining schools. Spending over the past several decades without limits has not produced better healthcare or educational outcomes or a safer Island for its people. Thus, the focus of the right-sizing in the fiscal plans is on improving these outcomes, while reducing spending.

The efficiency and quality of government services on the Island remain a challenge:

- Residents of Puerto Rico do not receive the same speed of police and emergency response as their U.S. mainland counterparts;
- The Government has not properly maintained transportation and infrastructure on the island, resulting in extreme congestion and a higher vehicle death rate;
- The Government lags behind the mainland when it comes to simplifying the process of starting and running a business;
- The Government has struggled to provide the level of education necessary for its residents to compete with peers on the mainland and achieve job security on the Island; and
- Puerto Rico struggles to provide high quality government services despite having higher spending and personnel in many parts of the government.

Unfortunately, 3 years later, the Government has not yet implemented many of the fiscal plan's most critical reforms. As an example, just this week, the Governor announced he no longer intends to enact the healthcare reforms he proposed in the fiscal plan. This is, however, just the latest example of the Government's failure to act. The fiscal plans are not a selective menu from which options can be selected, rejected, or ignored. It is a rigorous, multi-year, ambitious transformation plan that must be proactively managed and enacted over time.

Accomplishments to Date: Fiscal Responsibility

The Oversight Board has successfully implemented fiscal discipline and controls over the past 3 years. These are some of the main accomplishments to date:

Moved to a Pay as you Go pension system: This allowed retirees to receive their pensions without interruption, despite the fact that Puerto Rico's pension funds did not have enough assets to sustain paying pensions for more than a few more months. Now the Board ensured over $2 billion per year is budgeted out of the Government's general operating fund to meet current pension payments, while pressing for the establishment of independently managed and transparent Defined Contribution plans. In handling the claims of the retirees in the Title III process, the Board developed a pension policy that ensures adequate funding for pensions and guarantees that those with the lowest pensions are protected from any cut, while ensuring a 10 percent savings of total pension costs. Teachers and police officers will also be enrolled in Social Security to increase their security and retirement benefits.

Created more transparency and visibility into Puerto Rico's complex financial situation: The Oversight Board's efforts led to improved transparency and visibility into Puerto Rico's liquidity, budgets, special revenue funds, public corporations, and other sources of intergovernmental spending, notwithstanding the Government's continued delays in completing its overdue audited financial statements. The Board also reviews major contracts before they can be ratified to foster accountability and discourage unnecessary and/or unavailable spending.

Prioritized critical spending: The Board-certified budgets carefully balance the need to maintain funding for critical services commensurate with the size of the population and prioritize critical services such as education, public safety, and health care. Specific reinvestments in the current budget include:

- Allocated funds over a 3-year period to pay 10 years' worth of debts owed to police officers for back pay;
- Enabled reapportionments to ensure badly needed funding to improve the operations of the Island's Forensic Science Bureau, including funds for safe kits, many decades old, to insure proper forensic analysis and long-awaited justice for both the victims and the accused;
- Allocated appropriations for expenses important to the people of Puerto Rico not previously funded, such as pay increases for teachers and police, which begins the process of restoring competitive compensation packages with the mainland;
- Approved new spending of more than $200 million for an Earned Income Tax Credit to support labor participation on the Island;
- Ensured the creation of a reserve account to ensure liquidity on an ongoing basis in case of an emergency in the future;
- Ensured funds are budgeted to cover any cost-share for Federal disaster funding, such that the Island would be able to access the FEMA public assistance funds; and
- Budgeted $400 million a year in capital expenditures at the Commonwealth level to improve systems and assure appropriate maintenance of infrastructure, necessary to avoid the significantly underinvested situation in which Puerto Rico found itself at the time of the hurricanes.

Implemented much tighter budgetary controls: The Board imposed significant constraints on governmental spending. Reapportionments within the budget must now be approved by the Board. Multi-year appropriations from previous fiscal years are suspended in light of the absence of audited financial statements and uncertainty of past practices, and, with only a few exceptions, no new multi-year appropriations are permitted. The Board also initiated the first comprehensive review and certification of Puerto Rico's overall total spending; historically, this detailed reviewed was only conducted on General Fund spending, which represents less than 40 percent of total spending.

Imposed fiscal discipline: The Board is employing strict discipline to oversee government fiscal reform efforts. All tax initiatives must now be at least budget neutral and projected in a fiscally conservative manner to not overestimate revenues during a very uncertain time. Revenues from new initiatives cannot be counted until realized, and expense reductions must be documented, justified, and proven before being certified.

Required the transformation of the Island's power sector: Within the Puerto Rico Electric Power Authority (PREPA) Certified Fiscal Plan and budget, the Board required and supported the transformation of PREPA to ensure reliable energy for the residents, more effective and efficient management, as well as lower fuel costs. The Government has aligned with the Board in concluding that private generation and private management of the transmission and distribution system are key to these improvements. The goal is to achieve affordable, resilient, and reliable power that is environmentally compliant and that serves as a driver of economic growth, fully leveraging private market enterprise, and investment; and establishing an independent, well-funded energy regulator.

Supported clean and safe water for the residents of Puerto Rico: Within the Puerto Rico Aqueduct and Sewer Authority (PRASA) Certified Fiscal Plan and budget, the Board supported funds for the Puerto Rico Clean Water and Drinking Water State Revolving Fund for personnel and capital expenditures that will enable critical work on the water system. The fiscal plan for the water utility requires a $2 billion capital program of local and Federal funds over the next 6 years with roughly $1 billion focused on investment in projects to improve water quality and reliability through upgraded filtration plants, new transmission and distribution pipelines, upgraded wastewater treatment plants, and more sanitary truck sewers and collection systems.

Accomplishments to Date: Debt Restructuring

On the debt side, the Oversight Board began restructuring Puerto Rico's crushing debt burden. The Board completed the restructuring of approximately 30 percent of Puerto Rico's debt, primarily based on consensual deals using both Title III (for COFINA) and Title VI (for GDB). The main accomplishments to date are:

Stay on debt service: The automatic stay imposed upon enactment of PROMESA together with the stays provided by the Board's various Title III filings, provided Puerto Rico much-needed breathing room to allow it to work toward a plan to get its fiscal house in order. Without the actions of the Oversight Board, Puerto Rico would have been required to impose draconian cuts to essential services in order to pay the otherwise due debt service.

Approved the first PROMESA Title VI consensual agreement: The Board approved a restructuring to resolve the Government Development Bank's (GDB) over $4 billion in legacy bond debt and approximately $8 billion in liabilities. GDB's legacy creditors agreed to a 45 percent reduction in the face amount of their claim, and municipalities were allowed to offset their GDB loans by the full amount of their deposits.

Confirmed the first PROMESA Title III plan of adjustment, saving billions of dollars for the residents of Puerto Rico: The Board restructured COFINA's $18 billion debt. The plan of adjustment, approved by the Title III court in February 2019, reduces the par amount of COFINA bonds by $6 billion. The agreement reduced total debt service by 32 percent, saving approximately $17.5 billion over 40 years. On an annual basis, the settlement will reduce the maximum annual debt service from $1.85 billion to $992 million and allow the Government to spend the difference on general expenses.

Reached an agreement with groups of PREPA bondholders to reduce the burden on customers: The Board negotiated a preliminary agreement with PREPA Ad Hoc creditors and a bond insurer, which reduces PREPA's debt by over 30 percent and protects consumers from uncapped debt-related charges. This agreement is an essential step toward executing the previously described transformation and modernization of Puerto Rico's energy system. Relative to the prior Restructuring Support Agreement that the Board rejected in 2017, the current agreement would save PREPA and the Puerto Rican residents who depend on its electricity supply about $3 billion in debt service payments over the next 10 years alone. The agreement includes a fixed transition charge as a measure for protecting PREPA's customers from potentially larger rate increases in the future based on a lower demand forecast.

Undertook an independent investigation of the debt and is analyzing potential claims: The Board conducted an independent investigation of Puerto Rico's debt, which led the Oversight Board's Special Claims Committee to file an objection in court contesting the validity of more than $6 billion in General Obligation bonds. The Oversight Board, through its Special Claims Committee, does plan to commence adversary proceedings covering claims against dozens of parties, including underwriters, law firms, tax counsel, swap counterparties, and remarketing agents.

Ensured protection for other entities with unsustainable debts: The Board provided Title III protection for the Highways and Transportation Authority (HTA), and the Employees Retirement System (ERS).

Sought forbearance agreements for certain public entities: The Board supported forbearance agreements with regard to outstanding debt of the University of Puerto Rico and the PRASA, in order to allow more opportunity to negotiate sustainable debt restructurings within Title VI.

Continue to engage in good-faith negotiations with all parties: The Board continues to negotiate with other creditors to reach a plan of adjustment for the Commonwealth debt. The Board hopes to be able to reach a court approved deal by the end of this calendar year.

Fiscal Plan for the University of Puerto Rico

The University of Puerto Rico (UPR) is an excellent university; Puerto Rico's crown jewel. It is key to a safe and peaceful society. In many ways, the future of Puerto Rico depends on a vibrant and sustainable UPR. Targeted measures to increase revenues and reduce expenditures will allow UPR to operate sustainably and ensure this jewel remains at the center of Puerto Rico's successful economic development.

The reforms are focused on maintaining the ability of all students to access and benefit from an improved university system. The Government has been subsidizing UPR at a rate far exceeding mainland U.S. states—roughly 70 percent instead of 20–30 percent—and at a time when it can no longer afford these subsidies in light of its own financial pressures.

The UPR Certified Fiscal Plan focused on creating savings by consolidating back-office functions across UPR's 11 campuses and improving procurement processes. Eleven campuses do not require 11 duplicative administrations. No cuts to faculty or student services are, or have ever been, planned, or are they necessary, if certain administrative savings and a new focus on improving revenues are implemented.

Revenues are depressed and insufficient at UPR due to extremely low tuition levels for all regardless of ability to pay, few "out of state" students, little success in attracting Federal grants, and no active development of its superb alumni. The fiscal plan does require increased tuition, but has ensured several safeguards to protect the most vulnerable. The maximum annual tuition ($5,090 in FY 23) will remain below current Federal Pell Grant award levels ($6,095), meaning all Pell Grant eligible students will be able to cover both tuition and some living expenses. The fiscal plan not only protects, but expands to $44 million this year, UPR's needs-based scholarship programs such that everyone should be able to attend regardless of income level.

Relationship with the Elected Government of Puerto Rico

Governor Ricardo Rosselló did not create the fiscal and economic crisis. We trust that he and his team are working in the best interest of the people of Puerto Rico to turn the Island around. With one of the largest natural disasters and the largest insolvency proceeding in the United States, we recognize it is not easy. In many areas, the Government and the Oversight Board are aligned in the transformation that is needed—the PREPA transformation, the move to Defined Contribution pensions, and the implementation of a local EITC, are just a few examples.

In other areas, however, we have found it more complicated to work together. The Legislature, for example, refused to approve a package of labor reforms that would have made it easier for people to find jobs and reduce the administrative burden of formal employment in the market. Converting Puerto Rico into an employment-at-will jurisdiction—like 49 of the 50 states—was a battle we lost. We removed this structural reform from the Certified Fiscal Plan in light of the Legislature's refusal, and the corresponding economic growth we projected. As a result, without further incremental structural reforms, the Island's economy will return to an anemic pace of growth, a level unable to sustain the long-term budgetary needs of the people of Puerto Rico.

The creation of a budget inherently includes difficult decisions. Spending a dollar on police salaries instead of professional services contracts or particular industry tax credits is a critical decision. I think that we can all agree that the people of Puerto Rico want their public funds to be better allocated to the services that are most critical to their lives on the Island.

It is unrealistic to believe that the elected Government and the Oversight Board would be 100 percent aligned in every aspect. Some tension between the elected Government and the Oversight Board must be expected in a situation like this. We do, however, make every effort to consult, to advise, to offer perspective throughout the process, and work toward full implementation together.

First Circuit Decision on the Unconstitutionality of the Board

On February 15, the First Circuit concluded that the Appointments Clause applies to laws enacted under the Territories Clause, that the members of the Oversight Board are Federal officials not territorial officials, and that the members of the Oversight Board are principal officers. It is our belief that the members of the Oversight Board are territorial officers, not Federal officers, and that the Appointments Clause does not apply to laws enacted pursuant to Congress' power under the Territories Clause.

The implications of the First Circuit decision are immense. With respect to the Oversight Board, if a stay is not granted by May 16, then the Oversight Board would cease to function and the Title III cases could be dismissed, leading to chaos in the courts and on the Island.

Late in April, the Oversight Board filed a petition with the U.S. Supreme Court to review the decision by the U.S. Court of Appeals for the First Circuit that declared the appointment of the Members of the Oversight Board unconstitutional and requested that the First Circuit extend the stay of its February 15 ruling pending the Supreme Court's final disposition of the case.

On April 29, 2019, President Donald J. Trump announced his intent to nominate the current Board Members to undergo U.S. Senate confirmation to serve out the remainder of their terms. We encourage the U.S. Senate to review the nominations as quickly as possible.

Potential Federal Actions to Continue Supporting Puerto Rico

The Board supports the important efforts of Chairman Grijalva, Ranking Member Bishop, Puerto Rico Resident Commissioner González-Colón, Representative Velázquez, Representative Soto, and many members of this Committee and throughout Congress advocating for fairness for Puerto Rico in the distribution of Federal funding and other Federal programs essential to the prosperity of Puerto Rico and the well-being of its people.

Critically, the Oversight Board supports the Government's request to receive equitable treatment in Medicaid and Medicare. Without a permanent solution to the Medicaid cliff, Puerto Rico would need to spend around 25 percent of its General Fund, and more over time, to fund health care for the people of Puerto Rico. In addition, in the key area of health care, the Board supports fair treatment in Medicare programs, where residents of Puerto Rico pay the same level of Medicare taxes as mainland residents, but the Island receives substantially lower payments in Medicare programs. These are critical policies that will affect the entire Island's health care and economic development.

Finally, PROMESA required the establishment of a Congressional Task Force to provide recommendations to help Puerto Rico's economic and fiscal turnaround. While the Federal Government has supported Puerto Rico in light of the hurricanes, many of the recommendations outlined in the Task Force report have yet to be addressed.

Conclusion

PROMESA is a set of compromises. When PROMESA was passed, there were different expectations from all sides as to the role of the Oversight Board. The reality is that this has been a balancing act, with a balanced Board thanks to the law's bipartisan appointment system.

Some creditors expected to be repaid in full, while others expected the debt to be wiped out. The reality is that Puerto Rico's debt is unsustainable and cannot be repaid in full. But the reality also is that Puerto Rico's restructuring, as decided by Congress, is being done under an orderly bankruptcy process, which requires equitable treatment of creditors.

I understand that many in Congress expected Puerto Rico's mismanagement to be fixed and the Island to be turned around immediately, but 40 years of fiscal mismanagement cannot be fixed in 3 years. In Washington DC, New York City, and Detroit, it took years before the jurisdictions began to see progress.

The Oversight Board continues to implement its mandate to bring Puerto Rico back to fiscal responsibility, ensure adequate funding for pensions, and restore access to the capital markets. The law is clear as to the work that we need to do—and for how long.

While the Board has the power to certify the budget and restructure the debt, much of Puerto Rico's economic future and sustainability is in the hands of the elected Government. Puerto Rico's future depends on a strong commitment to implement structural reforms that change the Island's underlying economic model. Restructuring and reform go hand in hand. The Government needs to use the economic boost and cushion of time provided by the stay, by the completed debt restructuring, and by Federal disaster funds to make fundamental changes now, in order to sustain economic growth, attract investments, create jobs, and avoid repeating the mistakes of the past.

Difficulties aside, I am optimistic and confident that we can all work together to ensure Puerto Rico's economic future is brighter than ever and that Congress finds confidence that Puerto Rico's problems can and will be solved.

SUPPLEMENTAL TESTIMONY FROM MS. JARESKO

FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,
SAN JUAN, PR

May 17, 2019

BY ELECTRONIC MAIL

Hon. RAUL M. GRIJALVA, *Chairman*,
House Committee on Natural Resources,
1324 Longworth House Office Building,
Washington, DC 20515.

Dear Mr. Chairman:

I am writing to supplement my oral testimony before the Committee on May 2, 2019, as to the following question asked of me by Rep. Velázquez and my reply. Thank you for the opportunity to do so.

> REPRESENTATIVE VELÁZQUEZ: Do you have any individuals or firms that were involved in the issuance of unconstitutional debt working for the Board as employees or consultants?
>
> NATALIE JARESKO: No, we do not.

I would like to clarify that Citi is currently providing financial advisory services to the Board and the O'Neill & Borges law firm in Puerto Rico is providing legal services to the Board. Both firms were involved in the issuance of some of the General Obligation bonds that have been contested by the Special Claims Committee of the Board.

Sincerely,

NATALIE A. JARESKO,
Executive Director.

QUESTIONS SUBMITTED FOR THE RECORD TO NATALIE JARESKO, EXECUTIVE DIRECTOR, FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO

Questions Submitted by Chairman Grijalva

Question 1. Section 2141(b)(1)(B) of PROMESA requires that Fiscal Plans approved by the FOMB "ensure the funding of essential public services." In your testimony, you mentioned that the FOMB has not defined the term. That is particularly worrisome, given that the FOMB has certified fiscal without defining any sort of funding baseline necessary to ensure essential public services.

Answer. Please see the answer to #2.

Question 2. What is the FOMB's definition of the essential public services that any government should guarantee to provide for the care and well-being of its citizens? Why is the FOMB promoting the approval of debt adjustment plans without defining those essential public services? How do the fiscal plans certified by the FOMB reflect a commitment to guaranteeing human rights and basic needs of residents of Puerto Rico? Also, do you oppose PROMESA being amended to include a more specific definition of "essential public services"?

Answer. The FOMB is deeply committed to ensuring the funding of essential public services as PROMESA requires. The FOMB has determined that every fiscal plan that it has certified has satisfied all of the requirements of a fiscal plan as provided in Section 201(b)(1) of PROMESA, including that the fiscal plan ensures the funding of essential public services. At a minimum, essential public services include public health, education, and safety. For example, the fiscal plan for the Commonwealth that the FOMB certified last week provides salary increases for police, teachers, and firefighters, increased funding for Medicaid and hospitals, and scholarship funds for UPR students. The FOMB does not support any amendments to PROMESA, including any modification to the provisions in Section 201(b)(1). See page Appendix [A] for a complete list of investments.

Question 3. Upon the departure of Mr. Noel Zamot, you assumed the role of Revitalization Coordinator for the Financial Oversight and Management Board (FOMB). What critical infrastructure projects is the FOMB considering?

Answer. There are two projects in the pipeline at the moment, but neither comply with Title V's requirements. Generally speaking most projects are disaster related and are being channeled through the Government rather than the Revitalization Coordinator.

Question 4. Please provide a list of the FOMB's registered lobbying firms. Include the total authorized annual cost, the duration of the contract, and what each firm is lobbying for or against.

Answer.

Firm 1: Holland & Knight

Fee: $40,000 per month
Estimated spend for FY19: $240,000
Scope: See Appendix [B] for the contract with the firm

Firm 2: Offhill Strategies

Fee: $35,000 per month
Estimated spend for FY19: $420,000
Scope: See Appendix [C] for the contract with the firm

Our spending on registered lobbying firms (one was replaced mid-year) has not changed as a result of the *Aurelius* opinion from the First Circuit or the Board-member nomination process, nor have the scopes of work changed for the firms engaged.

We would like to clarify that the claim brought by the Government that FOMB spends more than the Government itself in lobbying is false and misleading. The Government has several of government relations contracts across different agencies.

Question 5. In your testimony, you mentioned that proposed budget cuts to the University of Puerto Rico would only result in a consolidation of "back-office functions." In addition, you mentioned that if certain administrative savings and a new focus on improving revenues are implemented, then no cuts to faculty or student services are necessary.

Answer. The Government and FOMB jointly determined in 2017 to reduce the appropriation for UPR. The plan was to determine reasonable, sustainable measures to bring UPR closer to U.S. mainland public university tuition and administrative cost benchmarks without compromising the quality of the instruction or experience. Our recommendations of cost efficiencies at UPR include consolidation of administrative services or back offices among the 11 campuses on the Island. For example, rather than maintain 11 accounting, budget, finance, human resources, and procurement offices, it would be more efficient to provide these administrative services via four campuses on the Island.

UPR's Fiscal Plan makes every effort to minimize the increase of tuition and fees that could jeopardize affordability and access to quality higher education on the Island. Some examples of additional revenue measures discussed are Federal grants and awards, IP and patent monetization, ancillary service fees for providing training to external institutions including government services, as well as encouraging raising funds from alumni and "out-of-state" student tuition.

The UPR and Commonwealth Fiscal Plans provide that no student would be denied a UPR education because the following funds are made available for means-tested scholarships:

- FY 2019: $9 million in UPR Fiscal Plan and budget, in addition to $35 million in the Commonwealth Fiscal Plan and budget.
- FY 2020: $11 million in UPR Fiscal Plan and budget, in addition to $39 million in the Commonwealth Fiscal Plan and budget.
- The needs-based scholarship fund at the Commonwealth level amount to up to $214 million over the period of the Fiscal Plan.

Question 6. Has the FOMB or its consultants performed a study to assess the feasibility of consolidating back-office functions and reaching target administrative savings? Please share the results of the assessment.

Answer. Target administrative savings were based on case studies from other public and private sector examples, benchmarks from other jurisdictions, and analysis of government organization and operations. In some cases (e.g., education, health, public safety), the target savings were developed through a joint effort with the Government.

Question 7. The FOMB has challenged the legality of more than $6 billion in General Obligation (GO) debt issued after 2012. Almost simultaneously, the FOMB declined to challenge the legal basis for the COFINA deal. What process and rationale did the Board follow to decide which debt issuances to challenge?

Answer. Shortly after PROMESA was enacted, certain bondholders challenged the legality of the COFINA bonds. In the summer of 2017, the FOMB supported the establishment of a court-supervised process to resolve the legal challenges asserted against the COFINA bonds. As part of this process, the Title III court heard numerous arguments regarding whether the COFINA bonds were valid. Eventually, the court-supervised process produced a settlement of the litigation that had been filed in connection with the COFINA bonds. The FOMB developed and proposed a plan of adjustment for COFINA based on that settlement. Accordingly, the plan of adjustment for COFINA was a product of challenges of the COFINA bonds that had been asserted, litigated, and negotiated. By contrast, no such litigation or court-supervised process existed for the $6 billion in GO bonds issued after 2012.

Question 8. What specific measures, if any, has the FOMB implemented to identify and redress conflicts of interest in its decision making, advising, and investigative processes?

Answer. Please see Appendix [D] below for a statement from the FOMB's Ethics Advisor.

Appendix D

Statement from Andrea Bonime-Blanc, Ethics Advisor to the FOMB

The Financial Oversight and Management Board for Puerto Rico (FOMB) was established under the PROMESA (Puerto Rico Oversight, Management, and Economic Stability) Act on June 13, 2016. Under PROMESA Section 109, there are two provisions that impose ethics requirements on the Board and in some cases "staff designated by the Oversight Board" (which as of May 16, 2019, includes the Executive Director and General Counsel of the FOMB)—PROMESA Section 109(b) regarding financial reports and PROMESA Section 109(a) regarding conflicts of interest. Below is a description of applicable financial disclosure and conflicts of interest provisions of PROMESA and related Federal laws as applicable to the FOMB.

1. PROMESA SECTION 109(b) ON FINANCIAL DISCLOSURES STATES THE FOLLOWING:

- *"[n]otwithstanding any ethics provision governing employees of the covered territory, all members of the Oversight Board and staff designated by the Oversight Board shall be subject to disclosure of their financial interests, the contents of which shall conform to the same requirements set forth in section 102 of the Ethics in Government Act of 1978 (5 U.S.C. App.)"*
- **ETHICS IN GOVERNMENT ACT OF 1978 SECTION 102 ("EGA Section 102") states the following:**
  - *Section 102 of the Ethics in Government Act of 1978 ("EGA Section 102") is titled "Contents of Reports." 5 U.S.C. App. § 102. It provides that "[e]ach report filed pursuant to section 101(d) and (e) shall include a full and complete statement" with respect to enumerated items, including (but not limited to) the following:*
    - *—"source, type, and amount or value of income . . . from any source" other than income referred to in subparagraph B (dividends, rents, interest and capital gains) (5 U.S.C. App. § 102(a)(1)(A)*
- **FOMB ETHICS ADVISOR COMMENTS ON FINANCIAL DISCLOSURE PRACTICES AT FOMB:** In addition to the Initial Financial Disclosure form filed by each Board member upon initial vetting and appointment to the FOMB in August 2016 and by "staff designated by the Oversight Board," the FOMB has established quarterly, annual and termination Financial Disclosure forms and protocols which require each Board member (and designated executive staff) to file a Quarterly Periodic Transactions Report at the end of each calendar quarter and an Annual

Financial Disclosure Report at the end of each calendar year, each of which, when finalized and reviewed by the FOMB Ethics Advisor is signed and posted on the FOMB public website. In addition, when each Board member's (or designated executive staff member) term ends, we will require them to file a Termination Financial Disclosure Report up to such termination date.

2. PROMESA SECTION 109(a) ON CONFLICTS OF INTEREST STATES THE FOLLOWING:

- *"[n]otwithstanding any ethics provision governing employees of the covered territory, all members and staff of the Oversight Board shall be subject to the Federal conflict of interest requirements described in section 208 of title 18, United States Code."*
- **US CODE SECTION 208 OF THE U.S. CODE ("CODE SECTION 208") PROVIDES THAT COVERED INDIVIDUALS ARE PROHIBITED FROM PARTICIPATING:**

  a. *"through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter" in which, "to his knowledge," the individual or "his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has any arrangement, concerning prospective employment, has a financial interest." 18 U.S.C. §208(a). Violations of Code Section 208(a) are "subject to the [criminal] penalties set forth in section 216" of title 18. Id.*

- **FOMB ETHICS ADVISOR COMMENTS ON CONFLICTS OF INTEREST PROTOCOLS AT FOMB:** The FOMB has developed and implemented the following measures, policies and protocols regarding the proactive management of possible or actual conflicts of interest not only for the Board but for the entire FOMB staff including the creation of the Ethics Advisor role under the Bylaws, direct Code of Conduct provisions, practices and protocols as follows:

  a. **FOMB BYLAWS SECTION 11.4 COMPLIANCE WITH SECTION 109 OF THE ACT STATES THE FOLLOWING:**

"(a) For purposes of advising the Board regarding compliance with Section 109 of the Act, and consistent with section 7.1 of these Bylaws, the General Counsel shall retain an ethics expert (the "Ethics Advisor"), who shall undertake the duties and responsibilities set out in this Section 11.4 and such other duties and responsibilities as the Board shall from time to time determine to be appropriate.

(b) In accordance with section 109(a) of the Act, all members and the ex officio member of the Board, the Executive Director and all other staff shall be subject to the Federal conflict-of-interest requirements described in section 208 of title 18, United States Code. It shall be the responsibility of the Ethics Advisor to

(i) review all situations that raise potential conflicts of interest issues,

(ii) determine if any Board or staff member should be disqualified from involvement in any activities of the Board based upon a conflict of interest and (iii) grant any exemptions that he or she deems appropriate."

(c) In accordance with section 109(b) of the Act, all members and the ex officio member of the Board, the Executive Director and staff designated by the Board (collectively, "Disclosure Persons") shall be subject to disclosure of their financial interests as follows:

> *(1)* ***Documentation of Financial Interests:*** *Disclosure Persons shall document financial interests using the form attached to these Bylaws as Attachment A (including as it may from time to time be amended) or in such alternative format as approved by the Ethics Advisor.*
>
> *(2)* ***Submission of Financial Interest Information:*** *Disclosure Persons shall submit their financial interest disclosure forms to the Ethics Advisor.*
>
> *(3)* ***Initial Disclosures.*** *Each Disclosure Person shall provide an initial disclosure of his or her financial interests the later of (i) within thirty (30)*

days following the Disclosure Person's appointment and (ii) February 28, 2017.

(4) ***Updates.*** *Each Disclosure Person shall update his or her financial disclosure whenever a purchase, sale or exchange of stocks, bonds, commodity futures or other securities has occurred and the amount of the transaction exceeds $1,000 as set forth on the transaction disclosure form (and subject to the exceptions noted in that form) attached to these Bylaws as Attachment B (including as it may from time to time be amended). Such disclosures shall be made as necessary on a quarterly basis fourteen (14) calendar days after the close of each calendar quarter beginning with the first calendar quarter in 2017.*

(5) ***Annual Disclosures.*** *Each Disclosure Person shall annually provide a subsequent disclosure of his or her financial interests by no later than April 30 of each year, beginning on April 30, 2018.*

(6) ***Publication.*** *After review by the Ethics Advisor, the financial interest information provided by each Disclosure Person shall be published on the Board's website."*

b. SECTION 2 OF THE FOMB CODE OF CONDUCT, FIRST ADOPTED ON JANUARY 28, 2017 (AS AMENDED THEREAFTER), CONTAINS THE FOLLOWING CONFLICTS OF INTEREST PROVISIONS APPLICABLE NOT ONLY TO BOARD MEMBERS BUT ALL FOMB STAFF ("COVERED PERSONS"):

*"**2. Conflicts of Interest:** All Covered Persons shall comply with Bylaw 11.4(b), which states in part:*

"In accordance with section 109(a) of the Act, all members and the ex officio member of the Board, the Executive Director and all other staff shall be subject to the Federal conflict-of-interest requirements described in section 208 of title 18, United States Code."

a. It shall be the responsibility of each Covered Person to proactively bring to the Ethics Advisor's attention any concerns regarding actual or potential conflicts of interest as soon as practical (and in advance of taking any official action that could be perceived as raising ethical concerns), including, without limitation, the following:

i. Matters that are subject to the annual and quarterly Financial Disclosure obligations specified in Section 4 below and Bylaw 11.4(c);

ii. Matters concerning any contract proposed to be entered into by the Commonwealth of Puerto Rico or any covered instrumentality as further defined and described in the "FOMB Policy: Review of Contracts," as amended from time to time (the "Contract Policy"), in which a Covered Person, his/her spouse, minor child, general partner, organization in which he/she is serving as an officer, director, trustee, general partner or employee, or any person or organization with whom he/she is negotiating or has any arrangement concerning prospective employment, may have a financial interest.

A Covered Person shall refrain from participating in any action that falls under the Board's mandate implicating a potential conflict of interest unless and until the Ethics Advisor specifically authorizes such involvement (including the scope of such involvement) in writing after an opportunity for a thorough review and vetting of such potential conflict."

c. OTHER FOMB CONFLICT OF INTEREST POLICIES, PRACTICES AND PROTOCOLS. In addition to the above Bylaws, Code of Conduct, financial disclosure and conflicts of interest practices the FOMB Board members and all FOMB staff are subject to, the FOMB General Counsel and Ethics Advisor have developed and implemented a variety of additional conflict of interest policies, protocols and practices as follows (and continue to do so as new issues and challenges arise):

- **FOMB CONTRACT REVIEW POLICY** pursuant to which the FOMB staff review certain material Commonwealth of Puerto Rico and its instrumentalities' third-party contracts and under which certain conflict of interest protocols are observed to ensure that any Board member who may have an actual or an appearance of a conflict of interest with any such third parties recuses him or herself prior to any decisions being made by the FOMB.

- **FOMB BOARD AND STAFF ANNUAL ETHICS EDUCATION & TRAINING.** FOMB Ethics Advisor provides the Board and the entire staff of the FOMB with periodic/annual ethics and code of conduct training and education including a focus on conflicts of interest issues.
- **LUSKIN MCKINSEY INVESTIGATION RECOMMENDATIONS IMPLEMENTATION.** FOMB General Counsel and Ethics Advisor have developed a plan to implement the eight recommendations from the Luskin McKinsey Investigation completed in February 2019 pursuant to which a variety of additional FOMB third party contractor conflicts of interest management protocols and requirements will be imposed beyond those already in place.
- **PUERTO RICO BOND, DEBT RESTRUCTURING AND OTHER RELATED LITIGATION RECUSALS.** The FOMB General Counsel and Ethics Advisor, with the assistance of outside counsel from time to time, maintain a proactive, preventative and disciplined approach to the recusal of FOMB Board members when and if it appears that they may have a present or past appearance or actual conflict of interest with any such litigation or related proceedings.

***

Question 9. Were FOMB members checked for personal and professional conflicts of interest at the time of their appointment and have these background checks been made public?

Answer. Yes, the White House and Treasury Department conducted background checks for personal and professional conflicts of interest prior to the appointments being made. To the best of our knowledge, those background checks have not been made public.

Question 10. Section 104(0) of PROMESA establishes that "the Oversight Board may investigate the disclosure and selling practices in connection with the purchase of bounds issued by a covered territory for or on behalf of any retail investors including any under-representation of risk for such investors and any relationships or conflicts of interest maintained by such broker, dealer, or investment adviser as provided in applicable laws and regulations." In addition, Section 104(p) establishes that the "Oversight Board shall make public the findings of any investigation references in subsection (o)."

Answer. Please see Appendix [E] for a copy of the Kobre & Kim independent debt investigative report. This report has been publicly available on our website in both English and Spanish since it was released in August 2018.

Question 11. Why did the FOMB request to hide the identity of individuals, corporations, and institutions potentially responsible for issuing illegal debt as part of a list of possible defendants submitted to the U.S. District Court for Puerto Rico in April 2019?

Answer. Only those individuals, corporations, and institutions that signed a tolling agreement to extend the deadline by which certain claims must be filed have had their identities kept confidential. The reason is the FOMB has not determined whether to pursue litigation against such entities and, given that they have signed a tolling agreement, it would be prejudicial to accuse them publicly of wrongdoing without first making that determination. The names of those who have not entered into tolling agreements are public.

Question 12. The Government of Puerto Rico—at least the elected part vs. the federally imposed part—appears to be matching the FOMB's spending on outside lawyers and financial consultants dollar for dollar, even though PROMESA provides for the FOMB to represent the territory on debt matters. Have you tried to work out joint hiring of lawyers, financial consultants, and others to save Puerto Rican taxpayers hundreds of millions a year?

Answer. The FOMB and Government of Puerto Rico have worked closely and cooperatively to reduce the exorbitant cost associated with the debt restructuring. We continue to explore ways to eliminate duplication and minimize professional fees. Unfortunately, the Title III court has at times required separate counsel for each government entity, which necessarily leads to excessive costs.

Question 13. Can you explain why the 2017 Fiscal Plan that was released before the hurricane called for large reductions in debt repayment—between 75 and 85 cents on the dollar—while the current plan appears not to be as aggressive?

Answer. The fiscal stimulus from the Federal disaster recovery funds and the insurance proceeds has the impact of increased economic growth that translates into more tax revenues for the Commonwealth. While no Federal monies are being used to pay debt, the Commonwealth's new reality is that the Government will collect more revenue during the period of the Fiscal Plan.

Question 14. One of the FOMB's biggest and most consistent complaints about the Government of Puerto Rico is the Government not adopting what the Board terms "labor reforms." Chief among these is the Government not repealing the long-standing law that requires severance pay for employees fired without cause. The Chairman of the Board wrote an op-ed in the New York Post reiterating this complaint just this week.

Answer. The FOMB has laid out a series of structural reforms that would improve the competitive nature of Puerto Rico's economy so that the Island's economy can grow again and produce plentiful, good jobs. Labor reform is just one structural reform, and the repeal of Law 80 is just one aspect of a comprehensive labor reform package. Eliminating the onerous severance requirement for firing employees without cause is not a panacea for Puerto Rico's economy, though it is something that is part of the labor market in 49 of the 50 states.

Question 15. Why did the FOMB repeatedly refer to an agreement with the Governor as an agreement with the Government? Doesn't it understand the separation of powers in a republican form of government?

Answer. The Governor represented that he was leading negotiations on behalf of himself and the Legislature. The FOMB held many meetings with the Legislature on this topic as well.

Question 16. Why didn't the FOMB negotiate a proposed change in law with the Legislative Assembly, which writes the laws?

Answer. The FOMB held meetings with both the Governor and leaders of the Legislature on this topic.

Question 17. How do the income and economic growth projections included in the certified Fiscal Plans compare with the actual reports on income generated by the Government of Puerto Rico? If the income and economic growth projections included in the certified Fiscal Plans are not met, does the FOMB have a Plan B to ensure funding for essential public services and compliance with debt adjustment plans?

Answer. The revenue and economic growth projections in the Fiscal Plan have been updated to reflect the Government revenue collections and the Government's delayed implementation on fiscal and structural reforms. The growth projections are based on latest economic data available, disaster relief funding amounts, and roll out per FEMA. To date, the FOMB's projections have been more conservative than actual collections, i.e. revenues have been stronger than projected. However, if at any time the established targets are not met the Government would need to reduce spending in some less critical areas to properly fund spending on priority areas such as health, education, and safety.

Question 18. The FOMB's certified Fiscal Plan for the territory as a whole would require the Government of Puerto Rico to spend $1.162 billion of Puerto Rican tax dollars on Medicaid during the Fiscal Year that begins July 1 and $2.294 billion in Fiscal Year 2021. Those would be increases from zero this territorial fiscal year and $123 million in FY 2018. To spend the amount dictated by the FOMB, the Government of Puerto Rico will have to cut spending in other areas to generate these amounts for Medicaid.

Answer. The Fiscal Plan projections are based on current law. In FY2019 and FY2018 supplemental funding from ACA and BBA nearly eliminated the need for the Government of Puerto Rico to pay for Medicaid. The ACA and BBA supplemental funding are due to phase out in FY2020. Therefore, the Fiscal Plan projects a funding cliff that begins in FY2020 and gets worse in FY2021. To avoid the fiscal impact of the projected cliff the FOMB has established a series of value-based reforms the Government needs to implement to reduce the per member per month cost. Assuming the Government implements these reforms, the Government is projected to spend $865 million in FY2020 and $1.800 billion in FY2021. We are not sure where the $1.162 billion and $2.294 billion figures in the question come from.

Question 19. Do you recognize that you have constructed a Fiscal Plan that insists its spending limits across the board are enough, so that increasing Federal funding for Medicaid in Puerto Rico would increase the budget surplus from which bond creditors could claim they should be?

Answer. If additional revenues of any type, including Federal funds, occur in any year, they would be characterized as excess primary surplus. However, the FOMB is basing its assessment of what a sustainable debt burden is for the Commonwealth on projected revenues, and the Fiscal Plan projects revenues on current not potential law.

Question 20. The Puerto Rico Sales Tax Financing Corporation—"COFINA"—is an instrumentality of the Government of Puerto Rico. It was created a dozen years ago in response to a budget crisis solely to enable the territory to borrow more than permitted by its constitution. COFINA bonds of close to $18 billion totaled a quarter of the territory's bonded debt and a third of the debt that the FOMB wants to adjust.

Answer. Please see the answers to #24–27.

Question 21. Another quarter and third of the debt are "General Obligation" or "GO" bonds issued or guaranteed by the Government of Puerto Rico itself. According to the territory's constitution, payment on these bonds must be made before any other expenditure of the Government.

Answer. Please see the answers to #24–27.

Question 22. Section 201(a) of PROMESA requires the FOMB to "respect the relative lawful priorities or lawful liens . . . in the constitution, other laws, or agreements" of Puerto Rico. The FOMB has asked the PROMESA bankruptcy court to void more than $6 billion of the nearly $18 billion in GO bonds because it exceeds the constitutional limit on borrowing.

Answer. Please see the answers to #24–27.

Question 23. The FOMB's settlement with COFINA creditors is paying senior COFINA bond holders 94 cents of face value and junior COFINA holders 56 cents—with a 3.5 percent bonus for the big owners, with which it primarily worked out the deal. Among these are hedge funds that bought the bonds for far less than the amount that they will be paid under the deal. Many Puerto Rican credit unions, other institutions, and individuals, especially retirees own junior COFINAs. Some hedge fund speculators with which the FOMB worked out the COFINA deal are making profits of more than $1 billion.

Answer. Please see the answers to #24–27.

Question 24. Why doesn't the FOMB limit recoveries to what bond creditors paid for the debt?

Answer. PROMESA establishes that the adjustment of debts follows a legal process that is similar to what the U.S. bankruptcy code provides. This legal process does not grant the FOMB the power to "limit recoveries to what bond creditors [are] paid." Rather, the bond creditors have legal rights that must be respected and considered as part of the debt adjustment process. However, the FOMB conducts and maintains a debt sustainability analysis for the Commonwealth to ensure that the total amount of debt that the Commonwealth supports is sustainable and allows for the Commonwealth to provide for and invest in its residents and businesses and to fulfill the mandates of PROMESA.

Question 25. Why did the FOMB work out a deal with COFINA creditors that allows windfall profits before working out a deal with GO bondholders?

Answer. As stated in response to #7, in the summer of 2017, the FOMB supported the establishment of a court-supervised process to resolve the legal challenges asserted against the COFINA bonds. As part of this process, the Title III court heard numerous arguments, including from GO bondholders, regarding whether the COFINA bonds were valid. Eventually, the court-supervised process produced a settlement of the litigation that had been filed in connection with the COFINA bonds. The FOMB developed and proposed a plan of adjustment for COFINA based on that settlement. The COFINA plan of adjustment resolved issues relating to the ownership of certain proceeds of the sales and use tax revenue stream, which was a necessary predicate to determining what resources the Commonwealth has to meet its various obligations, including those to GO bondholders.

Question 26. Are you confident that the Puerto Rican economy will be able to sustain both the new COFINA bond payments and the payments that will need to be made on other bonds?

Answer. The FOMB is confident that by the end of the various debt restructurings, the Commonwealth will have a sustainable debt burden that allows for the Commonwealth to provide for and invest in its residents and businesses and to fulfill the mandates of PROMESA.

Question 27. How does so much COFINA revenue going to bondholders affect the ability of the Government of Puerto Rico to make payments on the priority bonds issued or guaranteed by the territory?

Answer. As a result of the COFINA debt restructuring, the Commonwealth achieved a 32 percent reduction in COFINA debt, over $17 billion in debt service savings, and access to $425 million annually, on average, for the next 40 years that was otherwise going to be used to pay COFINA debt. These savings and additional resources will help the Commonwealth to restructure the GO bonds in a sustainable way and allows for the Commonwealth to provide for and invest in its residents and businesses and to fulfill the mandates of PROMESA.

Question 28. Current piecemeal debt negotiations have neglected to look at Puerto Rico's ability to sustainably repay all its debt. A Debt Sustainability Analysis authored by economist Martin Guzman indicates: "the generosity with the COFINA bondholders can only be sustained if the reduction on the rest of the public debt lies between roughly 85 percent and 95 percent—a conclusion that rests on the assumption that the entire public debt restructuring is designed with the goal of restoring debt sustainability."

Notwithstanding, in the hearing you expressed your goal of using approximately 10 percent of Puerto Rico's own resources to debt service.

How do you suppose Puerto Rico could be left with a debt load comparable only with the richest states, such as that of Florida, which has a with a population of little over 21 million and own revenues of almost $41 billion versus that of Puerto Rico, which has a population of roughly 3.2 million and general revenues of roughly $10 billion? If you look at the whole picture, how much of the debt stock will be reduced? How do you prevent the island from falling prey to a future default on its debt?

Answer. As outlined in the certified fiscal plan for the Commonwealth, the FOMB considers a variety of metrics commonly used by ratings agencies to ascertain what a sustainable debt burden is for the Commonwealth. One such metric is the ratio of net tax-supported debt to own-source revenues. Because this metric is a ratio based on a jurisdiction's own-source revenues, it takes into consideration the fact that some jurisdictions are more prosperous or more populous than others. If the FOMB were to restructure the Commonwealth's debt such that it is equivalent to 10 percent of Puerto Rico's own-source revenues, and Florida had a debt burden equivalent to 10 percent of its own-source revenues, the total amount of debt sustained by Puerto Rico would be a fraction of that for Florida, which recognizes that Florida has a larger economy and larger population.

Question Submitted by Rep. Horsford

Question 1. In helping Puerto Rico out of its debt crisis, it is essential that Puerto Rico be better prepared for natural disasters like Hurricane Maria, which caused an estimated $94 billion in damages to a country already more than $70 billion in debt. If Puerto Rico's infrastructure is not improved with resiliency to hurricanes and other disasters, Puerto Rico could be destroyed again and sent back into a whirlwind of debt. How can Congress help to mitigate and prepare Puerto Rico for impending hurricanes and other natural disasters?

Answer. Congress can help to mitigate and prepare Puerto Rico for impending hurricanes and other natural disasters by providing timely and well-invested disaster reconstruction funds per the Stafford Act and the Bipartisan Budget Act and by ensuring the flow of funds is as streamlined as possible.

Questions Submitted by Rep. Bishop

Question 1. The Oversight Board notified the Governor that his agencies had not achieved the required amount of savings in their budget to issue Christmas bonuses for government workers, yet the Governor issued the bonuses anyway. Did that action have any effect on government operation and public services in Puerto Rico? How about the effect on the economy?

Answer. The certified budget for this year did not budget funds for the payment of a Christmas bonus. The Government implemented a voluntary transition program ("VTP") that reduced headcount by ~5,000 employees which produced significant savings. While the Government was able to afford the Christmas bonus as a result of these savings, many of the employees that left through this VTP were teachers and sworn officers affecting core Governmental services. The FOMB has been clear that VTP for core services is not an efficient way of reducing the Government's personnel costs.

Question 2. What could be done to create more of an ease in doing business in Puerto Rico?

Answer. The competitive environment in Puerto Rico requires improvement if it is to compete with other investment destinations, specifically by reducing a variety of inefficiencies related to building, expanding and attracting businesses. Easier-to-navigate regulations, less complex and faster investment and permitting mechanisms, and streamlined tax administration systems can encourage new businesses to hire employees and invest in growth. These outcomes can be achieved by making necessary administrative and legislative changes and by investing in digitization. Please see Chapter 8 of the Fiscal Plan for more information.

Question 3. What factors in Puerto Rico contribute to the low labor force participation rate of only forty percent?

Answer. Puerto Rico's historically low levels of formal labor force participation cannot be attributed to any single factor but rather a range of public policies that have served to reduce employment on the Island. Perhaps the biggest barrier to hiring in Puerto Rico is its lack of "at-will employment," which would lower the cost of any new hire, encourage additional hiring, and make it easier for employers to dismiss unsatisfactory employees improving employee morale and productivity. While there are variations in labor laws among the 50 mainland states, 49 of them have adopted some form of at-will employment.

In addition to the Island's labor laws, Puerto Rico residents may also face disincentives to participate in the formal labor market due to rules attached to various welfare benefits, including the Nutritional Assistance Program (NAP), Medicaid, Section 8 public housing, TANF, WIC, and other programs. These benefits are sometimes stereotyped with a claim that "welfare pays more than work." While this may be true in isolated cases, the broader problem occurs when welfare beneficiaries work in the formal sector and receive earnings that trigger a reduction in their benefits. The phase-out of government transfer benefits as earned income increases acts as a tax to disincentivize formal employment, as effective hourly wage (income received by working minus the loss of benefits) can be substantially lower than the formal hourly wages received. For many residents, working in the informal sector and collecting transfer benefits can often result in higher effective income than working in the formal sector. On this basis, the FOMB included a welfare to work program in the structural reforms of the Certified Fiscal Plan.

Question 4. What sort of structural reforms could the local government take to improve economic health and stability?

Answer. In addition to those that are part of the Fiscal Plan, the Government could do the following:

- Labor reform, generating an additional 0.50 percent GNP growth over 2 years, by repealing Law 80, reducing paid leave, and eliminating the Christmas Bonus. Key reforms could require incentives, such as wage subsidies for low-income workers and training programs to address identifiable skills gaps. The reform is projected to increase the 30-year surplus by $13 billion if implemented after 10 years (FY2029) and by $4 billion if implemented within 20 years (FY2039).
- Ease of Doing Business reform, generating an additional 0.15 percent GNP growth, based on instituting Trading Across Borders reform to improve customs processes and congestion and repealing restrictive laws (e.g., Laws 21 and 75 dictating terms for terminating commercial supplier relationships).

The 30-year surplus is projected to increase by $4 billion if implemented after 10 years (FY2029) and by $1 billion if implementation lags by 20 years (FY2039).

- Overhaul of the tax system of Puerto Rico to stimulate growth, requiring short-term investment (lower revenues in short-term) for long-term growth benefits up to 0.5 percent spread over 5 years. The reform is projected to increase the 30-year surplus by $10 billion if implemented after 10 years (FY2029) and by $2 billion if implementation lags by 20 years (FY2039).

Question 5. What happens if structural reforms are delayed or not implemented at all?

Answer. Implementation of structural reforms is key to restoring the economy and promoting growth on the Island. The latest Fiscal Plan accounts for the already delayed implementation of the structural reforms. Structural reforms contribute more than $300 million in increase government revenues between FY2019–2024, and over $34 billion in the Fiscal Plan's 30-year forecast. However, even after fiscal measures and structural reforms and before contractual debt service, the Fiscal Plan projects an annual deficit starting in FY2038, in large part due to insufficient structural reforms.

Question 6. Has the government been successful in implementing reforms?

Answer. The Government has implemented reforms in some areas but is delayed implementing the structural reforms required by the Fiscal Plan, as measured by progress against implementation milestones included in the plan.

The impact of human capital and welfare reforms have been delayed from FY2021 to FY2025 to reflect the 4-year implementation ramp the Government is planning for NAP work requirement implementation. Ease of doing business reforms were projected to add 0.5 percent to economic growth in the 2019 Fiscal Plan (downgraded already from 1.0 percent in prior Fiscal Plans), and delayed from having an impact in FY2020 to FY2022. The impact of power sector reform has also been delayed and spread out, from 0.30 percent in FY2020 to 0.10 percent in each year FY2021–FY2023, though the Government is making progress toward meaningful reform of the power utility.

To date, implementation progress and engagement has varied across Government agencies. The lack of consolidation legislation is hampering agencies from achieving savings, despite efforts to reduce personnel and non-personnel spend through diverse initiatives. Some agencies are developing meaningful tools and creative solutions to achieve savings (e.g., the Department of Agriculture planning digital solutions to reduce personnel or the Department of Environment's green tourism initiative which could create job opportunities and tax revenues) but many have done little to no planning at all.

Agencies have reduced personnel through the VTP program, but have not provided evidence to suggest that this has driven efficiencies in operations and in some cases has caused vacancies in key roles (e.g., sworn officers).

Question 7. How many total agencies are in Puerto Rico's current government structure? Are any of these agencies redundant in their mission and function to the government?

Answer. There is a total of 114 agencies in the Commonwealth of Puerto Rico, excluding some public corporations. As part of the fiscal plan process, the Government presented to the FOMB a proposal to consolidate these agencies into 42 departments or groupings to avoid redundancies and provide a more efficient service. Unfortunately, there is uneven implementation of these proposed consolidations to date. Unequivocally, there is redundancy in the mission and function of many of these agencies, which is the reason why the Government and the FOMB aligned in reducing the back-office costs of government agencies.

In some cases, the consolidations are designed to better focus the competing efforts of multiple agencies, such as the Economic Development grouping, which will consolidate 10 agencies into 1. In other cases, the consolidations should serve to move services closer to residents, such as the Healthcare grouping, which will consolidate access points to important services like Medicaid.

Question 8. Should some of these agencies be consolidated? Does Puerto Rico have any issues with 'rightsizing' their government?

Answer. Yes. As part of the Fiscal Plan process the Government presented to the Oversight Board a proposal to consolidate many of the agencies to avoid redundancies and provide more efficient services to the people of Puerto Rico.

Unfortunately, the implementation of these plans has been delayed, and some have been canceled altogether.

Question 9. How challenging has it been for the Board to encourage the government to undertake this important initiative?

Answer. The Government and the FOMB are aligned in many areas of the Fiscal Plan. However, in other areas we have asked the Government to be more aggressive in implementing plans that will ultimately benefit the people of Puerto Rico. The FOMB is constantly monitoring the implementation of the Fiscal Plan, and as such, is monitoring over 120 individual implementation plans. In some areas, like the implementation of an EITC, there is progress. In others, however, like welfare-to-work, the implementation is much delayed.

Question 10. How is the Board proposing to reduce spending in the University of Puerto Rico system?

Answer. Please see answer to question #5 from Chairman Grijalva.

Question 11. Has the Board ever interfered in any way with funding for public safety like police, fire emergency management or coroner services?

Answer. No. In fact, we have worked collaboratively with the Government to identify unspent resources within the budget that can be reapportioned to fund critical services from the Institute of Forensic Sciences, Firefighters, and other public safety providers.

Question 12. Has the Board ever prevented the government from spending money to help repair any homes or help people?

Answer. No. The Board has never been asked for any reapportionment of funds for these purposes.

Question 13. Why have so many funds have been expended on law enforcement and public education in Puerto Rico while law enforcement officers and teachers are still disproportionately underpaid in Puerto Rico?

Answer. It is a matter of allocation of resources and *how* money is spent, rather than *how much* money is spent. For years, the Government was spending billions of dollars in services, but educational and safety outcomes do not seem to reflect the amount of money spent, nor were law enforcement officers and teachers adequately compensated. The FOMB has been working with the Government to prioritize funding to key areas such as salaries, textbooks, equipment, among others.

For example, in terms of the police: based on recent reports, over 2,000 of the 13,000 sworn officers in the police are still fulfilling administrative roles. This situation, accompanied by the heavy attrition of sworn officers, led to a 2013 consent decree agreement with the U.S. Department of Justice on reform measures, which compelled the police bureau to conduct a staffing allocation and resources study to assess the proper size of the police force. Based on these findings, the police bureau needs to rebalance the work force and move sworn officers to non-administrative roles to improve personnel resource allocation and maximize public safety.

The Fiscal Plan provides funds to make compensation more competitive for both police and teachers. Police received a $1,500 per officer increase in FFY2019 and will receive an ~$11,500 salary and required benefits increase over the next 2 years. In addition, they will receive an additional $250 contribution per year per sworn officer for improved life and disability insurance starting in FY2020. For teachers and directors, there was initially a ~$46M provided for salary increases. The Fiscal Plan provides an additional $500 salary increase plus required benefits totaling ~$14M annually.

Question 14. COFINA was the largest bond issuer and the Board successfully restructured those debts and the market reaction has been positive. How important is restructuring the GO bonds, and is it true that the rating agencies won't rate Puerto Rico until the GO credit is re-established?

Answer. The FOMB is working diligently on an approach to restructuring the GO bonds and expects to a file a plan of adjustment for the Commonwealth as soon as reasonably possible. To the best of our knowledge, the ratings agencies do not have a blanket policy against rating Puerto Rico credits before the GO credit is re-established.

Question 15. Do you think the lack of compensation is an issue for current board members? Do you believe it is an obstacle to attracting new board members? If so, what do you believe would be appropriate compensation?

Answer. The FOMB does not support any changes to PROMESA at this time.

Question 16. Some creditors have claimed that the decisions and actions the Oversight Board has taken over the last 3 years to restructure some of Puerto Rico's debt in Title III will have detrimental impacts on how other municipalities across the United States will be able to borrow considering the reactions of rating agencies and credit analyst paying attention to the outcomes with Puerto Rico's circumstances. Does the Oversight Board take into account or conduct any analysis of how potential actions and decisions that are made with regards to the debt restructuring strategy implemented will affect the broader U.S. municipal bond market? Why or why not?

Answer. The FOMB is committed to restructuring Puerto Rico's debt in a manner that is in Puerto Rico's best interests and is consistent with PROMESA. That is what the FOMB is focused on in developing its approach to restructuring Puerto Rico's debt.

Questions Submitted by Rep. Hice

Question 1. When we last met in this Committee I asked you about PREPA's decision to refuse an offer from creditors for a 5-year debt holiday and to instead pursue a bankruptcy strategy. You told me that after the hurricane you felt that was the best course of action due to what would have resulted in unbearable electricity costs. You also mentioned that you had engaged in a new dialogue with those creditors and were working on a plan. Can you please update me on the outcome of those conversations here roughly a year-and-a-half later?

Answer. Shortly after the hearing, the FOMB and Government of Puerto Rico announced that we had entered into a restructuring support agreement ("RSA") with the Ad Hoc Group of PREPA bondholders and Assured Guaranty to restructure PREPA's bonds. This RSA puts PREPA on a path to exiting Title III with a substantially reduced and more predictable debt burden and is a necessary step toward transforming PREPA into a cleaner, cheaper, more reliable energy utility. The RSA reduces PREPA's debt by over 30 percent and protects consumers from uncapped debt-related charges. Relative to the prior RSA that the FOMB rejected in 2017, the current agreement would save PREPA and the Puerto Rican residents who depend on its electricity supply about $3 billion in debt service payments over the next 10 years alone.

Question 2. We will be entering hurricane season in a few short months, and a second disaster could spell doom for both rebuilding the island and for solving this debt crisis. Can you tell me what the Board has done to mitigate that threat? And furthermore, do you feel that the Puerto Rican government and or PREPA has executed its responsibilities to ensure hurricane preparedness for 2019 and beyond?

Answer. Through the Fiscal Plan and Budget development process, as well as through the follow-up implementation tracking efforts, the FOMB has attempted to ensure that PREPA undertakes the required operational reforms to be better prepared to respond to a future emergency event. Some of these reforms include the development and implementation of vegetation management and system maintenance programs and the development of a labor capacity assessment to determine optimal staffing levels, so that PREPA has the personnel necessary to respond to weather events promptly and effectively. Through our budgetary oversight, the FOMB has also sought to ensure that funding is made available for maintenance projects and underutilized funds are reallocated to priority areas, such as the acquisition of mobile generators, which will help PREPA increase generation capacity near large load centers during emergencies or peaking hours, which increases emergency responsiveness and overall system resiliency and reliability.

There is still much work to be done, as some, but not all, of the reforms necessary for a resilient and stormproof energy system have been fully implemented and executed. Within its authority, the FOMB has and will continue to ensure that all necessary reforms are accounted for and appropriately funded through the certified Fiscal Plan and Budget. However, ultimate implementation of these reforms falls squarely with PREPA.

The successful conclusion of ongoing efforts to contract with a private party to manage and operate the T&D System is also an important step in the medium- and long-term efforts toward hurricane preparedness and resiliency. An appropriately incentivized operator will look toward incorporating those upgrades necessary to increase the T&D System's ability to withstand hurricanes, as well as dedicate the resources necessary to maintain those upgrades on par with applicable quality standards. Recently enacted Act 17–2019 provides a clear mandate to both PREPA and the private operator to take the necessary measures to strengthen the system and develop and maintain and appropriate emergency response plan, subject to the periodical oversight of an independent regulator.

Finally, providing visibility and reaching a final resolution on the allocation of Federal disaster funding will enable Puerto Rico to accelerate the pace at which it makes the necessary upgrades to reduce the impact of future hurricanes.

Questions Submitted by Rep. Johnson

Question 1. Ms. Jaresko, in your testimony, you note that Puerto Rico law enforcement officers have slower response times than that of their U.S. mainland counterparts. As you know, Puerto Rico saw a spike in crime in the aftermath of Hurricane Maria as police officers called in sick to protest a lack of payment for overtime service. In your view, why were officers not paid what they were owed in Puerto Rico? Was this due to a lack of funds or a misuse of funds?

Answer. I cannot tell you why police officers argue they were not paid for their overtime service. That is a question only the Department of Public Safety can answer. It was not due to a lack of appropriated funds in the budget at the time.

Moreover, the FOMB firmly believes that in order to promote economic growth on the island, public safety needs to be a priority. As part of this commitment, the FOMB included $122 million in the FY2019 budget to cover the back pay owed to sworn cops as part of a 3-year payment plan (amounting to $366 million) to completely repay this obligation.

Question 2. According to the World Bank, the labor force participation rate in the United States is 62 percent. Puerto Rico's labor force participation rate measures 41 percent, and the island's labor force participation rate was low even before the 2017 hurricane season—it measured 45 percent in 1990. What factors do you believe contribute to this discrepancy between Puerto Rico and the United States as a whole?

Answer. Please see the answer to question #3 from Rep. Bishop.

Question 3. The FOMB has now been in place for 3 years. What are the top structural reforms that must be enacted to bring long-term economic stability to Puerto Rico?

Answer. Please see the answer to question #4 from Rep. Bishop.

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The following were submitted as attachments to Ms. Jaresko's responses. These documents are part of the hearing record and are being retained in the Committee's official files:

— Appendix A—2019 Fiscal Plan for Puerto Rico, Restoring Growth and Prosperity, certified by the Financial Oversight and Management Board of Puerto Rico, dated May 9, 2019.
— Appendix B—FOMB—Contracts, Legal Services Agreement from Holland & Knight, LLC, dated Feb. 1, 2019.
— Appendix C—FOMB—Contracts, Independent Contractor Services Agreement from Off Hill Strategies, LLC Consulting Services, dated July 1, 2018.
— Appendix E—Kobre & Kim LLP, Independent Investigator, Final Investigative Report, dated August 20, 2018.

A PROTESTER. The debt is illegal and immoral. The junta is illegal and immoral. Not only did you rip off your country, now you're ripping off mine. You and your board are corrupt and rife with conflicts of interest. The woman should——

The CHAIRMAN. Sir, you need to leave.

A PROTESTER. Shame on all of you for this sham creating this junta. Shame on all of you for continuing to steal from the people of Puerto Rico. Stop attacking my people. Stop attacking the UPR.

Stop attacking the children of Puerto Rico. Stop attacking our families. Cancel the debt now.

[Pause.]

The CHAIRMAN. Ms. Jaresko, you may continue.

Ms. JARESKO. I had finished. Thank you very much.

The CHAIRMAN. That was a rather dramatic finish.

[Laughter.]

The CHAIRMAN. Mr. Martín Guzmán, Non-Resident Senior Fellow for Fiscal Policy, Espacios Abiertos. Sir, the floor is yours.

STATEMENT OF MARTÍN GUZMÁN, NON-RESIDENT SENIOR FELLOW FOR FISCAL POLICY, ESPACIOS ABIERTOS

Mr. GUZMÁN. Thank you, Chairman Grijalva. Members of the House of Representatives Committee on Natural Resources, good morning, or good afternoon actually. Thank you for the opportunity to appear today before this Committee to discuss lessons learned since enactment of PROMESA.

A basic tenet of modern capitalism is that insolvent debtors need a fresh start. This is clearly the case for Puerto Rico. There will be no economic recovery if there isn't a fresh start for Puerto Rico. And it is well known that these decentralized bargaining processes for debt restructuring often lead to costly delays and the relief obtained being insufficient to restore debt sustainability, making recessions longer and deeper. Aware of these premises, Congress took action and enacted PROMESA to facilitate debt restructuring and economic recovery for Puerto Rico. So, in this sense, PROMESA makes sense to me.

The Board was given the difficult task of designing a plan for restoring the sustainability of the public debt that would lead to Puerto Rico's recovery of access to capital markets. And the critical question that I would like to address today is whether the policies that the Board has promoted have been aligned with the mission that it received, and I'm going to focus on the macroeconomic aspects, on the macro debt aspect, and I will argue that the answer to that critical question is that the policies have not been aligned with the mission the Board received so far.

In March 2017, the Board certified a fiscal plan. The consensus among the economists that had been analyzing Puerto Rico's case was that the plan did not provide for economic recovery, that it included a number of unrealistic assumptions, and that the new fiscal plan had to be fundamentally different than the previous one if Puerto Rico was to have a chance for recovery.

That plan, of course, became obsolete after Hurricanes Maria and Irma, and the Puerto Rico struggles were aggravated. The plan was replaced by a new fiscal plan in October 2018, and in this testimony I intend to shed light on the consequences to the future of Puerto Rico's economy implied by the latest fiscal plan and the restructuring deal with the COFINA bondholders.

Let's start with a basic issue, which is that the sustainability of Puerto Rico's debt needs to be assessed and addressed comprehensively, and there is a critical question which is how much debt reduction Puerto Rico needs. This is always the most critical question in debt restructuring processes. It is a theme that I've been doing research on for more than a decade, first at Brown

University and then at Columbia University, and I had the chance to look closely at Puerto Rico's case over the last years, so I will share five conclusions from my analysis on what has happened recently.

First conclusion, in my view, the Board's debt policies are not yet aligned with what is needed to restore debt sustainability. I see the Board still supporting too much debt service.

Second, the COFINA deal poses a serious risk of a failed debt restructuring. This deal would make sense if the other groups of Puerto Rico's bondholders would get a very large haircut. So, according to the calculations that my colleagues and I have performed, as well as calculations from others, the COFINA deal can only be sustained if the reduction on the rest of the public debt lies between roughly 85 percent and 95 percent.

Third, the attempts of the COFINA deal imply that COFINA bondholders will be getting far more than what they could have expected a year ago or a year and a half ago, as it was reflected in market prices. The outcome of the political game over disaster relief funds has been contrary to the interests of Puerto Rican citizens, and those who bought COFINA bonds in the months that followed Hurricane Maria have actually made massive profits at the expense of the future of Puerto Rico's economy.

Fourth, I see the Board addressing the debt restructuring one piece at a time in a way that I'm concerned could prove unsustainable. In fact, if similar terms to the COFINA deal were agreed with the General Obligation bondholders, Puerto Rico's crisis wouldn't be resolved.

Fifth, the Board and the Government of Puerto Rico have overstated the savings that the COFINA deal will deliver for Puerto Rican taxpayers. I'll be happy to discuss the numbers and the meanings of the $17 million that have been quoted. And they have also understated the distributional consequences as well as the risk that the outcomes of these debt negotiations entail.

So, to conclude, I still don't see a well-oriented restructuring process. My concern with what we are observing is that the recovery induced by the Federal relief assistance will be short-lived. We will see Puerto Rico grow in the short term, but if the problem of unsustainable debt is not resolved, we will see an economy once again in deep trouble by the time the Federal relief starts to cease, and that probably will finish in another costly restructuring.

Thank you again for the opportunity to share my views.

[The prepared statement of Mr. Guzmán follows:]

PREPARED STATEMENT OF MARTÍN GUZMÁN, NON-RESIDENT SENIOR FELLOW FOR FISCAL POLICY, ESPACIOS ABIERTOS

Chairman Grijalva, Members of the U.S. House of Representatives Committee on Natural Resources, good morning. Thank you for the opportunity to appear today before this Committee to discuss the lessons learned since the enactment of Puerto Rico Oversight, Management, and Economic Stability Act 3 years ago.

The enactment of PROMESA and establishment of Puerto Rico's Financial and Oversight Management Board, to which I will henceforth refer as "the Board," occurred in the context of a deep debt crisis.

A basic tenet of modern capitalism is that insolvent debtors need a fresh start. And it is well known that decentralized bargaining processes for debt restructuring often lead to poor outcomes, with costly delays and the relief obtained being insufficient to restore debt sustainability. Delays in concluding debt restructurings make economic recessions deeper and longer. Aware of these premises, Congress took action and enacted PROMESA, a law ostensibly designed to facilitate debt restructuring and economic recovery for Puerto Rico.

The Board was in charge of designing and implementing a plan for restoring the sustainability of the public debt that would allow for the Commonwealth's recovery of access to capital markets and create the necessary foundation for economic growth and to restore opportunity to the people of Puerto Rico.

The Board certainly faced a difficult task, one that was of essence for the future of Puerto Rico. The critical question that I would like to address today is whether the policies that the Board has promoted have been aligned with the mission that it received. I will argue that, unfortunately for Puerto Ricans, but more fortunately for a group of bondholders, they have not.

In March 2017, the Board certified a fiscal plan that was going to be the basis of Puerto Rico's fiscal and debt policies over the following decade. The consensus among the economists that had been analyzing Puerto Rico's case was that the plan was severely flawed. In a letter published on January 24, 2018, twenty-six internationally renowned economists argued that "the pre-hurricane fiscal plan did not provide for economic recovery," that it included "a number of unrealistic assumptions," and that the new fiscal plan had to be "fundamentally different than the previous one if Puerto Rico is to have a chance for recovery." [1]

In September 2017, Hurricane Maria aggravated Puerto Rico's troubles. Though Maria was a tragedy, it also created an opportunity to rewrite the fiscal plan and to come up with a sensible debt restructuring plan.

The island now has a new fiscal plan and an approved restructuring deal with the COFINA bondholders. In this testimony, I intend to shed light on the implications of both.

Let's start with the basics. The sustainability of Puerto Rico's debt restructuring needs to be assessed and addressed comprehensively. The critical question is how much debt reduction the island needs in order to take its debt position to a sustainable level. A sensible approach would be to calculate a range of how much debt could have been paid in total before the hurricane and use that range as the basis of how much debt can be sustained after the hurricane. Otherwise, part of the expansionary effects that the Federal relief will have on Puerto Rico's economy will constitute an implicit bailout to the bondholders.

In a study published in 2018 by the institution that I represent on this occasion, Espacios Abiertos, as well as later by the *National Bureau of Economic Research* and by the peer-reviewed journal *CENTRO*,[2] professors Pablo Gluzmann, Joseph Stiglitz, and myself analyzed the fiscal plan of March 2107 and computed the debt relief that Puerto Rico needed in order to restore debt sustainability. In a study published this morning by Espacios Abiertos,[3] conducted under my direction, the analysis has been updated. Our research, as well as related analyses from reputed colleagues, suggests a number of conclusions that I would like to share.

First, while there is a strong consensus among economists on the macroeconomic debt policies that Puerto Rico needs to adopt in order to escape from the current debt trap, the Board's debt policies are not being aligned with the conclusions reached by that consensus. Instead, they are leaving a legacy of debt and risk that may undermine the future of Puerto Rico's economy.

Second, the COFINA deal poses a serious risk of a failed debt restructuring. The deal makes sense only if the other groups of Puerto Rico's bondholders get a very large haircut. The arithmetic is simple. According to our calculations, as well as calculations by others who arrived at similar results with different methodologies, the generosity with the COFINA bondholders can only be sustained if the reduction on the rest of the public debt lies between roughly 85 percent and 95 percent—a conclusion that rests on the assumption that the entire public debt restructuring is designed with the goal of restoring debt sustainability.

Third, the terms of the COFINA deal imply that COFINA bondholders will be getting far more than they could have expected a year ago, as reflected in market prices. Overall, the outcome of the political game among the Board, the government of Puerto Rico, the U.S. Congress, and the bondholders over disaster relief funds is contrary to the interests of Puerto Rican citizens. Those who bought COFINA bonds in the months that followed Hurricane Maria have made massive profits at the

[1] A Fiscal Plan for Puerto Rico Recovery (2018). Available at http://recovery4pr.org/.

[2] Gluzmann, Pablo A., Martin M. Guzman, and Joseph E. Stiglitz (2018). "An Analysis of Puerto Rico's Debt Relief Needs to Restore Debt Sustainability." National Bureau of Economic Research Working Paper No. 25256. Also available as Espacios Abiertos Paper: http://espaciosabiertos.org/wp-content/uploads/DSA-English.pdf.

[3] Espacios Abiertos (2019), "Puerto Rico's Debt Struggle."

expense of the future of Puerto Rico's economy. In fact, with this deal, COFINA bondholders will be among the main beneficiaries of the effects that the Federal relief will have on the island's economy.

Fourth, the Board is still supporting too much debt service and is addressing one piece of the debt restructuring at a time in a way that will likely prove inconsistent. If terms similar to the COFINA deal are agreed to with creditors who hold General Obligation bonds, Puerto Rico will be forced to default again or else suffer even more fiscal austerity, which will lead the economy once again into a destabilizing spiral of recession and outmigration by the time the Federal relief assistance decreases.

Fifth, the Board and the government of Puerto Rico have overstated the savings that the COFINA deal will deliver for Puerto Rican taxpayers and understated the distributional consequences as well as the risks that the outcomes of those debt negotiations entail. In my view, the people of Puerto Rico have been misled and not accurately informed of the actual meanings of this deal by those who are supposed to represent them.

While I am sure the last 2 years have brought difficult challenges to the Board, I still do not see a well-oriented restructuring process. My concern with the evolution of events that we are witnessing is that the recovery induced by the Federal relief assistance will be short-lived. While in the short term we will observe that Puerto Rico grows, if the problem of unsustainable debt is not resolved, we will see again a declining economy with further outmigration and a prolonged humanitarian crisis by the time the Federal relief starts to cease. That path will inevitably end in the need for another costly restructuring.

Thank you again for the opportunity to share my views. I hope my testimony contributes to a better informed policy debate.

QUESTIONS SUBMITTED FOR THE RECORD TO PROF. MARTÍN GUZMÁN, COLUMBIA UNIVERSITY BUSINESS SCHOOL AND ESPACIOS ABIERTOS

Questions Submitted by Chairman Grijalva

Question 1. In your testimony, you mentioned that "delays in concluding debt restructurings make economic recessions longer and deeper." What specific changes should the FOMB, the Government of Puerto Rico, and Congress implement in the short-term to ensure that Puerto Rico's debt restructuring process is successful and does not result in a longer recession?

Answer. First, there should be a debt restructuring plan that assesses the restructuring needs comprehensively and seeks a deal with bondholders that is consistent with the computed restructuring needs. This is not happening. Puerto Rico's FOMB is still supporting too much debt service and is addressing one piece of the debt puzzle at a time in a way that will likely prove inconsistent.

Second, the fiscal plan must be based on more realistic assumptions about the effects of fiscal austerity policies and structural reforms, in order to be able to serve as a reasonable basis for the computation of the debt restructuring needs.

Question 2. According to your testimony, the FOMB and the Government of Puerto Rico have overstated the savings of the COFINA deal and understated the risks of those negotiations. Can you further explain how your assessment of the COFINA deal differs from the assessment performed by the FOMB?

Answer. The Puerto Rican government's announcement that the deal entails savings of $17 billion is wrong. That figure assumes, first, that the future payments scheduled for the old and the new COFINA bonds should be discounted at the same rate; and second, it assumes a discount rate of zero. None of those assumptions make sense.

One measure that is often invoked in restructuring episodes is the haircut, defined as the ratio between (i) the difference between the present discounted value (PDV) of the old defaulted bond and the PDV of the new bond that creditors receive in the debt exchange, and (ii) the PDV of the old defaulted bond. To compute the present value of future flows, a discount factor has to be selected. If the restructuring is effective in reducing the probability of a future default, the value at which the flows on the defaulted bond are discounted should be higher than the yield at the exit of the restructuring process. A computation of the haircut for different combinations of discount factors sheds light on the actual meanings of the COFINA deal. If both the PDV of the old and the new COFINA were computed using the same discount factor of zero, the haircut would be $16.8 billion—a number that approximates what the government of Puerto Rico has advertised as the actual savings, equivalent to a haircut of 34 percent. The haircut becomes smaller when, as is reasonable in this case, we use a higher discount factor for the old than for the new bonds. For instance, for a discount factor of 6 percent for the new bond and 9 percent for the old bond, the haircut is just 16 percent. For a discount factor of 5 percent for the new bond and 9 percent for the old bond, the haircut is 2 percent. These are more reasonable choices of parameters.

It must also be noted that the COFINA deal is not a simple exchange of old bonds for new bonds with lower value. While the old bonds were a mix of senior and junior bonds, the new bonds are all senior. The old junior bonds get the largest reduction but they gain seniority. In effect, the deal has improved rather than decreased the bondholders' expected recovery, as reflected by the increase in the prices of those bonds over the last year due to increasing optimism over the expected recovery—an optimism that was confirmed by the exchange.

Question 3. According to your calculations, the COFINA agreement can be sustained if the debt reduction on the rest of the public debt is between 85 percent and 95 percent. Have other jurisdictions reached this type of debt restructuring and is it practical to achieve it?

Answer. According to the calculations that my co-authors and I performed,[1] a conservative estimate of the sustainable stock of public debt under the assumption that the primary fiscal surplus could stabilize at the values forecasted by the FOMB was between $14.9 billion and $19.9 billion. Thus, with a COFINA debt legacy of $12 billion implied by the deal, the necessary reduction on the remaining stock of public debt would have to be between 85.4 percent and 95.3 percent.

I am not aware of a haircut of that size on an entire stock of municipal debt in the United States but there are antecedents of groups of creditors receiving a haircut in that interval. A haircut of that size on Puerto Rico's other bondholders would certainly entail large inter-creditor inequities.

Question 4. The 2018 Fiscal Plan certified by the FOMB required a Human Capital and Labor Reform that implements employment at-will and a reduction of mandated paid leave. Does research support the implementation of labor-market reforms to achieve economic development during a recession?

Answer. No. Puerto Rico's economy is in a demand-constrained regime. Thus, the assumption that those structural reforms will be a driver of economic recovery in the short-term is not well-founded. Besides, its political status and the possibility of its citizens to migrate to the U.S. mainland means that the appropriate models for assessing the effects of labor-market reforms that affect wages are not the same as those that apply to most sovereign countries.

Question 5. Are you aware of any other case of massive primary surpluses projected in the first 10 years of a debt restructuring deal, that is then followed by declining negative ones? If Puerto Rico's economy continue to wither, what are the implications of the current debt restructuring deals down the line, say in about 15–20 years?

Answer. The IMF[2] recognizes that sustained large surpluses are not common and it incorporates this constraint in its debt sustainability analyses.

Besides, there is no evidence that supports the premise that targeting sustained high primary fiscal surpluses has been associated with recoveries in situations of debt distress.

When it comes to Puerto Rico, if the debt reduction provided by the restructuring proves insufficient to restore the sustainability of the public debt position, the citizens of Puerto Rico will end up suffering the consequences of a new state of debt distress, in the form of a higher tax burden, more austerity, depressed economic activity and fewer opportunities in the island, with the consequent outmigration that reduces the tax base even more, implying an even larger burden for those who stay. Such a situation would eventually end up in another costly restructuring.

The CHAIRMAN. Thank you very much.

[1] Gluzmann, Pablo A., Martin M. Guzman, and Joseph E. Stiglitz (2018). "An Analysis of Puerto Rico's Debt Relief Needs to Restore Debt Sustainability." *National Bureau of Economic Research* Working Paper No. 25256.

[2] IMF (2011). "Modernizing the Framework for Fiscal Policy and Public Debt Sustainability Analysis." Prepared by the Fiscal Affairs Department and the Strategy, Policy, and Review Department. Approved by Carlo Cottarelli and Reza Moghadam.

Let me now turn to Ms. Amanda Rivera, Executive Director of The Institute for Youth Development of Puerto Rico. Please.

STATEMENT OF AMANDA RIVERA, EXECUTIVE DIRECTOR, THE INSTITUTE FOR YOUTH DEVELOPMENT OF PUERTO RICO

Ms. RIVERA. Buenas tardes. I want to thank Chairman Grijalva and the rest of the Committee for providing us a seat at the table to discuss one of Puerto Rico's most pressing issues: child poverty.

The extremely high rates of child poverty combined with the declining child population presented a state of emergency for Puerto Rico even before Hurricane Maria ravished our island. It presents not only a human rights issue but a severe threat to Puerto Rico's long-term economic development and sustainability.

Yet, we have failed to act with urgency on this matter. The Youth Development Institute of Puerto Rico is the only non-partisan NGO strictly dedicated to improving the lives of children in Puerto Rico through research, policy, and advocacy. So, being that we are an entity that uses data to advocate for policy changes, let me paint a picture using numbers.

If you are a child in Puerto Rico, you are likely to be living in poverty, and there is a good chance that that poverty is extreme. The day before Maria, 58 percent of Puerto Rico's children lived in poverty and 39 percent lived in extreme poverty. As a comparison, Louisiana has the highest child poverty rate of all 50 states, at 28 percent.

It is also important to understand that this high level of poverty has remained consistent for the last 20 years. In 1999, when Puerto Rico's economy was doing well by some indicators, the child poverty rate was also 58 percent. This tells us that child poverty is not just a result of economic activity in the island but rather, a systemic problem.

As a teenager in Puerto Rico, you will be more likely than your counterparts in the states to not be in school or working. The day before Maria, 13 percent of youth ages 16 to 19 were considered to be disconnected youth. In the United States, that percentage is 7 percent.

And as you begin to grow and think of a family of your own, odds are that you will choose to leave Puerto Rico to pursue better opportunities for yourself and your children, or that you will choose to have few, if any, children. Between 2007 and 2017, Puerto Rico lost 35 percent of its child population.

The bottom line is that each day we have less children and the majority are living in conditions that will limit their potential as adults.

The study that we commissioned on the impact of Hurricane Maria on children tells us that these trends have likely worsened since. Around a fourth of families with children reported losing wages because of the hurricane, and around a third of the lowest income families a year after the hurricane reported being in a worse economic situation than they were before. It should not be a surprise then that around 15 percent of families with children said that they were still considering moving to the mainland.

Three years after PROMESA, what we have learned is that children, despite carrying on their shoulders Puerto Rico's future, are not a priority. Puerto Rico's children's budget and analysis that we conduct on the budget allocated to programs that serve children and their families found that these programs have been cut by 15 percent between Fiscal Years 2014 and 2019. These cuts, although not exclusive to recent years, have been consistent since austerity measures have been implemented.

While some might argue that these cuts are reflective of the declining child population, we argue that the investment was never enough to begin with and that we have an opportunity at hand to concentrate resources in an effective manner to significantly reduce child poverty and improve youth outcomes.

Three years after PROMESA, congressional actions have fallen short of what is needed to seriously address the problem. While PROMESA required the Task Force on Economic Growth for Puerto Rico to create a report that, among other things, suggested policies to reduce child poverty, these two policies that were included have not been carried out.

One was the extension of the Child Tax Credit for families of one and two children, and this has garnered bi-partisan and bicameral momentum, so we must ensure that this Congress does not end without passing it. It's the very, very least that can be done.

The report also listed the creation of an interagency task force on child poverty. However, when Congress ordered the creation of a roadmap to reduce child poverty by half in the United States, which was published recently, this analysis did not include Puerto Rico. Three years after PROMESA, which ironically means "promise" in Spanish, it is with a heavy heart that I say that we cannot promise our children that their future will be better.

Our ask is for Congress to act on the recommendations related to child poverty in the Task Force report and to not end there because that would not be enough. To consider the reduction of child poverty as an essential component of Puerto Rico's economic development strategy, to commit to making the investments necessary for this, and to keep the issue at center when reviewing the impact of PROMESA.

Puerto Rico's children not only deserve better but they also hold the key to Puerto Rico's prosperity.

Thank you.

[The prepared statement of Ms. Rivera follows:]

PREPARED STATEMENT OF AMANDA RIVERA, EXECUTIVE DIRECTOR, THE INSTITUTE FOR YOUTH DEVELOPMENT OF PUERTO RICO

Good Morning. I want to thank Chairman Grijalva for providing us a seat at the table to discuss what we believe is one of Puerto Rico's most pressing moral and economic issues—child poverty. The extremely high rates of child poverty, combined with declining child population were an emergency, even before Hurricane Maria ravaged our island. It presents not only a human rights issue, but a severe threat to Puerto Rico's long-term economic development. Three years after PROMESA what we have learned is that children, despite carrying on their shoulders Puerto Rico's future, are not a priority. We are past due on correcting this wrong.

My name is Amanda Rivera and I am the Executive Director of the Youth Development Institute of Puerto Rico. We are the only non-partisan and non-governmental entity strictly dedicated to improving the lives and opportunities of children in Puerto Rico through research, policy and advocacy. We are also Puerto Rico's Kids Count partner.

So, being that we are an entity that is known for its ability to compile and disseminate data to advocate for policy changes, let me paint a picture using numbers.

If you are a child in Puerto Rico, you are likely to be living in poverty, and there is a good chance that the poverty is extreme. The day before Maria, not only did 58 percent of children in Puerto Rico live in poverty, but 39 percent lived in extreme poverty. As context, Louisiana has the highest child poverty rate of all fifty states, at 28 percent.

It is also important for context to understand that this high level of poverty has remained consistent for the last 20 years. In 1999, when Puerto Rico's economy was doing well by some indicators, the child poverty rate was also 58 percent. So that number has remained stagnant, which tells us that the child poverty rate is not just a result of economic activity in the island, but rather systemic problem.

As a teenager in Puerto Rico, you will be more likely than your counterparts in the states to not be in school or working. The day before Maria 13 percent of youth ages 16–19 were considered to be disconnected youth. In the United States that percentage is 7 percent.

And as you begin to grow, and think of a family of your own, odds are that you will choose to leave Puerto Rico to pursue better opportunities, or that you will choose to have few, if any children. Between 2007 and 2017, Puerto Rico lost 35 percent of its child population.

The study that we commissioned on the impact of the hurricane on children and youth tells us that these trends of poverty and migration have likely worsened since. Around a fourth of families with children reported losing wages because of the hurricane, and around a third of the lowest income families, a year after the hurricane reported being in a worse economic situation than before the hurricane. It should not be a surprise then that around 15 percent of families with children said they were still considering moving to the United States.

Austerity measures also compromise the opportunities that children will have to escape poverty. The Children's Budget, an analysis that we conduct on the budget allocated to programs that serve children and their families in Puerto Rico, found that these programs have been cut by 15 percent between fiscal years 2014 and 2019. These cuts, although not exclusive to recent years, have been consistent since new fiscal measures have been implemented. Also, the Fiscal Plan adopted by the Oversight Board recommends cuts over the next 5 years of $576 million to the Department of Education, $886 million to the health insurance plan for low and middle income families and $163 million to the Department of Health, which includes services for mental illnesses.

While some might argue that the cuts are reflective of the declining child population, we argue that the investment was never enough to begin with, and that we have an opportunity at hand to concentrate resources in an effective manner to significantly reduce child poverty, and in this way change Puerto Rico's economic and social trajectory.

Yet, PROMESA and other congressional actions have fallen short of what is needed to seriously address this problem. While PROMESA required the Task Force on Economic Growth for Puerto Rico to create a report that among other things, suggested policies to reduce child poverty, the two policies that were included there have not been carried out.

One was the extension of the Child Tax Credit for Families of 1 and 2 children. This has garnered bipartisan and bicameral momentum, and we must ensure this Congress does not end without passing this. It's the very least that can be done.

The Report also listed the creation of an interagency task force on child poverty. However, when Congress ordered the creation of roadmap to reduce child poverty by half in the United States through the National Academies of Sciences, this analysis did not include Puerto Rico.

Meanwhile, Puerto Rico's children continue to languish in conditions that limit their ability to reach their full potential. Child poverty continues to be a side note, and not an essential component of Congress' agenda of economic growth for Puerto Rico.

Our ask is for Congress to act on the recommendations related to child poverty in the Task Force's report, and to not end there, because that would not be enough. To include Puerto Rico in the plans to reduce child poverty, to commit to making the changes and investments necessary for this and to keep the issue at center when reviewing the impact both PROMESA's and the Recovery's outcomes. Puerto Rico's children not only deserve better, but also hold the key to Puerto Rico's prosperity. Thank you.

QUESTIONS SUBMITTED FOR THE RECORD TO AMANDA RIVERA, EXECUTIVE DIRECTOR, THE INSTITUTE FOR YOUTH DEVELOPMENT OF PUERTO RICO

Question Submitted by Chairman Grijalva

Question 1. Section 2141(b)(1)(B) of PROMESA requires that Fiscal Plans approved by the Fiscal Oversight and Management Board for Puerto Rico "ensure the funding of essential public services."

Would defining essential public services help improve the quality of life of children in Puerto Rico? Please explain why or why not.

Answer. The extent to which defining essential public services would help improve the quality of life of children in Puerto Rico is complex, and will greatly depend on the way in which these essential public services are defined.

On one hand, including public education as an essential service, could help ward off further cuts from the public school system—K-12 and the university. Several studies have found a link between per pupil spending and positive student outcomes, especially for students from low-income backgrounds. These investments are deemed to be more effective if they are directed toward specific elements—such as reducing class size—and are focused on supporting instruction and other direct services for students.

However, it should be noted that while education is an important variable in children's well-being, their opportunities to thrive and leave poverty are a product of other variables beyond the education system. Children's development is affected by a host of different systems interactions, which include the family, the school, the broader community, and even the broader economic and cultural context (Bronfenbrenner, 1979).

Moreover, as research has proven, broader economic factors such as poverty, as defined by household income—which in the case of Puerto Rico is pervasive to the majority of the child population—can have a negative impact on educational outcomes, cognitive development health, emotional well-being, and child welfare.

The definition would then need to include services that impact parents, grandparents taking care of children, child care and early childhood programs, work force development programming, mental health, social work and safety nets. If these other services and programs, which are not usually considered essential, are not included, they then run the risk of deeper cuts.

Other ways to look after children's well-being, especially the issue of child poverty, is to better define economic growth so that it includes social development and the reduction of child poverty. In this way, the fiscal plan would be obliged to provide for investments to reduce child poverty. This would include a broader range of programs and services, that could be inclusive of education.

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The CHAIRMAN. Dr. Ana Cristina Gómez-Pérez, Associate Professor, University of Puerto Rico.

STATEMENT OF ANA CRISTINA GÓMEZ-PÉREZ, ASSOCIATE PROFESSOR, UNIVERSITY OF PUERTO RICO

Dr. GÓMEZ-PÉREZ. Buenas tardes. Honorable Chairman and members of the Committee, I am Professor Gomez and the Coordinator of the Budget Committee of the University Board, the highest non-political body in the University. I have experienced firsthand the dire economic impact that PROMESA has inflicted on the financial stability of the University system, and have been a witness to the shortcomings of the University's fiscal plan.

The purpose of PROMESA is to create a mechanism to ensure the fiscal responsibility of Puerto Rico and its access to capital markets. My main argument is that investing in the University is one of the major mechanisms to achieve PROMESA's goals, and the University fiscal plan goes in the opposite direction.

In my written testimony, you will find all the studies and analyses that support this argument. For this reason, the University Board respectfully requests the members of this distinguished commission to amend Section 201(b)(1)(B) of PROMESA to ensure proper funding of essential public services that include public funds allocated to the University of Puerto Rico in order to comply with its obligations and accreditation requirements.

In 1908, Congress extended the Morrill-Nelson law to Puerto Rico, granting our institution the status of a Land Grant College. Today, the University is one of the major economic engines of the island, and the most important factor in promoting social mobility among the population. According to the mainstream economic studies, the University generates $1.5 for each dollar of government investment. That is an impressive 150 percent return.

The University is the primary academic and scientific research institution in Puerto Rico, receiving $284 million in grants and research funds annually. It seems obvious that Puerto Rico's economic recovery depends on providing essential service and investing our limited financial resources where they generate better returns for the economy.

Investing in higher education by adequately funding the University complies with both of these goals, but our Government and the Board remain oblivious to those realities and continues to impose draconian cuts in funding for our University with a 53 percent budget cut in 4 years.

If such projected cuts are implemented, by the year 2021 the University will operate on deficits and will be in default of its creditors, thus setting the stage for a total closure.

The primary problem is that the University Plan stands on a false premise, that the University is a conventional government agency and that it can choose to default on its obligations and seek protection through bankruptcy. However, the Federal Higher Education Act will permanently ban the University from receiving Title IV funding if it chooses this path since the institution will be in non-compliance with the financial responsibility requirements of the law.

That is to say, if we are forced to run into deficit, as foreseen by the fiscal plan, we will be excluded from all Federal scholarships, grants, and research funding. With 55 percent of the population living below poverty level, this means that about 73 percent of our students will lose the possibility of higher education because they will not have access to Title IV funds.

This process has already begun. Last January, the Middle States Commission placed the University on their "Show Cause" status and required us to demonstrate compliance with the affiliation requirement related to the institution's financial resources.

We can all agree that the University must adopt measures that respond to the economic reality of the island, and in fact, it has been doing so for a number of years. But as a sui generis government corporation, the University must dutifully observe a wide range of Federal and state regulations and requirements for the accreditation of all its campuses and programs.

It is obvious that PROMESA and the Government's fiscal plan will lead to the eventual closing of the University of Puerto Rico, which will have a terrible economic effect on the island. That is why we respectfully request the Congress to amend PROMESA law, Section 201(b)(1)(B), so that it is not up to the local politicians and the Board to arbitrarily decide what the adequate investment should be for the University system.

Gracias.

[The prepared statement of Ms. Gómez-Pérez follows:]

PREPARED STATEMENT OF DR. ANA CRISTINA GÓMEZ-PÉREZ,[1] PROFESSOR OF UNIVERSITY OF PUERTO RICO-RIO PIEDRAS LAW SCHOOL; COORDINATOR OF THE BUDGET COMMITTEE, UNIVERSITY BOARD

Honorable Chairman and members of the Committee, I am a professor at the University of Puerto Rico School of Law and serve as Coordinator of the Budget Committee of the University Board. The University Board is the highest nonpolitical body in the University. I have experienced first-hand the dire economic impact that PROMESA has inflicted on the financial stability of the University system and have been a witness to the shortcomings of the University Fiscal Plan.

The purpose of PROMESA is to create a mechanism to ensure the fiscal responsibility of Puerto Rico and its access to capital markets. My main argument is that investing in the University is one of the major mechanisms to achieve PROMESA's goals and that the University Fiscal Plan moves us in the opposite direction. In my written testimony you will find all the studies and analyses that support this argument. For the reasons stated above, the University Board respectfully requests the members of this distinguished commission to amend section 201(b)(1)(B) of PROMESA to ensure proper funding of essential public services which include public funds allocated to the University of Puerto Rico, so that it is able to comply with its obligations and accreditation requirements.

In 1908 Congress extended the Morrill-Nelson law to Puerto Rico, transforming our institution into a Land Grant College. Today the University is one of the major economic engines of the Island. Not only is it the single most important factor in promoting upward social mobility among the general population, but according to mainstream economic studies the University generates 1.5 dollars for each dollar of government investment. That is an impressive 150 percent return on government expenditures.

The University is the primary academic and scientific research institution in Puerto Rico, receiving $284 million in grants, scholarships and research funds yearly, and generating positive economic wealth and social benefits for the population at large. It would seem obvious that Puerto Rico's economic recovery depends on providing essential services and investing our limited financial resources where they generate better returns for the economy. Investing in higher education by adequately funding the university complies with both of these goals, yet, our Government remains oblivious to such reality and continues to impose draconian cuts in funding for our university with a 53 percent budget cut in 4 years for the

[1] I have a PhD from the Universidad Complutense de Madrid and I am a Law Professor. For the past 18 months, I have served at the University Board, representing the UPR, Rio Piedras Campus, that is the biggest and more comprehensive campus of the system. At the University Board, I served as the Coordinator of the Budget Committee, which has the legislative mandate to evaluate the budget of the units of all the UPR system and make recommendations to the UPR President, and the Governing Board before approval. In this committee we have examined the budget projections for all the units and the critical situation brought about by the current Fiscal Plan.

University. It is inconceivable that this is done while the statewide elections commission is allocated an increase of 87 percent of the budget.

If such projected cut is implemented, by the year 2021 the University will operate on deficit and be in default of its creditors, thus setting the stage for its total closure. The Government fiscal plan stands on a false premise: that the University is a conventional agency, and that it can choose to default on its obligations or seek protection through bankruptcy. However, the Federal Higher Education Act would permanently ban the university from receiving Title IV funding if it chooses this path; since the institution would effectively be in non-compliance with the financial responsibility requirements of the law. That is to say, if we are forced to run into deficit, as foreseen by the fiscal plan, we will be excluded from all Federal scholarships, grants and research funding. In Puerto Rico, with 55 percent of the population living below poverty levels, this means that about 73 percent of the students would lose the possibility of higher education because they would not have access to Title IV funds. Ironically, these sources of income are the same that the fiscal plan identifies as new, alternate funding mechanisms for the University to survive.

This process is already underway. Last January, the Middle States Commission of Higher Education (MSCHE) placed the University in "Show Cause" Status and required it to demonstrate compliance with affiliation requirement related to the institution's financial resources.

We can all agree that the University must adopt measures that respond to the economic reality of the Island, and in fact it has been doing so for a number of years, before PROMESA we suffered a cut of more than $500 million. But as a sui generis government dependency, the university must dutifully observe a wide range of federal and state regulations and requirements for the accreditation of all its campuses and for a large number of specific programs.

It is obvious that PROMESA and the government's fiscal plan will lead to the eventual disappearance of the University of Puerto Rico and, as an aftermath, a terrible economic effect to the Island. That is why we expressly request Congress to amend the PROMESA Law and include the recommended language, so that it is not up to the board or local politicians to arbitrarily decide what the adequate investment should be for the University system.

The University of Puerto Rico's Board approved unanimously, in its regular meeting of April 3, 2019, request to the members of this Committee to amend the PROMESA law at section 201(b)(1)(B) to read as follows:

> "ensure the funding of essential public services; this includes public funds allocated to the University of Puerto Rico by means of the formula established in Law 1 of 1966 or a minimum of $800 million annually until termination of the Oversight Board pursuant to section 209 of this Act, so that with the aforesaid funds the institution is able to fulfill its major role as an essential public service and is also able to comply effectively with its obligations and accreditation requirements."

Fiscal Plan for the University of Puerto Rico

Act 2 of January 20,1966, amended in 1993, established the funding formula used by the state for allocation of resources to the UPR with the objective of promoting fiscal autonomy, as well as for the expansion of the Institution. This, with the purpose of ensuring the construction of regional campuses that would enable all citizens the opportunity to receive the best higher education at the lowest cost possible.[4] On December 1, 1995 Puerto Rico's legislature amended Law 2 of 1966 to increase the formula to 9.60 percent of the annual rental annuities. Subsequently, the funding formula that had been established for UPR operations suffered drastic changes due to the freezing of government funds, since fiscal year 2014–2015 to fiscal year 2017–2018 which resulted in a cumulative budget cut of more than 550 million USD.[5]

[4] Vélez Cardona. W. (2002) El financiamiento de la educación superior en Puerto Rico. San Juan: Puerto Rico, Gráfica Metropolitana. p. 79.

[5] http://www.vcertifica.upr.edu/PDF/CERTIFICACION/2017-2018/21%202017-2018.pdf (Revised on April 24, 2019).

With the enacting of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA),[6] the approved fiscal plan for Puerto Rico's Central Government establishes a series of fund reductions for the University as detailed below:

Fiscal Year	Adjusted Annual–Recurrent	Adjusted Accumulate
2017–2018	$202,718,000	$202,718,000
2018–2019	$44,074,000	$246,792,000
2019–2020	$84,236,000	$331,028,000
2020–2021	$71,000,000	$402,028,000
2021–2022	$23,000,000	$425,028,000
2022–2023	$24,000,000	$449,028,000

After the incorporation of the reductions, the University's Fiscal Plan was approved by the FOMB in October 2018,[7] with economic measures:

UPR Fiscal Plan considering Measures

($000's)

	FY'18 – Base	FY'18 – Maria Adj	FY'19	FY'20	FY'21	FY'22	FY'23
Pensions Payment	(74,559)	(74,559)	(76,376)	(79,598)	(82,570)	(85,108)	(87,744)
Total Disbursements	**($1,233,406)**	**($1,270,014)**	**($1,274,095)**	**($1,204,357)**	**($1,141,759)**	**($1,132,908)**	**($1,132,968)**
Net Operating Surplus/Deficit	**$32,049**	**($77,888)**	**$72,974**	**$51,402**	**$34,205**	**$32,665**	**$15,487**
Contractual Debt Service	($48,255)	($48,255)	($48,256)	($48,249)	($48,259)	($48,252)	($48,261)
Reserve/Deficit (Post Contractual Debt Service)	**($16,206)**	**($126,144)**	**$24,718**	**$3,154**	**($14,054)**	**($15,587)**	**($32,774)**

On April 2, 2019, the University Governing Board presented a revised fiscal plan[8] with more drastic and harmful economic measures than those previously established in the plan approved for 2018.

UPR Fiscal Plan considering Measures

($000's)

	FY'18 – Base	FY'18 – Maria Adj	FY'19	FY'20	FY'21	FY'22	FY'23
Total Disbursements		(1,161,739)	(1,128,731)	(1,057,676)	(1,046,723)	(1,040,804)	(1,033,657)
Net Cash Flow (before Pension Payment & DS)		146,811	123,309	93,111	90,857	78,203	85,571
Pensions Payment		(76,376)	(79,598)	(82,570)	(85,108)	(87,744)	(87,744)
Debt Payment		(48,252)	(48,252)	(48,252)	(48,252)	(48,252)	(48,252)
Net Cash Flow		$22,183	($4,541)	($37,711)	($42,503)	($57,794)	($50,425)

The economic future for the UPR, under the approved or revised plan, assures that the UPR's budget will be in negative cash-flows and will show a deficit as soon as the upcoming fiscal year. There is an expected deficit increase to between $30 to $50 million for the year 2023. In a note to the financial statements for fiscal year 2016–17, the UPR external and independent auditors expressed the ongoing concern that:

> "With these fiscal plan measures . . . the University would have operational deficits starting in fiscal year 2021 and increasing through fiscal year 2023."[9]

Eligibility Requirements for Title IV Funds at the University of Puerto Rico

One of the main sources for the UPR finances are grants and Federal aid for students and researchers. Title IV of the Higher Education Act of 1965 [HEA] of 1965, 20 U.S.C. § 1070(a), establishes various Federal student financial aid such as

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[6] 48 U.S.C. § 2121.

[7] http://www.upr.edu/wp-content/uploads/2018/10/Fiscal-Plan–21-oct-2018-.pdf (Revised on April 24, 2019).

[8] http://www.aafaf.pr.gov/assets/upr-revised-fiscal-plan-april-2019.pdf. p. 23. (Revised on April 24, 2019).

[9] http://www.upr.edu/wp-content/uploads/2019/01/Estados_auditados_UPR.pdf (Revised on April 24, 2019).

the: Pell Grant Program, Supplemental Educational Opportunity Grant Program, Stafford Loan Program, PLUS Program, Consolidation Loan Program, Work-Study Program, the Teacher Education Assistance for College and Higher Education Grant Program, the William D. Ford Federal Direct Loan Program, and the Federal Perkins Loan Program.[10] The amount of funds that the UPR receives from these grants and Federal aid amounts to $287 million annually according to UPR's Fiscal Plan[11] and more than 70 percent of students depend on this type of Federal aid to study.[12] The income received by Title IV is the second source of income of the University and according to the Fiscal Plan it must increase gradually to complete the planned cuts of the appropriations of the Government. As discussed here, the University depends on Title IV funds for its survival and yet the Fiscal Plan violates the eligibility requirements of Title IV.

Furthermore, Title IV of the Higher Education Act [HEA] of 1965, 20 U.S.C. § 1070(a), establishes various Federal student financial aid (grant and loan) programs whereby the government contributions funds to eligible higher education institutions the funds necessary to provide aid to qualifying students and pursue an academic program.[13] Eligible institutions are those that meet the HEA definition of "institution of higher education." The definition imposes three primary requirements for eligibility: (1) state licensure, (2) accreditation by a Department of Education (DOE) recognized accrediting agency, and (3) certification by the DOE that the institution is administratively capable and financially responsible. Up to 1992, higher education institutions were legally able to file for restructuring of their debts through bankruptcy proceedings. In 1990, however, Congress amended the Bankruptcy Code to exclude a debtor's eligibility to participate in title IV financial aid programs and a debtor's accreditation status and state licensure as part of the property of the estate, as well as to exclude from the automatic stay on actions by the DOE to terminate eligibility or any action by an accrediting agency or state licensing board regarding the institution's status. Notwithstanding, in 1992 Congress closed the bankruptcy door by amending the definition of "institution of higher education" to exclude an "institution . . . that has filed for bankruptcy." 20 U.S.C. § 1002(a)(4)(A).

The Senate Report that accompanied the HEA amendments[14] focused on the shortcomings of the accrediting agencies in assuring the quality of education required for Guaranteed Student Loan Programs' (GSLP) participation, in the "cost-effectiveness and ongoing viability" of the GSLP, and in the danger of allowing a school to admit new students despite its financial instability, ultimately producing a financial burden for students left without degrees but with unpayable debts.

Congress' concerns regarding the use—or misuse—of Title IV funds by certain institutions and their failure to fulfill their educational commitment to their students, is at the core of Congress' decisions regarding the possible venues of institutions of higher education to address their dire financial situation. Because of these amendments, now accrediting agencies carefully overview the financial situation of the institution and its impact on the quality of education.

When Congress' enacted the Puerto Rico Oversight, Management and Economic Stability Act (PROMESA) in 2016, extending the island access to a debt restructuring mechanism, it also created an Oversight and Management Board to serve as the debtor in debt-restructuring processes. In May 2017 the Board filed "the largest bankruptcy case in the history of the American public bond market"[15] As a result, the UPR, one of the government's corporations, was forced into a blanket bankruptcy process, where it lacks control over its restructuring. Moreover, without further provisions in PROMESA, the Act has, de facto, produced a worse scenario than that evaluated by Congress in 1992. Competing interests in a process where that UPR is not considered an essential service, and where there are no guarantees of a minimum amount of annual funding to fulfill its primary role. This has brought

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[10] 20 U.S.C. § 1070 et seq.

[11] http://www.aafaf.pr.gov/assets/upr-revised-fiscal-plan-april-2019.pdf, p. 36.

[12] According to University Student Vice-president data.

[13] Title IV of the Higher Education Act of 1965 establishes various Federal student financial aid such as: Pell Grant Program, Supplemental Educational Opportunity Grant Program, Stafford Loan Program, PLUS Program, Consolidation Loan Program, Work-Study Program, the Teacher Education Assistance for College and Higher Education Grant Program, the William D. Ford Federal Direct Loan Program, and the Federal Perkins Loan Program. 20 U.S.C. § 1070 et seq.

[14] See Higher Education Amendments of 1992, Pub. L. No. 102–325, 106 Stat. 448. Section 1002(a)(4) of the HEA was originally numbered 20 U.S.C. § 1088(a)(4). It was renumbered 20 U.S.C. § 1002(a)(4) as part of Pub. L. No. 105–244 in 1998.

[15] https://theintercept.com/2017/05/09/puerto-ricos-123-billion-bankruptcy-is-the-cost-of-u-s-colonialism/ (Revised on April 24, 2019).

the UPR to a financial situation that threatens its accreditation and thus its fundamental education duty, and its role in the development of society as whole.

The negative effect of the fiscal plan measures for the UPR will be twofold. The immediate effect is evident in the line items impacted by the severe budget cuts, and the resulting operational deficit under the fiscal plan, a deepening deficit beginning in fiscal year 2019.

The deepening operational deficit will be met with the second, and even more devastating effect, which is the impending loss of the institution's ability to receive Federal student financial aid funding from the DOE, resulting in the end of the UPR's feasibility[16] as Puerto Rico's premiere and most prestigious institution for higher education. That is, the deepening operational deficit created by the fiscal plan's measures will lead the UPR into insolvency and, consequently, cause this institution to default on its financial obligations. However, since the UPR is an institution for higher education, it may not be able to reorganize or restructure its debts under bankruptcy protection, since "an institution's eligibility to participate in Title IV programs terminates immediately upon filing for bankruptcy, and termination will instantly destroy the institution's financial viability."[17]

Even defaulting in its obligations to creditors may cause an institution to lose eligibility to participate in Federal funding. Under Title IV of the HEA, one of the main requirements for eligibility is certification by the DOE that the institution is administratively capable and financially responsible.[18] This means that an insolvent higher education institution that defaults in its obligations to creditors may face losing Title IV eligibility, as it may fail to qualify, and obtain the necessary certification from the DOE as being administratively capable and financially responsible. Therefore, the UPR may be rendered ineligible to participate in Title IV programs because of the deepening deficit created by fiscal plan measures, resulting in the institution's insolvency and inevitable default. In turn, loss of access to Federal financial aid funding most likely will force the UPR to shut down.

In 2018, 8 of the 11 campuses were placed on probation by the regional accrediting agency for our area, Middle States Commission on Higher Education (MSCHE). Their main concern being the lack of evidence that these campuses had the resources to carry out their mission and comply with financial obligations.

On January 11, 2019, MSCHE placed the University in "Show Cause" status and required each campus a report to "show good cause" as to why accreditation should not be removed and demonstrate compliance with Standard VI (Planning, Resources, and Institutional Improvement).[19] Affiliation requirement 11 specifically provides that:

> "The institution has documented financial resources, funding base, and plans for financial development, including those from any related entities (including without limitation systems, religious sponsorship, and corporate ownership) adequate to support its educational purposes and programs and to ensure financial stability. The institution demonstrates a record of responsible fiscal management, has a prepared budget for the current year, and undergoes an external financial audit on an annual basis."

The 11 campuses of the UPR had to submit a report to the MSCHE, which included a teach out plan, explaining the closing measures of each one in the event that they had to cease operations. The problems with MSCHE is only the initial effect of a downward spiraling process.

Implemented Measures by the University of Puerto Rico to Address the Economic Crisis

Since the enactment of PROMESA, the University has been implementing drastic adjustments due to the continuing fund reductions suffered in its budget. Some of the adopted measures and some soon to be adopted by the fiscal plan are:

- The temporary cessation of positions throughout the entire university system. Currently, there are 746 professor positions frozen awaiting to be cut from the budget.[20] This measure has contributed to the recruitment of lecturers or part time Instructors who in most cases do not receive any fringe benefits. A

[16] See, Scott F. Norberg, Bankruptcy and Higher Education Institutions, St. Johns University School of Law Symposium, 23 Am. Bankr. Inst. L. Rev. 385 (2015).
[17] Id. See, also, 20 U.S.C. § 1002(a)(4)(A), (6).
[18] 20 U.S.C. § 1001(a).
[19] https://www.msche.org/2019/01/1O/middle-states-commission-on-higher-education-puts-11-institutions-of-the-university-of-puerto-rico-on-show-cause/ (Revised on April 24, 2019).
[20] As of December 31, 2018, according to University Human Resources.

lecturer's salary is as low as $2,043,[21] per semester for a 3 credits class; this compensation is for a professor with a doctoral degree. The practice of freezing and cutting tenure track positions and recruiting part-time adjunct lecturers is contradictory with some of the accreditation regulations that require full-time tenured-faculty per a ratio of students.[22]

- A 100% reduction in other payroll payments for FY 2019–2020 through FY 2022–2023.
- A 9% reduction in procurement for FY 2019–2020 and FY 2020–2021 (Materials and Services).
- A 150% increase to undergraduate tuition cost per credit for the academic year 2017–2018 through 2022–2023.[23]
- A 150% increase to the graduate tuition cost credit for the academic year 2017–2018 through 2022–2023.[24]
- Since academic year 2018–2019, the University has increased most of the dues and fees.[25]
- Retirement Pension Plan. According to the audited Statements of 2017, the PR's Pension System has an Unfunded Liability of ~$2.0 billion. The anticipated contributions in the fiscal plan only foresee an approximation of $82 million for 2020 increasing up to $87 million for 2023. This is less than the schedule of amortization approved by the Governing Board in a closed amortization of the Unfunded Liability over 40 years.[26] Nonetheless, the allocations in the UPR Fiscal Plan are far from the recommendations suggested by the actuarial experts to prevent that it become insolvent (Move to Pay-As-You-Go).[27]

These efforts are part of the hard work that has been done. The University is not idle or unconscious of the need for fiscal restraint and has been working since 2014 with economic cuts from the Government, adopting multiple measures to continue providing quality higher education to almost 55,000 active students. However, some of the measures that need to be adopted in the future require strict compliance with processes regulated by Federal, state and accreditation legislation. The Fiscal Plan, however, does not offer the University the economic space or time to comply with those regulations.

The University of Puerto Rico's duty for the Economic Development of Puerto Rico

The University has made many contributions that have been recognized worldwide, thus not only benefiting Puerto Rico with its existence. It is important to realize its essential role in promoting economic growth for island and that its closure would lead to Puerto Rico not overcoming the economic crisis.

Just to mention a few of these contributions, Dr. José Oliver González from the UPR Medical School invented the schistosomiasis tests and method of environmental control of the parasite and its host that has saved and continues to save millions of lives across the world. In the 1960s the surgical teams lead by Dr. Frank Rafucci invented some of the first extracorporeal perfusion pumps for cardiovascular surgery at the Advance Surgery Laboratory at the UPR Medical School. The UPR Mayagüez was a world leader in Nuclear Reactor Physics as part of the Atoms for the Peace Program of the Atomic Energy Commission in 1950s and in the 1960s. Dr. Juan López Garriga from the UPR Mayaguez was recognized with several Presidential Awards for his work in the field of science/scientific education. Dr. Ram Lamba, a Professor of Chemistry and former Chancellor at UPR Cayey was recognized with the American Chemical Society Presidential award for his contributions to the education of Chemistry.

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[21] Certification Num. 152 of FY 2010–2011. http://www.vcertifica.upr.edu/PDF/CERTIFICACION/2010-2011/152%202010-2011.pdf.

[22] As an example American Bar Association standard 404 for Law Schools.

[23] UPR Revised Fiscal Plan with Measures, April 5, 2019. http://www.aafaf.pr.gov/assets/upr-revised-fiscal-plan-april-2019.pdf, p. 23.

[24] UPR Revised Fiscal Plan with Measures, April 5, 2019. http://www.aafaf.pr.gov/assets/upr-revised-fiscal-plan-april-2019.pdf, p. 23.

[25] UPR Revised Fiscal Plan with measures, April 5, 2019. http://www.aafaf.pr.gov/assets/upr-revised-fiscal-plan-april-2019.pdf, p. 23.

[26] Certification Num. 140 of FY 2010–2011 http://www.vcertifica.upr.edu/PDF/CERTIFICACION/2014-2015/140%202014-2015.pdf.

[27] Cavanaugh Macdonald Consulting, UPR retirement System Analysis, August 9, 2018, http://juntaretiro.upr.edu/mod/glossary/view.php?id=172 (Revised on April 24, 2019).

The UPR Río Piedras Campus houses one of the most important anthropology and art museums in the United States of America. During the 1950s and 1960s it had, as a member of its faculty, the renowned Latin American writer Gabriela Mistral and the Spanish prolific writer Juan Ramón Jiménez. Both Nobel Laureates in Literature worked with several of our distinguished Puerto Rican's scholars such as Dr. Margot Arce, who established one of the best Hispanic Studies Academic Programs in the Americas. More recently, under the leadership of Dr. José Lasalde and NIH sponsorship, the Biomolecular Sciences Institute, developed one of the most important programs for the production of an HIV/AIDS vaccine. The UPR, Rio Piedras Campus Chorus and the UPR *Tuna Estudiantina* have continuously and consistently earned awards for their excellence around the world. These are just glimpses of some of the contributions in the fields of arts, science, literature, education, engineering, and medicine of the UPR to the United States of America, the World and Humanity.

These achievements should be considered important by those working with the fiscal plans and debt restructure of Puerto Rico. Perhaps the most important purpose of the PROMESA, at section 101(a), is to promote a method to achieve fiscal responsibility in the Territory of Puerto Rico. This purpose must certainly guide also all decisions made by the FOMB and the Government of Puerto Rico. Nevertheless, since the creation of the FOMB, the method used to attain fiscal responsibility has been spending reductions, a massive dose of austerity for government spending, while providing a large impulse to privatization and granting tax exemptions without a reliable analysis of what will be the outcome on investment of the actions taken. Austerity measures contribute to high levels of inequality, a massive migration of Puerto Ricans to the United States, poverty, violence, and to the present dire crisis our island is living.

It should be noted that the International Monetary Fund established that austerity was an incorrect methodology for addressing government debt. When the question on the austerity methods arise, the International Monetary Fund tells us the following:

> "Moreover, since both openness and austerity are associated with increasing income inequality, this distributional effect sets up an adverse feedback loop. The increase in inequality engendered by financial openness and austerity might itself undercut growth . . ."[28]

Likewise, Mark Blyth (2015) states that the austerity measures are sustained by the "fallacy of the composition." Blyth mentions (2015):

> "Austerity policies suffer from the same statistical and distributional delusion because the effects of austerity are felt differently across the income distribution. Those at the bottom of the income distribution lose more than those at the top . . ." (p. 8–9)

Puerto Rico has high levels of inequality,[29] with a GINI[30] index of 55.12, and an average family income below $20,000.[31] After experiencing two hurricanes (Irma and Maria), it is imperative to re-evaluate the fiscal plan if the intention is to foster Puerto Rico's recovery. The economic growth and the development of wealth for a generation in our island should strive to promote social development and not prompt the detriment of it. The wealth distribution is the great gap interconnecting economic growth with the capacity for social development. By not addressing this problem, or by making it worse, the possibilities of social economic development of our island are becoming impossible. It should be noted that the students in Puerto Rico have the largest expense of family income into higher education in the USA. It reaches 64 percent of net family income going to pay for higher education. That was before the state university tuition increase put forward under PROMESA and the Fiscal Plans, so we can safely assume that today is even higher.[32]

A study completed by Dr. Alameda and Dr. Gonzalez,[33] the University of Puerto Rico generates $1.56 dollars for the local economy for each $1 dollar that the

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[28] J. Ostry, P. Loungani & D. Furceri. 2016. (Revised on April 24, 2019). https://www.imf.org/external/pubs/ft/fandd/2016/06/ostry.htm.

[29] https://revista.drclas.harvard.edu/book/inequality-puerto-rico (Revised on April 24, 2019).

[30] GINI ratio or index is a measure of statistical dispersion to represent the wealth or income distribution of a nation's residents.

[31] https://wid.world/country/puerto-rico/ (Revised on April 24, 2019).

[32] https://www.pulsoestudiantil.com/puerto-rico-tienen-los-costos-mas-altos-de-estudios-en-ee-uu/ (Revised on April 24, 2019).

[33] http://www.uprm.edu/artesyciencias/wp-content/uploads/sites/95/2017/06/Pres-UPR-Alameda-Revisada31-oct-Presentacion-Impacto-socioeconomico-del-SUPR-II-1.pdf.

government contributes to the institution. Furthermore, for each 100 jobs generated as part of the institution's activities, 164 additional jobs are created in other areas of our economy. That is, it has a 1.64 multiplicative factor in the job market. It is well established, that the University of Puerto Rico produces 73 percent of the scientific knowledge in our Island.[34]

Within the context of this crisis and the aftermath of the hurricanes, the University of Puerto Rico is the only institution that can provide the island with the platform for recovery and restructuring. Currently, the University of Puerto Rico has a diverse array of research and projects aimed to recovery in the areas of health, education, safety and renewable energy, among others. It is also the first and only public institution of higher education in the island and custodian of its cultural heritage. Moreover, it has the best graduation rates compared to other higher education institutions of the island.

We believe that the FOMB is misguided in its conception and designing of the fiscal austerity measures of the University of Puerto Rico. The approved fiscal plan imposes a reduction of $512 million without justifying this with any scientific data/criteria. It also ignores the impact of the University 11 campuses, distributed throughout all our regions, ignoring that UPR Higher Education System is one of Puerto Rico's assets for its recovery and development.

The University of Puerto Rico's Board, including the 11 Chancellors, the President of the UPR, the Vice President of the UPR, one faculty and one student representative from each of the 11 Academic Senates, approved unanimously, in its regular meeting of April 3, 2019, request to the members of this Committee to amend the PROMESA law at section 201(b)(1)(B) to read as follows:

> "ensure the funding of essential public services; this includes public funds allocated to the University of Puerto Rico by means of the formula established in Law 1 of 1966 or a minimum of $800 million annually until termination of the Oversight Board pursuant to section 209 of this Act, so that with the aforesaid funds the institution is able to fulfill its major role as an essential public service and is also able to comply effectively with its obligations and accreditation requirements."

Puerto Rico is developed and sustained by the University of Puerto Rico. Those interested in helping us should understand that the University is our present, and that the future of Puerto Rico depends on its survival and sustainability.

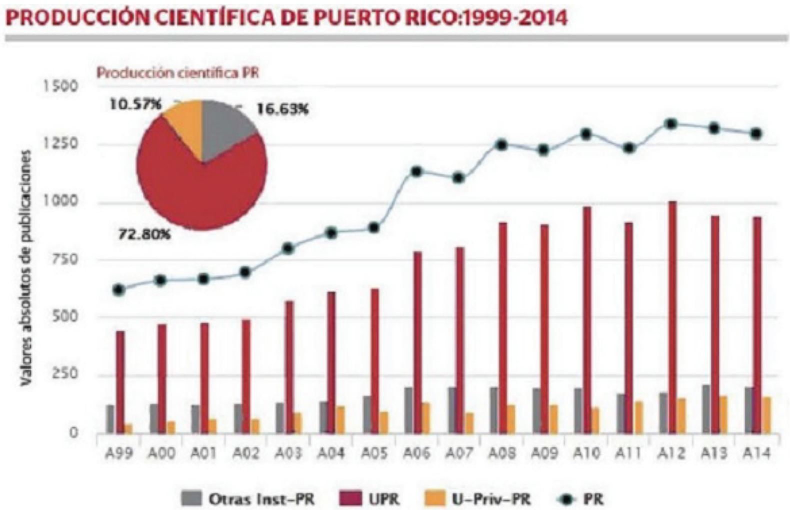
QUESTIONS SUBMITTED FOR THE RECORD TO DR. ANA CRISTINA GÓMEZ-PÉREZ, ASSOCIATE PROFESSOR, UNIVERSITY OF PUERTO RICO

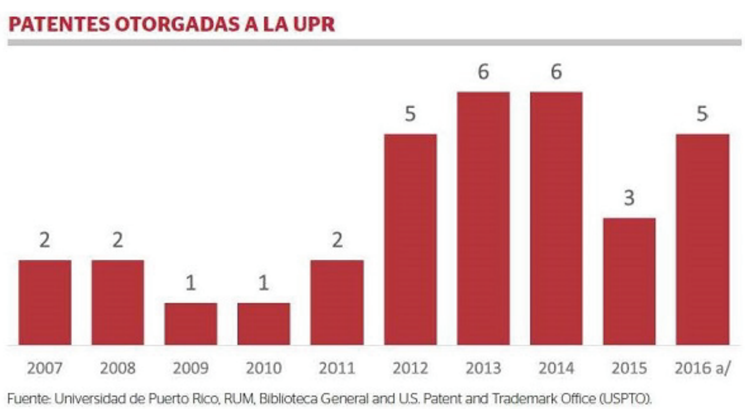
Questions Submitted by Chairman Grijalva

Question 1. In your testimony, you stress that the University of Puerto Rico (UPR) has made important contributions to the economic development of the island. Has the UPR or independent entity quantified the financial impact of these contributions? Please provide supporting documentation.

Answer. Throughout history, the University of Puerto Rico has played an essential role in the economic development of the island according to the study on the economic impact of the University published by Dr. José Alameda-Lozada and Dr. Alfredo González in April 2017 (see Attachment 1 for the full report). The UPR is responsible for 73 percent of the scientific knowledge of the Island (see graphic below). It is ranked 502 in the worldwide university rankings, and ranks in the 15th position in Latin America and the Caribbean.

[34] https://www.upr.edu/red-ici/?page_id=31O (Revised on April 24, 2019).





The same study shows that the services provided by the UPR through its academic health center—The Medical Science Campus, located within the Puerto Rico Medical Center and The UPR Hospital in Carolina, for the year 2014–2015 represents 74 percent of the total number of hospitalizations in Puerto Rico.

On the economic impact, Dr. Alameda-Lozada and Dr. González published a scientific study in February 2017 through macroeconomic analyses shows for every $1,000,000 invested in the University there is a return of $1,563,000. That represents an economic multiplicative factor of 1.563. In addition, for each job generated in the University, an additional 60 indirect jobs are generated in the surrounding economic areas.

EFECTOS DE LA DEMANDA FINAL DE UPR EN LA PRODUCCIÓN BRUTA

A PRECIOS 2013 (MILLONES DE DÓLARES)

Efectos	SUPR	Sistema Retiro	Total
Directo	$11,474.00	$1,056.60	$12,530.60
Indirecto	$6,410.10	$640.80	$7,050.90
Total	**$17,884.10**	**$1,697.40**	**$19,581.50**
Multiplicadores	1.56	1.61	1.56

The economic study of Dr. Alameda y González also clearly establishes the value to the human capital of investing in higher education in Puerto Rico as it represents a social yield of 434.26 percent.

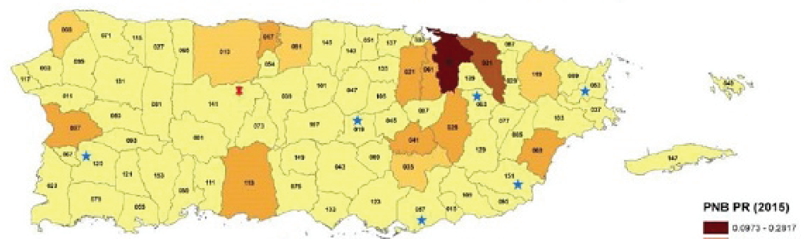
VALOR NETO DEL CAPITAL HUMANO DE EGRESADOS

El Monto Total de Capital Humano graduados	1999-2016
Graduados 1999 a 2016	162,951
Capital Humano incremental a/	$126,402,428,324
Salarios adicionales creados por estudios SUPR x persona de por vida útil de labor (30 años)	$775,708
Salarios adicionales creados por estudios SUPR x año	$25,857
Inversión social en la UPR	$29,107,525,063
Rendimiento social	434.26%

a/ tasa descuento 3%; ajustado a la probabilidad de empleo y la expectativa de vida

Another study carried out by the Census Information Center (see Attachment 4) shows that municipalities with a university campus in its jurisdiction have higher proportion of the Gross National Product than those without a campus. It is noteworthy that this trend is mostly observed in those municipalities with a UPR campus in it.

PRODUCTO NACIONAL BRUTO (PNB) POR MUNICIPIO Y RECINTOS UNIVERSITARIOS, 2015



Nota: El ícono rojo representa la ubicación de los recintos de la Universidad de Puerto Rico, mientras que el ícono azul representa las universidades privadas con una matrícula de 1,000 estudiantes o más para el año académico 2015-2016. Las escalas son proporciones del PNB municipal sobre el PNB de Puerto Rico. Fuente: Caraballo-Cueto, Jose (2017). "How (not) to Estimate GDP at the Sub-State Level: the Usefulness of the Economic Census". Forthcoming in The Review of Regional Studies, Encuesta sobre la Comunidad de Puerto Rico (Tabla S1701), Estimado de cinco años (2011-2015). Consejo de Educación de Puerto Rico (octubre 2016), Compendio Estadístico sobre la Educación Superior de Puerto Rico 2015-2016.

Attachments:

1. Doctor Alameda-Lozada and Doctor González-Martínez economic analysis: "El Impacto Socioeconómico del Sistema de la Universidad de Puerto Rico." Occasional Papers, OP no. 7, April 2017.
2. Presentation Impacto socioeconomico del SUPR II (1).
3. Impacto recintos de la UPR 27 de marzo d 2017.pptx. Centro de información Censal.
4. Los Planes Fiscales y la UPR FINAL (3).pptx Dr. Alameda.
5. CEEF Boletin, March 2017.

Question 2. Has the UPR assessed the possibility of a reformed system of income- or means-based tuition? Please explain why and the status of the assessment.

Answer. The fiscal plan contemplates granting subsidies to students according to their economic resources. One of the elements that must be considered is that in Puerto Rico more than 55 of the population live in poverty levels [1] and an average family income below $20,000.[2] This family income is 50 percent lower than the poorest state in the United States.[3] Furthermore, in the Bulletin of the Puerto Rico Council on Higher Education, Vol. 11, No. 2, of March 2017 it is clearly demonstrated that based on the percent of family income consumed by higher education costs, Puerto Rico is the jurisdiction with the most expensive jurisdiction in the USA. (see Attachment 5)

[1] https://revista.drclas.harvard.edu/book/inequality-puerto-rico (Revised on April 24, 2019).
[2] http://factfinder.census.gov/bkmk/table/1.0/en/ACS/17_1YR/R1901.US01PRF.
[3] According to the census, the income of average family in West Virginia is $43,469.

Puerto Rico y jurisdicciones con el costo de estudio más bajo			
Jurisdicción	Mediana ingreso familiar	Costo de estudio	Proporción respecto al ingreso
Puerto Rico	22, 976	14, 851	64.6%
North Dakota	74, 708	17, 456	23.4%
Florida	57, 504	17, 879	31.1%

Puerto Rico y jurisdicciones con la proporción de costo más alta			
Jurisdicción	Mediana ingreso familiar	Costo de estudio	Proporción respecto al ingreso
Puerto Rico	22, 976	14, 851	64.6%
South Carolina	56, 343	25, 711	45.6%
Pennsylvania	68, 158	31, 004	45.5%

The University needs to go beyond means-testing for tuition, to a means-based testing for the total cost of studies at the UPR. Even if full tuition is covered, the undergraduate student will need an additional $10,000 to $11,000 to cover the full costs of attending the UPR. The table below shows a comparison published by Dr. Ricardo González Méndez in early 2017 that demonstrates this fact. (https://medium.com/@UnivDeTodos/el-costo-de-estudiar-en-la-upr-mitos-y-realidades-918e097a5da).

Comparación de Costos de Estudios Subgraduados por Año para 2015-2016

Gasto	Rio Piedras	Cayey	RUM	UF-Gainesville	Inter Metro
Matricula y Cuotas	$2,019	$2,049	$2,049	$6,381	$7,122
Libros y Materiales	$1,862	$1,862	$1,862	$1,300	$1,227
Hospedaje y Comidas	$8,751	$8,751	$8,751	$9,650	$7,314
Otros Gastos	$2,987	$2,189	$2,189	$3,300	$6,107
Costo Total por Año	**$15,619**	**$14,851**	**$14,851**	**$20,631**	**$21,770**
Costo Total si vive con su familia fuera del campus	$6,868	$6,868	$6,868	$11,011	$14,456
Matricula y Cuotas No Residentes	$4,518	$4,070	$4,071	$ 28,659	$7,122

Note that the tuition costs here are those for 2015–2016, before the tuition increases of 2017 and 2018.

Question 3. The UPR annually graduates thousands of students—highly educated engineers, lawyers, bankers, and teachers. In your opinion, how can Puerto Rico best leverage the research and human capital of the UPR as an economic multiplier? What role can the UPR play to offset the amount being spent on outside consultants?

Answer. According to the studies indicated in Question 1, investment in the University has the best multiplier effect for the Island because:

1. The investment is translated into scientific knowledge and employment generation.
2. Expenditures on other essential services such as health can be provided through the University.
3. The University generates a significant economic impact on the populations near its campuses.
4. The University generates a report on the development of human capital through offering quality higher education at affordable prices, promoting upward social mobility among the general population and access to better salaries.

The University of Puerto Rico can offer the best resources of the Island to the Government and the Fiscal Control Board for a fraction of what consultants' firms are charging. It is the government's responsibility to use those services.

Question Submitted by Rep. Bishop

Question 1. During the hearing, you informed the Committee that your University receives upwards of $280 million in Federal grant funding. Please list a simple breakdown of these grants from Federal agencies the University qualifies and receives annually.

Answer. Please See Attachment 6.

The CHAIRMAN. Thank you very much.

Next we have Mr. Alex Pollock, Distinguished Senior Fellow from the R Street Institute.

STATEMENT OF ALEX J. POLLOCK, DISTINGUISHED SENIOR FELLOW, R STREET INSTITUTE

Mr. POLLOCK. Thank you, Mr. Chairman and members of the Committee. We have been asked to consider the lessons after 3 years of PROMESA, and in my view there are six of these key lessons to consider.

One, the fundamental bargain of PROMESA was sound, in my view. Such situations are certain to include a lot of conflict and controversy.

In my opinion, the Oversight Board should have more power than it does with respect to financial reform. In particular, it should have a chief financial officer with provisions similar to those so successfully used in the Washington, DC reforms in similar problems.

The Oversight Board will last a good deal longer than 3 years. Large unfunded pensions are a central element in these situations and set up inescapable conflict between the claims of bondholders and pensioners.

And last, progress must operate on three levels of increasing difficulty, which I'll define in a moment.

As it considered PROMESA, the Congress was faced with an insolvency of unprecedented size, dealing with a total debt more than six times that of the city of Detroit, the previous record municipal bankruptcy.

It was about $19 billion total debt and unfunded pensions for Detroit versus $120 billion, we thought, at the time. It turns out it's $130 billion for Puerto Rico.

The fundamental bargain was you can have debt relief, but it comes with reform of the fiscal operations of the government.

This is a classic bargain and, I think, a very sound one.

The Oversight Board created by the Act was and is, in my judgment, absolutely necessary to achieve these twin goals of debt settlement and fiscal reform. So far, significant progress has been made. Of course, much remains to do.

Nothing is less surprising than that the actions and decisions of the Oversight Board have created controversy and criticism.

For the settlement of defaults, reorganization of debt, creation of fiscal discipline, is, of necessity, passing out losses and pain to various parties.

It is utterly natural for the insolvent debtors and the creditors who are not being paid to have differing views of what is equitable, and we should certainly expect that.

If the Oversight Board is operating as it should, both sides will complain, as they do.

Looking to the lessons of history, the Financial Control Boards of New York City and Washington, DC, are now rightly considered, as a matter of that history, to have been very successful and to have made essential contributions to the recovery of their cities, but both generated plenty of complaints, controversy, protests, and criticism in their time, with many speeches very similar to that we heard the Governor give earlier today.

As PROMESA came into effect, no one really knew what Puerto Rico's revenues and expenditures were. This highlights the central role in both creating and fixing the debt crisis of financial management reporting and controls, and as we have heard, there are still no audited financial statements for the Government of Puerto Rico for 2016 or 2017, let alone 2018.

One of the most striking differences between the Washington, DC board, which operated directly with Congress, without a state in between it, the way Puerto Rico does, and the Puerto Rico Oversight Board is the greater power of the Washington board as designed in 1995.

When the Congress revised the structure in 1997 legislation, the Washington board was made even stronger than it was before.

Most notably, the Washington design included the statutory Office of the Chief Financial Officer which answered primarily to the Financial Control Board and was independent of the mayor, and if PROMESA is ever to be revised, for example, by trading additional financial support for additional reform and financial controls, as did, indeed, happen in the Washington case in 1997, I believe the revision should include structuring an office of the chief financial officer for Puerto Rico on the Washington, DC, model.

Under PROMESA, the Oversight Board must continue until Puerto Rico has four consecutive years of balanced budget performance, so it has years to go. In New York, the Financial Control Board worked for 11 years; in Washington, 6 years. We have a way to go.

As we go, we have to confront pensions, an ever-growing issue in municipal finance, and finally, progress in Puerto Rico must operate on three levels of increasing difficulty.

First, equitable reorganization of the debt, including pensions; second, reform for efficiency and reliability in the fiscal and financial functioning of the government; and third, reforms which allow a growing, enterprising, successful market economy to emerge from the historic government-centric economy of Puerto Rico.

Three years into the process, I will conclude by saying the first of these requirements, debt restructuring, is difficult and obviously controversial but well underway. The second is harder. Reform would be advanced by the creation of an office of the chief financial officer, as discussed. And the third problem, the creation of an enterprising, vibrant economy is, by far, the most difficult, but achieving the first two will certainly help clear the way for achieving the third.

Thank you for allowing me to be here.

[The prepared statement of Mr. Pollock follows:]

PREPARED STATEMENT OF ALEX J. POLLOCK, DISTINGUISHED SENIOR FELLOW, R STREET INSTITUTE, WASHINGTON, DC

SIX LESSONS

Mr. Chairman, Ranking Member Bishop, and members of the Committee, thank you for the opportunity to be here today. I am Alex Pollock, a senior fellow at the R Street Institute, and these are my personal views. I have spent almost five decades working in and on the banking and financial system, including studying the recurring insolvencies of municipal and sovereign governments. I have personally experienced and studied numerous financial crises and their political aftermaths, and have authored many articles, presentations, testimony and two books on related subjects. Prior to R Street, I was a resident fellow at the American Enterprise Institute 2004–2016, and President and CEO of the Federal Home Loan Bank of Chicago 1991–2004.

In my view, there are six key lessons about PROMESA, the massive insolvency of the government of Puerto Rico, and the role of the Oversight Board we should consider. These are:

1. The fundamental bargain of PROMESA was sound. But it could be improved.
2. In such situations, a lot of conflict and controversy is unavoidable and certain.
3. The Oversight Board should have more power: in particular, it should have the same Chief Financial Officer provisions as were so successfully used in the Washington, DC reforms.
4. Oversight boards are likely to last more than 3 years. In Puerto Rico, all the problems were of course made more difficult by the destructive hurricanes, and the flow of Federal emergency funds into the Puerto Rican economy now makes the financial problems more complex.
5. Large unfunded pensions are a central element in these situations and set up an inescapable conflict between the claims of bondholders and pensioners.
6. Progress must operate on three levels of increasing difficulty:
   a. Equitable reorganization of the debt (including pension debt)
   b. Reform for efficiency and reliability in the fiscal and financial functioning of the government
   c. Reforms which allow a growing, enterprising successful market economy to emerge from the historic government-centric economy

1. The fundamental bargain of PROMESA was sound. But it could be improved.

As it considered PROMESA, the Congress was faced with a municipal insolvency of unprecedented size. As one analyst correctly wrote, “There is no municipal borrower remotely as insolvent as Puerto Rico.” Indeed, adding together its $70 billion in bond debt and $50 or $60 billion in unfunded pension debt, the government of Puerto Rico has debt of more than six times that of the city of Detroit, the previous all-time record holder, as it entered bankruptcy.

The fundamental bargain Congress constructed in PROMESA to cope with Puerto Rico's financial crisis made and makes good sense. It may be described as follows:

— To the Puerto Rican government: We will provide reduction and restructuring of your unpayable debts, but only if it is accompanied by fundamental financial and government reform.

— To the creditors: You will get an appointed board to oversee and reform Puerto Rico's finances, but only if it also has debt reduction powers.

This is a sound bargain. The resulting Oversight Board created by the act was and is, in my judgment, absolutely necessary. But its members, serving without pay, were as we all know, given an extremely difficult responsibility. So far, significant progress has been made, but much remains to do. Let us hope the Senate promptly confirms the existing members of the Board, so that its work may continue uninterrupted.

In the negotiations leading to PROMESA, it was decided to create an Oversight Board, less powerful than a control board. I thought at the time, and it seems clear in retrospect, that it would have been better—and would still be better—for it to have more of the powers of a financial control board, as discussed further under Lesson 3.

Two well-known cases of very large municipal insolvencies in which financial control boards were successfully used were those of New York City and Washington, DC. In 1975, New York City was unable to pay its bills or keep its books straight, having relied on, as one history says, "deceptive accounting, borrowing excessively, and refusing to plan." In 1995, Washington was similarly unable to pay its vendors or provide basic services, being mired in deficits, debt and financial incompetence.

Today, New York City has S&P/Moody's bonds ratings of AA/Aa1, and Washington, DC of AA+/Aaa. We should hope for similar success with the financial recovery of Puerto Rico.

2. In such situations, a lot of conflict and controversy is unavoidable and certain.

Nothing is less surprising than that the actions and decisions of the Oversight Board have created controversy and criticism, or that "the board has spent years at odds with unhappy creditors in the mainland and elected officials on the island."

As one Oversight Board member, David Skeel, has written, the Board "had been sharply criticized by nearly everyone. Many Puerto Ricans and economists . . . argued that our economic projections were far too optimistic . . .. Creditors . . . insisted that the economic assumptions in the fiscal plan were unduly pessimistic and . . . provided too little money for repayment."

The settlement of defaults, reorganization of debt and creation of fiscal discipline is of necessity passing out losses and pain, accompanied by intense negotiations. Of course, everyone would like someone else to bear more of the loss and themselves less. It is utterly natural in the "equitable reorganization of debt" for insolvent debtors and the creditors holding defaulted debt to have differing views of what is "equitable."

If only one side were critical of the Oversight Board, it would not be doing its job. If it is operating as it should, both sides will complain, as will both ends of the political spectrum. In this, I believe we must judge the Oversight Board successful.

The financial control boards of New York City and Washington, DC are now rightly considered as a matter of history to have been very successful and to have made essential contributions to the recovery of their cities. But both generated plenty of complaints, controversy, protests and criticism in their time.

In Washington, for example, "city workers protested by blocking the Control Board's office with garbage trucks during the morning rush hour." In the board's first meeting, "protesters shouted 'Free DC' throughout the meeting, which was brought to an end by a bomb threat." Later, "in one of its most controversial actions, the Board fired the public school superintendent, revoked most of the school board's powers, and appointed its own superintendent to lead the system."

In New York, the board "made numerous painful, controversial decisions that the administration of Mayor Abraham D. Beame was unwilling or unable to make. It ordered hundreds of millions of dollars in budget cuts above those proposed by the administration and demanded the layoffs of thousands of additional city workers.

It rejected a contract negotiated by the city's Board of Education . . . it also rejected a transit workers' contract."

What did this look like at the time? "In the eyes of many people in the city, it was most distasteful," said Hugh Carey, then governor of New York State. "They saw the control board as the end of home rule, as the end of self-government." Another view: "The city of New York was like an indentured servant."

In restructurings of debt and fiscal operations, it has been well observed that a "key factor is making sure that the sacrifice is distributed fairly." But what is fair is necessarily subject to judgment and inevitably subject to dispute.

3. The Oversight Board should have more power: in particular it should have the same Chief Financial Officer provisions as were so successfully used in the Washington, DC financial reforms.

As PROMESA came into effect, as has been observed, "The most obvious obstacle . . . was that no one really knew what Puerto Rico's revenues and expenditures were." This financial control mess, stressed by expert consultants at the time, highlights the central role in both creating and fixing the debt crisis, of financial management, reporting and controls. Progress had been made here with efforts of both the Oversight Board and Puerto Rico, as the certified fiscal plan has been developed. But the government of Puerto Rico still has not completed its audited financial statements for 2016 or 2017, let alone 2018.

Of the historical instances of financial control boards in municipal insolvencies, there is a key parallel between Puerto Rico and Washington, DC: in both cases, there is no intervening state. The key role played by New York State, or by Michigan in the Detroit bankruptcy, for example, is missing. The reform and restructuring relationship is directly between the U.S. Congress and the local government.

The most striking difference between the Washington, DC board and the Oversight Board is the greater power of the former. This was true in the initial design in 1995, but when Congress revised the structure in 1997 legislation, the Washington board was made even stronger. Most notably, the Washington design included the statutory Office of the Chief Financial Officer, which answered primarily to the control board and was independent of the mayor. Puerto Rico has created its own Chief Financial Officer, as good idea as far as it goes, but it lacks the reporting relationship to the Oversight Board and the independence which were fundamental to the Washington reforms.

Today, long after Washington's financial recovery, the independence remains. As explained by the current Office of the Chief Financial Officer (OCFO) itself:

"In 1995, President Clinton signed the law creating a presidentially appointed District of Columbia Financial Control Board . . .. The same legislation . . . also created the position of Chief Financial Officer, which had direct control over day-to-day financial operations of each District agency and independence from the Mayor's office. In this regard, the CFO is nominated by the Mayor and approved by the DC Council, after which the nomination is transmitted to the U.S. Congress for a 30-day review period.

"The 2005 District of Columbia Omnibus Authorization Act . . . reasserted the independence and authority of the OCFO after the Control Board had become a dormant administrative agency on September 30, 2001, following four consecutive years of balanced budgets and clean audits."

If PROMESA were ever to be revised, for example trading additional financial support for additional reform and financial controls, as happened in the Washington, DC case in 1997, I believe the revision should include structuring an Office of the Chief Financial Officer for Puerto Rico on the Washington, DC model.

4. Oversight boards are likely to last more than 3 years. In Puerto Rico, all the problems were of course made more difficult by the hurricanes, and the flow of emergency funds into the Puerto Rican economy now makes the financial problems more complex.

As we come up on the third anniversaries of PROMESA and the Oversight Board, we can reflect on how long it may take to complete the Oversight Board's responsibilities of debt reorganization and financial and fiscal reform. More than 3 years.

The New York City control board functioned from 1975 to 1986, or 11 years. There was a milestone in 1982, which was the resumption of bank purchases of its municipal bonds. That took 7 years.

The Washington, DC control board operated from 1995 to 2001, or 6 years. (Both boards still remain in the wings, capable of resuming activity, should the respective cities backslide in their financial disciplines.)

Everything in the Puerto Rico financial crisis was made more uncertain and difficult by the destruction from the disastrous hurricanes of 2017. Now, as in response, large amounts of Federal disaster aid are flowing into the Puerto Rican economy.

How much this aid should be is of course a hotly debated political issue. But whatever it turns out to be, this external flow makes the formation of the long-term fiscal plan more complex. Whether the total disaster relief is the $82 billion was estimated by the Oversight Board, the $41 billion calculated as so far approved, or some other number, it is economically a large intermediate-term stimulus relative to the Puerto Rican economy, with its GDP of approximately $100 billion.

There are significant issues of how effectively and efficiently such sums will be spent, what the economic boost will be as they generate spending, employment and government revenues, whether they can result in sustainable growth or only a temporary effect, and therefore how they will affect the long-term solvency and debt-repayment capacity of the government of Puerto Rico. Even if none of these funds go to direct debt payment, their secondary effects on government revenues may. How to think through all this is not clear (at least to me), but a conservative approach to making long-term commitments based on short-term emergency flows does seem advisable.

The Oversight Board will have to come up with some defined approach to both long- and short-term outlooks, as it continues its double project of debt reorganization and fiscal reform. That is yet another difficult assignment for them, requiring time and generating controversy.

5. Large unfunded pensions are a central element in these situations and set up an inescapable conflict between the claims of bondholders and pensioners.

Puerto Rican government pension plans are not only underfunded, they are basically unfunded. At the time a PROMESA, a generally used estimate of the pension debt was $50 billion, which added to the $70 billion in bond debt made $120 billion in all. It appears that there is in addition $10 billion in unfunded liabilities of government corporations and municipalities, making the pension debt $60 billion, and thus the total debt, before reorganization haircuts, $130 billion. As I learned from an old banker long ago, in bankruptcy, assets shrink and liabilities expand.

How are the competing claims of bondholders and pensioners equitably to be settled? This is an ever-growing issue in municipal and state finances—very notably in Illinois and Chicago, for example, as well as plainly in Puerto Rico. The bankruptcy settlement of the city of Detroit did give haircuts to pensions—a very important precedent, in which the state constitution of Michigan was trumped by Federal bankruptcy law. But the pensions turned out in Detroit, as elsewhere, to be de facto senior to all unsecured bond debt. This reflects the political force of the pensioners' claims and needs.

On April 30, the Oversight Board demanded that the government of Puerto Rico act to enforce required contributions to pension funds from several public entities and municipalities. It is "unacceptable to withhold retirement contributions from an employee and not immediately transfer that money into the individual retirement account where it belongs," wrote our colleague on the panel, Natalie Jaresco. She is right, of course. Except that it is worse than "unacceptable"—it is theft.

Pensions as a huge component of municipal insolvencies will continue to be a tough issue for the Oversight Board, as well as for a lot of other people.

6. Progress must operate on three levels of increasing difficulty:

- **a. Equitable reorganization of the debt (including pension debt)**
- **b. Reform for efficiency and reliability in the fiscal and financial functioning of the government**
- **c. Reforms which allow a growing, enterprising successful market economy to emerge from the historic government-centric economy.**

Three years into the process, the first of these requirements is difficult and controversial, but well underway.

The second is harder, because it is challenging government structures, embedded practices, power, and local politics. Relative to addressing insolvency, the most important areas for reform are of course the financial and fiscal functions. Reform would be advanced by the creation of an Office of the Chief Financial Officer on the Washington, DC model.

The third problem is by far the most difficult. Solving the first two will help make solving the third possible, but the question of how to do this is not yet answered, subject to competing theories, and major uncertainty. We all must hope for the people of Puerto Rico that it will nonetheless happen.

Thank you again for the chance to share these views.

QUESTIONS SUBMITTED FOR THE RECORD TO ALEX POLLOCK, DISTINGUISHED SENIOR FELLOW, R STREET INSTITUTE

Questions Submitted by Rep. Bishop

Question 1. How important to the financial recovery of the island is fiscal transparency? How would you rate Puerto Rico's government thus far in regard to achieving and demonstrating fiscal transparency? Could an increase in the powers of the Oversight Board help achieve more success in this regard?

Answer. I believe fiscal transparency is critical and necessary (though not sufficient) for financial recovery. You cannot fix the problems until you know what the financial situation really is, until the problems can be accurately measured and reported, and progress likewise accurately tracked.

In my view, significantly more progress is required than has been made. I suggest the financial powers of the Oversight Board should be increased, whenever that may be possible, by giving it authorities more like those of the control boards which were so successful in Washington, DC and New York City. In particular, the Office of the Chief Financial Officer should be restructured on the Washington model.

Question 2. Compared to the control boards for Washington, DC, New York City and other cities, how would you rate the Oversight Board's success for Puerto Rico? When considering the success that the control boards of DC and New York had, are there ways you think the Oversight Board for Puerto Rico could be improved?

Answer. We have the advantage of looking back in time on the Washington, DC and New York City insolvencies, so we know how they turned around. History shows that the control boards of Washington and New York were very successful. This is generally agreed upon. Of course, they both entailed plenty of disputes, complaints and protests along the way. I believe this is inevitable in such situations—in Puerto Rico as in other financial failures of local governments.

The Oversight Board for Puerto Rico is still in in the midst of its work with important uncertainties ahead. It has made progress, but it is clear that the Washington and New York boards had more power as *financial control* boards. As part of the PROMESA political compromise, this was not the design of the Oversight Board. In my opinion, if the occasion arises to amend the legislation, the Oversight Board should be moved more in the direction of the successful Washington and New York models. In particular, reporting to it should be an Office of the Chief Financial Officer, which is independent of the Governor.

Question 3. How important is it for Puerto Rico to fix their unfunded pension system? Do you think the Puerto Rican government will be able to achieve success in fixing their broken pension system alone or do you see this as an area where the local government could work together with the Oversight Board to achieve success?

Answer. As this question suggests, the Puerto Rican government's employee pension plans are not only "underfunded," as so many other plans are; they are basically *unfunded*. This is, in my view, a political and moral default by the government of Puerto Rico. Puerto Rico's government pension plans have an aggregate deficit of an estimated $60 billion, making them a huge unsecured creditor of the insolvent government, representing about 45 percent of the total pre-reorganization claims. They inevitably compete for available funds with bondholders in the debt reorganization.

Nothing is clearer, both in general and in this particular case, than that pension fund deficits are a problem very difficult for local governments to deal with. I believe it is essential for the Puerto Rican government to work with the Oversight Board to address this huge issue in its insolvency.

Question 4. How important would you say achieving fiscal reforms within the Government of Puerto Rico are toward helping the island recover? In your view, can the local government accomplish these necessary reforms on their own or could the Oversight Board be instrumental in helping the island achieve this goal?

Answer. All experience of insolvent local governments shows that substantial reforms are very difficult for local politicians to achieve on their own. Hence the roles of bankruptcy judges in Chapter 9, of control boards in many municipalities, of the emergency manager in the city of Detroit, and of the Oversight Board in Puerto Rico. The Oversight Board, in this as in parallel other cases, can certainly be instrumental in helping the government of Puerto Rico achieve the needed reforms.

Question 5. How effective is debt restructuring IF the island's government does not also achieve fiscal reforms?

Answer. I believe debt restructuring and fiscal reforms must go together. That is the fundamental logic of PROMESA, which seems to me entirely correct.

Question Submitted by Rep. Hice

Question 1. As you reference in your testimony, $41 billion in aid has so far been approved for Puerto Rico. And the Oversight Board estimates that this figure will reach $81 billion while the President has estimated a top end of $91 billion. My understanding is that is due to potential liabilities over the life of the disaster that would need to be committed via the Disaster Relief and Emergency Assistance Act of 1988 (Stafford Act). For instance, over the life of the disaster recovery, CRS reported in 2014 that, "Congress provided roughly $120 billion for Hurricane Katrina."

You remark that this acts as a short-term stimulus. Would you agree that in the wake of this crisis that now more than ever it is vital the Puerto Rican government gets its fiscal house in order? Do you have any recommendations?

Answer. I fully agree that is essential to improve the transparency, control and reliability of the Puerto Rican government's fiscal affairs. As discussed in my written testimony, I believe the financial powers of the Oversight Board should be strengthened if the opportunity arises, in particular by structuring an Office of the Chief Financial Officer which reports to the Board, on the Washington, DC model.

Disaster aid of any of the amounts mentioned in the question will be very large relative to the Puerto Rican economy, with its GNP of about $70 billion. As the Oversight Board has discussed, this inflow of funds will create a short-to-intermediate term stimulus directly to the local economy and indirectly to government revenues, which may reduce the government's motivation for fiscal reform. The challenge is to separate the temporary effects of the stimulus from the weak underlying economic and fiscal trends. Moreover, a high level of effective financial control is required to effectively manage the magnitude of the funds involved with the disaster aid.

The CHAIRMAN. Let me change the sequence and turn to my colleague from New York, Ms. Velázquez, for opening questions to the witnesses.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman, and I want to thank all the members of the panel for being here today.

Ms. Jaresko, when we passed PROMESA, it was never intended for the Board to implement harsh austerity measures on the island residents.

We provided you tools to deal with the debt, which I feel you have not used to its full potential to drive down the debt, and simply put, austerity does not work. It did not work in Greece, it did not work in the United Kingdom, and it will not work here.

So, you must look elsewhere to address the fiscal crisis. It cannot be on the back of the people of Puerto Rico.

So, let me help you maybe look elsewhere.

I want to discuss how heavily the Board is spending on its operation, including fees paid to consultants and lawyers. In fact, the Board estimates its operating budget will be approximately $1.5 billion over the next 6 years, with nearly two-thirds of that earmarked for consultancy fees.

So, to me, this feels like profiteering off of Puerto Rico's fiscal crisis.

How do you justify the big cut that has been imposed to the University of Puerto Rico when this much money of taxpayers—it is the people of Puerto Rico paying for this. How do you justify that?

Does the Board have any internal controls to reign in its spending?

Is the Board taking any steps to reduce its cost and reliance on external consultants?

Ms. JARESKO. Thank you.

First of all, I would like to clarify. The $1.5 billion is not an estimated cost that related to the Board. That is the estimated cost of all of the Title III and the Board, and that includes all the costs of the——

Ms. VELÁZQUEZ. How much money are you paying for consultants?

Ms. JARESKO. Of the $1.5 billion, our budget is $400 million of that, of the $1.5 billion. That includes the unsecured creditors committee, as well as the Government's cost for the Title III over the period of time expected to get through the Title III.

In terms of our budget, notwithstanding what the Governor said, every single line item of our budget is public.

Ms. VELÁZQUEZ. I am not discussing that. I am not asking you if it's public or not.

Ms. JARESKO. I know, but——

Ms. VELÁZQUEZ. I am asking you if the optics look right to you, morally speaking, when so much is spent, and then you are not looking at other mechanisms to promote economic growth in Puerto Rico, and that is part of the legislation. That is part of PROMESA.

So, let me ask you, what policies, if any, does the Board have to avoid conflicts of interest?

Ms. JARESKO. So, the Board has a full set of ethics and disclosure rules that it uses on a very regular and transparent basis to avoid all conflicts of interest. We recently added to that based on an independent report by Luskin & Stern that was developed after accusations made with regard to one of our consultants.

In addition to that, we have an independent ethics advisor outside of the Board that reviews all of our operations.

Ms. VELÁZQUEZ. I am aware of your recent conflicts report and its recommendations, but the cat is out of the bag.

You have an optics issue here that needs to be addressed.

Will you support legislation to address the issue of conflict of interest?

Ms. JARESKO. Yes, we support steps for even greater financial and other——

Ms. VELÁZQUEZ. Do you have any individuals or firms that were involved in the issuance of unconstitutional debt working for the Board as employees or consultants?

Ms. JARESKO. No, we do not.

Ms. VELÁZQUEZ. As you know, I wrote a letter to the Board 2 weeks ago urging the Board to seek recoupment of millions in fees associated with issuing unconstitutional bonds.

I was pleased to see that, yesterday, the Board filed lawsuits against 20 banks and law firms who recovered said fees.

Can you elaborate on those filings?

Ms. JARESKO. Yes. We filed three sets of lawsuits in the past few days.

One is vendor avoidance actions. We filed 230 actions related to payments made to anyone from the Government of Puerto Rico for the 4 years prior to the insolvency that were to anyone that was over $2.5 million, so nothing attacking any small business or individual entrepreneurs that were involved with the Government but reflecting any contracts that were not registered, payments where contracts were not properly registered under Puerto Rico law or contracts where payments were made above and beyond the contracts that were registered. That was the first set.

The second set is bondholder claw-back litigation where we filed with regard to the payments on bonds that were made, which we have objected in terms of them violating the constitutional limit with regard to the NGOs in PBA, and that is premised on fraudulent transfer, and that is based on, again, Puerto Rico law prohibiting fraudulent transfer.

And third, we file a third-party claims which is trying to recoup the fees, related fees collected by financial institutions and professional advisors related to the debt that has been claimed by the Board and the unsecured creditors committee to be invalidly issued.

Ms. VELÁZQUEZ. OK. So, can you help me understand—is my time expired? OK.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. McClintock.

Mr. MCCLINTOCK. Thank you.

Mr. Chairman, I think, really, to pick up on this point, because I think it illustrates one of my principal concerns with PROMESA, is that we have two riders on the same horse.

By setting up an independent management board, we have confused the responsibilities and the accountability which rightly belong to the people of Puerto Rico, who elected the representatives who so badly mismanaged the state.

For the Congress to blunder into that mess rather than expecting the Government of Puerto Rico to clean it up itself, I think, has been a real serious problem.

Mr. Pollock, you have obviously studied this situation. My first and principal concern with PROMESA is how, as I said earlier, it shattered the trust of capital markets, not just in the promise of repayment backed by the full faith and credit of the Commonwealth, but I am concerned it has also given markets a reason to look at the full faith and credit pledges made by every state in the Union, knowing that if any of them becomes as seriously mismanaged, Congress could blunder in again and say, oh, don't worry about all those promises you made to bond buyers.

Those bond buyers, of course, now have to look at that and say, these are a lot more riskier than we thought, because at any time, they can get a friend in Congress to get them to abrogate that debt.

How do you view the impact of PROMESA on access to the capital market, not just to the Commonwealth of Puerto Rico but the effect on municipal bond markets generally?

Mr. POLLOCK. Congressman, these are good and serious questions.

Any of us who have studied the history of government debt, both municipal debt and sovereign debt, know that defaults by governments on their debt are fairly common in history, and capital markets have to take account of that in how they price debt.

In this country, we have the advantage that widespread defaults by states of the United States on their debt in the 1840s were met by a refusal of the Congress at the time to bail them out, which is a great precedent at the state level.

On the municipal level, we do have, in law, Chapter 9 bankruptcy. Municipal failures are fairly common. Bondholders have to take that into account, and we do have——

Mr. MCCLINTOCK. That is not true of state promises of full faith and credit to the General Obligation debts that they issue, is it not?

Mr. POLLOCK. Correct. I am trying to distinguish, Congressman, between states and municipalities.

Mr. MCCLINTOCK. That's my point. OK.

Mr. POLLOCK. Yes. For municipalities, we have a very good history of financial control boards helping municipalities. I mentioned in my testimony both Washington, DC, and New York City, which were both broke, both unable to pay their bills, both unable to provide basic services.

Mr. MCCLINTOCK. My time is fleeting, so I need to get to the heart of the matter.

Mr. POLLOCK. I'm sorry.

Mr. MCCLINTOCK. Has this helped or hurt the rates charged for debt backed by the full faith and credit of the states?

Mr. POLLOCK. Well, it helped both, in those two cases, went from broke to now double-A, very solid credits, and we can hope for the same for Puerto Rico in my opinion.

Mr. MCCLINTOCK. Are we seeing any indication of that? Has Puerto Rico regained access to credit markets?

Mr. POLLOCK. No, not yet, and we would not expect it this soon in the game.

Mr. MCCLINTOCK. But if we had simply left well enough alone, wouldn't the courts have come in, enforced the full faith and credit requirements of the law, and required the Commonwealth to sort out its own problems?

Mr. POLLOCK. Obviously, there was a possibility of just allowing the creditors to pursue their own lawsuits, with the vast amount of the debt, including the unfunded pensions, and the very wide number of creditors, it was judged, I believe, correctly at the time, that PROMESA was a better alternative.

Mr. MCCLINTOCK. How is the debt trending now? Are we cleaning up this mess or not?

Mr. POLLOCK. Little by little.

Mr. MCCLINTOCK. Well, little by little. This was, what, 5 years ago now?

Mr. POLLOCK. It's 3 years ago, but as I mentioned, we will expect a lot more than 3 years. Debt will be settled. Reforms will be put in. It would be better if the fiscal reforms were faster, and of course, the ultimate goal is a vibrant market economy in Puerto Rico, once we get past these other things.

Mr. MCCLINTOCK. Do we anticipate that?

Mr. POLLOCK. I anticipate settling the debt. I anticipate some reform. I wish there were more, and I think the economic outcome is possible and to be hoped for, Congressman.

The CHAIRMAN. Having passed on the first—on the Governor's panel, Mr. García, 5 minutes are yours.

Mr. GARCÍA. Thank you, Mr. Chairman.

I want to ask at least two of the panelists some questions.

Ms. Jaresko, thank you for stopping by my office yesterday and for the introduction.

If I can begin with you, is it correct to say, in simplified form, that the mandate of the Oversight Board is: (1) to ensure four consecutive years of balanced budgets, and (2) restoring access to credit markets for Puerto Rico?

Ms. JARESKO. Yes, sir.

Mr. GARCÍA. Thank you. Are those goals that PROMESA established for the Board?

Ms. JARESKO. Yes, sir.

Mr. GARCÍA. And you agree with them?

Ms. JARESKO. Yes, sir.

Mr. GARCÍA. So, with respect to Section 201 of PROMESA, it also requires the development of fiscal plans to ensure the funding of essential public services. Is that correct?

Ms. JARESKO. Yes, sir.

Mr. GARCÍA. Would you define what essential public services are?

Ms. JARESKO. We have not made a strict decision or definition of public services, but what we have done is try to ensure that the public services that are essential are, indeed, funded, including, as a first priority, pensions.

Mr. GARCÍA. Would you generally say that they are adequately protected, those services?

Ms. JARESKO. Yes.

Mr. GARCÍA. But you haven't defined them.

Ms. JARESKO. That's correct.

Mr. GARCÍA. Can you give me a list of what they might be?

Ms. JARESKO. Part of the reason for not defining them is that there are many things that occur that you could argue are not essential services, necessarily, but are needed, and some of them, for example, are funding for NGOs, some of the folks who are sitting at this table, which are incredibly valuable but may not fit a traditional definition of essential services.

The traditional essential services definition would include, at a minimum, public safety, public education, public health, and pensions.

Mr. GARCÍA. Wouldn't you agree that, if you do not define them, you are not following the law, unless those essential services are clearly defined? How are you to know if you are doing the right thing?

Ms. JARESKO. No, actually, our team and our advisors and we have determined that the law does not require us to define them. It requires us to ensure that they are actually being fulfilled, and we believe they are.

Mr. GARCÍA. But you have not defined them?

Ms. JARESKO. That is correct.

Mr. GARCÍA. Ms. Jaresko, Mr. Guzmán published a paper estimating that Puerto Rico needs to cut its debt by no less than 80 to 90 percent.

Do you accept Mr. Guzmán's conclusions, or do you have your own estimate for how much debt Puerto Rico needs to shed in order to achieve the Oversight Board's mandate?

Ms. JARESKO. I don't have an estimate for the overall debt. Each category of debt has a different character and it has a different set of payment requirements under law, under the bankruptcy court that we are using for this process. That said, what we have provided is the debt sustainability which shows what the average should be no greater than in any given year in terms of the percentage of owned resources that should be dedicated to debt.

Mr. GARCÍA. And what is that?

Ms. JARESKO. We are using the top 10 states, and it is approximately 10 percent of owned resources.

Mr. GARCÍA. So, by far, nowhere near the 80 to 90 percent.

Ms. JARESKO. No, that is the percentage of owned resources that would be dedicated to debt service.

Mr. GARCÍA. OK.

Ms. JARESKO. As I said, the cuts in the debt so far have been 45 percent at GDB, 32 percent at COFINA, and right now, it appears, 30 percent at PREPA.

Mr. GARCÍA. So, in your estimation, is Puerto Rico on a pathway to reducing its debt by 80 to 90 percent?

Ms. JARESKO. No, not by 80 to 90 percent at this stage.

Mr. GARCÍA. OK.

Mr. Guzmán, I have about a minute left. If Puerto Rico's economy continues to wither, what are the implications of the current debt restructuring deals down the line, say in 15 to 20 years?

Mr. GUZMÁN. The problem with not pursuing debt sustainability is that Puerto Rico will be forced to do further austerity in order to pay its debts, and that will depress the economy even further.

In the next few years, because of the effects of the fair relief funds, there will be a positive impact on the economy, but if the debt problem is not resolved when the relief funds start to cease, we will observe again an economy in distress, with less opportunities and a continuation of economic debt and migration crisis.

Mr. GARCÍA. Is that the underpinning of your principal argument at the beginning of your statement, that in order to bring back viable markets in Puerto Rico, that has to be changed dramatically?

Mr. GUZMÁN. Yes. In order to do it sustainably, yes. Otherwise, Puerto Rico would recover access to capital markets but that will be ephemeral. Eventually, we have to do that restructuring again, and that will impose enormous cost on the country.

Mr. GARCÍA. Thank you, Mr. Guzmán.

Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. Mr. Soto.

Mr. SOTO. Thank you, Chairman.

Ms. Jaresko, we already have a public audit by Kobre & Kim; is that correct?

Ms. JARESKO. Yes, sir.

Mr. SOTO. But the underlying documents to make an independent audit are not made public currently if you wanted to make an independent one; is that correct?

Mr. JARESKO. I believe that is correct, sir.

Mr. SOTO. This is something that our Committee is looking at, whether to do by the Federal Government or independently, but that will be a long road. Would you commit here today to allowing these underwriting documents minus people's personal information be made public so that an independent audit could be done?

Ms. JARESKO. I don't believe that is in our hands. I believe it is in the government's because those were issued by the Governor, but if the government disclosed them, I would have nothing against it.

Mr. SOTO. So, the PROMESA Board, in general, would be in support of allowing these documents to be available for an independent audit?

Ms. JARESKO. Again, it is not up to me, but if the Government agreed to disclose them, we would not be against it.

Mr. SOTO. OK. I just want to make sure our numbers are right on the debt that has been reduced. It has been $6 billion, approximately 45 percent of the first tranche of public debt—is that correct?—and then $5 billion representing 32 percent of COFINA. And then what is the 30 percent for PREPA? What amount does that go in raw figures?

Ms. JARESKO. I am not sure what the first number you gave is. For GDB, there was $4 billion of bonded debt, and it was a 45 percent haircut, so about half.

Mr. SOTO. OK, $4 billion for the GDB.

Ms. JARESKO. Was the bonded debt.

Mr. SOTO. And that was the 45 percent.

Ms. JARESKO. There were also other liabilities that were involved here. But in terms of bonded debt, it was $4 billion so about a 45 percent haircut. At COFINA, it is a 32 percent haircut.

Mr. SOTO. And that is $5 billion?

Ms. JARESKO. A little bit more.

Mr. SOTO. Approximately.

Ms. JARESKO. Mm-hmm.

Mr. SOTO. And then PREPA at 30 percent, how much is that?

Ms. JARESKO. Of the nine so that is another $3 billion.

Mr. SOTO. Nine billion dollars. OK.

Ms. JARESKO. Yes, sir.

Mr. SOTO. Mr. Guzmán, I have had a lot of constituents ask me whether Congress can just eliminate the debt. Mr. Guzmán, do you have an opinion about whether Congress has the power to eliminate the debt for Puerto Rico?

Mr. GUZMÁN. No, sir.

Mr. SOTO. You don't have an opinion either way?

Mr. GUZMÁN. I can only speak about economic matters, not about legal matters.

Mr. SOTO. OK. A yes or a no, Ms. Jaresko. Does Congress have the power to eliminate the debt?

Ms. JARESKO. I don't know.

Mr. SOTO. Mr. Pollock, does Congress have the power to eliminate the debt?

Mr. POLLOCK. In my opinion, it doesn't. It had the power to put Puerto Rico into what is effectively a bankruptcy proceeding with equitable settlement of the debt, and I think that is its power.

Mr. SOTO. So, the only power under the Constitution is—other than this would be to convert to Chapter 9 and send them to the Bankruptcy Court, and then the judge would have to do that?

Mr. POLLOCK. I think Puerto Rico effectively is in Chapter 9, just a different judge.

Mr. SOTO. Effectively with, obviously, a lot of regulations to it.

Ms. Rivera, obviously health care for our kids is so important. What would having a permanent Medicaid fix mean for our healthcare system? And if you want to discuss briefly any CHIP disparities——

Ms. RIVERA. Yes, definitely a Medicaid fix would help. Right now, we do have pretty high coverage rates for children. A lot of what we are seeing are issues of quality with the system. But we would have to get back to you on a really detailed analysis on the CHIP piece.

Mr. SOTO. And with regard, and I know we spoke about this briefly on our trip down to Puerto Rico—what is the private insurance percentage coverage in Puerto Rico right now?

Ms. RIVERA. I don't——

Mr. SOTO. How many people are covered by private insurance?

Ms. RIVERA. I don't have those numbers.

Mr. SOTO. OK. I thought it was something around 30 percent, something very low.

Ms. RIVERA. Yes, so I can tell you how many children are covered under the public one. We only have 4 percent of our children that are not covered under health insurance. And out of those, 63 percent of the children are receiving the public health insurance.

Mr. SOTO. Because whether through this Committee or through Energy and Commerce, I am very interested in helping resolve the long-term Medicaid parity issue, as well as apply the Affordable Care Act to Puerto Rico, which I know a lot of my colleagues here fought to try to do a long time ago. And now is a good time to try it again.

Dr. Gomez, obviously we want to try to carve out some priority to protect the University of Puerto Rico. Are there any tuition increases on the horizon right now for the University of Puerto Rico?

Dr. GÓMEZ-PÉREZ. Well, I would like to answer in Spanish. I would like to use the translator.

Mr. SOTO. [Speaking in Spanish.]

Dr. GÓMEZ-PÉREZ. [Speaking in Spanish.]

Mr. SOTO. [Speaking in Spanish.]

Mr. GARZA. She said the tuition is about to increase, she projects, about 150 percent.

Mr. SOTO. Is the college receiving any Federal grants right now, the University.

Dr. GÓMEZ-PÉREZ. At the moment, they receive $284 million in Federal funding, but if the University defaults, then they will no longer receive any of the Title IV funding, and about 73 percent receive Federal Pell Grants, and they will not be able to afford their tuition.

The CHAIRMAN. Ms. Radewagen.

Mrs. RADEWAGEN. Thank you, Mr. Chairman. I would like to yield my time to Ms. González-Colón.

Ms. GONZÁLEZ-COLÓN. Thank you, Ms. Radewagen. I really appreciate that. And thank you for your visit to Puerto Rico and for helping us to sponsor all the bills for the recovery process on the island.

I would like to take maybe some time with Ms. Jaresko regarding the December bi-partisan, bicameral task force created under PROMESA. It presented some recommendations that we discussed here before during our initial time. And some of the duties of that PROMESA Board was about incentives provision that needed to be extended to Puerto Rico in that report. Those included things that have the Child Tax Credit, Earned Income Tax Credit, SSI, data collection, Medicare, Medicaid, capital access for businesses, among other measures.

Some of those bills are already being dropped, H.R. 302, H.R. 754, H.R. 947, among others. And I am actually sponsoring one of the bills that Ms. Velázquez filed regarding the transparency for the oversight. I really believe it is important. Some of the Members are here—actually all of them, Mr. Soto, Mr. Gallego, Mr. Sablan, Ms. Velázquez, and I have been filing all those measures to gain equality to the island and a lot of those programs.

But the Board has been too quiet in pushing for economic growth measures. And you are being seen as focused more on the labor market, things that are cutting back on compensations and benefits, austerity measures and not pushing for those economic growth measures itself.

For me, I think fiscal accounting balance is not enough to drive the economy of the island and neither is just making the hiring and firing process easier on the island. And that is something that needs to be changed. You actually—in the bill, there was a provision that you should have a liaison here in DC.

The law provided that you can even have offices here, but you have been having private contractors in many ways that actually goes in the other way in terms of how many of them are receiving contracts of $720,000 a year for lobbying—half a million dollars in Holland & Knight; Hill Strategies, $180,000 a year; $567,000 a year, different kind of contracts. And I can go on and on and on.

And there is a perception of the island that we are taking austerity measures by the Board to the public entities and essential services but not for hiring lobbyists or private contractors. It is not easier having a liaison or hiring personnel for the Board to make those things happen instead of having billions of dollars in those contracts?

Ms. JARESKO. Thank you. We only have two governmental relation contracts. You named them. We don't have any more. We have two. That is under $1 million a year. And, no, it was not less expensive to establish an office in Washington and try to hire the staff. It actually is less expensive to have the two government relation firms. I specifically don't use the word "lobbying" because we are not lobbying. But we are taking our responsibility for the stakeholders in Washington, DC very, very seriously and trying to communicate with all of you about all the things that we are doing to try to clarify and to try to communicate clearly.

Ms. GONZÁLEZ-COLÓN. But one of those issues that have just arrived recently is that you are targeting local businesses to recover payments made by the government to its suppliers before it was declared bankruptcy. And there is a real concern that this will also extend to include NGOs that are providers of services that are mandated by Federal law, such as special education.

The Government of Puerto Rico as well said that the Board should seek that, in the later case, a callback will result, and then the Federal agencies may require the Federal share of the funds to be returned since they and the state match have to be used both in full or for their appropriate purpose. What are you going to be doing using that callback?

Ms. JARESKO. First of all, small businesses were specifically kept out because every contract under $2.5 million was excluded from the lawsuit. Second, we specifically took out all non-profits and charitable organizations from the list as well as governmental entities. To the extent that any mistake has been made, we have offered and filed for public use the contacts of the lawyers. If by accident, something we didn't recognize was a not-for-profit, it should be off the list. We will take it off the list immediately.

The only contracts that are on that list, once again, are those that were either improperly registered under Puerto Rican law, were paid more than their contracts reflected, which is, again, under Puerto Rican law, not possible. Each and every case can be worked through and discussed, but that is all that is attempting to do, is to look at excessive payments under Puerto Rico law.

In terms of what the callbacks would be used for, to the extent that those callbacks are received, they go to the general fund, to the Government of Puerto Rico, for using as is seen fit, as necessary.

Ms. GONZÁLEZ-COLÓN. My time is over, but I will take my turn to continue the line of questions. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Sablan.

Mr. SABLAN. Well, thank you very much, Mr. Chairman, again.

And to everyone on the panel, welcome. Medicaid is a major issue for all the insular areas. I remember that day specifically. In fact, I have a photo highlighted in my district office where the Congressional Hispanic Caucus—Ms. Velázquez was there, Mr. Grijalva was there, then-Resident Commissioner Pierluisi and I and joined by Senator Bob Menendez went to the White House—because the territories were completely taken out of the Affordable Care Act.

So, we went and argued under the Patient Protection, PPA, that the territories needed more help. And we argued our case. And, while the President did not immediately say yes, 2 days later, Cecelia Muñoz's office called and said, "Get the staff. Let's meet. Let's talk about"—and we were able to get the supplemental on Medicaid, which everybody is going to lose on September 30. Those who have money left and those in Puerto Rico and the Northern Marianas are after you stole their money.

So, again, we are planning a hearing probably soon but, Ms. Jaresko, in particular, there are 167,000 public pensioners in Puerto Rico. And more than half are over the age of 70. So, on average, they receive about $12,000 in pension benefits a year, well below the Federal poverty line. As a resident of Puerto Rico, would you consider it feasible to leave off the proposed pension payments that caught already low benefits by an average of 10 percent?

Ms. JARESKO. In fact, the Board's pension proposal does not touch the pensions that are under the Federal poverty level. And that means that 25 percent or so of the pensioners have zero cut, and 43 percent of them have 5 percent or less. I think it is important to note for the record that it is not the Board's desire to cut pensions that drove this.

It is the fact that, in the Bankruptcy Court, under Title III, retirees are unsecured creditors in the courtroom. And they have to have a position and they have to be treated equitably by law. It is not the choice of the Board. If we could treat them as operating expenses above the line, that would be fine, but the law requires them to be recognized as unsecured creditors in the room at the bankruptcy.

Mr. SABLAN. Yes, and I am asking these questions also because what is happening in Puerto Rico could essentially happen to the Northern Marianas or the rest of the insular—so let me ask you. Ms. Jaresko, can you offer some examples where the Board's fiscal plans directed funds to services to residents that you considered lacking?

Ms. JARESKO. Yes, absolutely. The Board insured that back-pay owed $366 million to police that had been owed for 10 years and won in court was, in fact, budgeted over a 3-year period so they could receive and they have received, this year, the first installation of $122 million. The Board increased pay for teachers and directors of school by $500 per year last year.

In addition, the Board has, through the reapportionment process, identified, after Senator Zoe Laboy brought to our attention, that, for 20-some years, rape safe kits have not been developed, have not been analyzed, both the victims and the accused having to wait. We found the $3 million and reapportioned it so that those rape kits, those safe kits, could be analyzed. Those are just a couple of the examples.

Mr. SABLAN. OK. And I have another question for Dr. Perez, please. Dr. Perez, has the University of Puerto Rico assessed the possibility of a reform system of income or means-based tuition for its student body?

Dr. GÓMEZ-PÉREZ. I will answer in Spanish. Sorry.

Mr. SABLAN. Yes, yes.

Dr. GÓMEZ-PÉREZ. Yes, that they have considered it, that it is essential to make sure that education is accessible to these people because that will bring them out of poverty.

Mr. SABLAN. Why has what the University has done not succeeded, and what do you think is needed to successfully ensure that the students at the University can afford to pay for education?

Dr. GÓMEZ-PÉREZ. That the cuts cannot be so aggressive in such a short period of time, that they still have to abide by Title IV, and they have to abide by that process.

Mr. SABLAN. Yes.

Dr. GÓMEZ-PÉREZ. We have to follow a process by Federal and state regulation.

Mr. SABLAN. Yes, my Chairman said I am——

Dr. GÓMEZ-PÉREZ. Oh, sorry.

Ms. JARESKO. Mr. Chairman? Mr. Chairman, if I may, could I, just for the record, clarify some of the UPR issues?

The CHAIRMAN. Sure. Let me extend the courtesy. Go ahead.

Ms. JARESKO. Thank you. I just want to clarify that, indeed, we set aside $44 million this year for needs-based scholarships. Tuition was increased, but tuition was increased such that Pell Grants would cover tuition and leave $1,000 in the pocket of the student for living costs, housing costs or other costs. Tuition is never to go above $1,000 less than the Pell Grant.

In addition to that, there are no closures of any of the 11 campuses foreseen in the UPR fiscal plan. It is all about savings in the back office, consolidation of the 11 campuses' procurement offices, finance offices, accounting offices, administration offices, zero effect on the student teacher ratio, professor-student ratio. So, the idea was never to price a single student out.

The CHAIRMAN. Thank you.

Dr. GÓMEZ-PÉREZ. I would like to answer.

The CHAIRMAN. [Speaking in Spanish.]

Dr. GÓMEZ-PÉREZ. OK. I would like to answer. Sorry.

The CHAIRMAN. Well, I started this.

Dr. GÓMEZ-PÉREZ. That the fiscal plan was made for somebody apart from the University that doesn't understand the University process so that, independently from the fiscal plan and the plan proposed by the Board—that even with the current budget cuts by 2021 that they are already going to be in a deficit. And if they go into deficit, they will default, and they will lose their Federal Pell Grants and all their Federal funding because of Title IV.

Mr. GARZA. She doesn't want to tell you that they haven't taken measures to cut budgets but they really have.

Dr. GÓMEZ-PÉREZ. They need time and they are working on it.

The CHAIRMAN. Thank you very much. Let me turn to Ms. González-Colón for your 5 minutes.

Ms. GONZÁLEZ-COLÓN. Thank you, Mr. Chairman. Ms. Jaresko, why haven't we seen any announcement of the critical priorities contemplated under Title V?

Ms. JARESKO. Title V was established to provide expedited permitting for critical infrastructure projects, a very narrow category. The projects that were registered under that narrow category, almost entirely, 95 or more percent, had to do with PREPA purchase power agreements. Once PREPA went into Title III, none of those purchase power agreement projects could develop until such time as PREPA either decides to confirm or reject those purchase power agreements in the Title III court.

Therefore, we followed through with all of the non-PREPA purchase power agreement projects, and that is why we have one successful municipal housing project in San Juan. However, the lack of interest in doing other critical infrastructure projects and/or—I can't make a judgment, maybe the fact that people didn't need the help of expedited permitting seems to have reduced the amount of demand for this Title V treatment.

Ms. GONZÁLEZ-COLÓN. What are you doing to expedite that Title V process?

Ms. JARESKO. I go out. We speak. We encourage. I can tell you that most of the private sector right now with regard to critical infrastructure is looking at Federal disaster funding as a source of income, and they won't need the expedited permitting or the Title IV process to accomplish that.

Ms. GONZÁLEZ-COLÓN. What projects are the Oversight Board currently considering in that Title V, if any?

Ms. JARESKO. We don't have the authority to do any projects on our own. But in terms of economic development, that is what the structural reforms are about. And the Board is extremely serious about economic development. Economic development involves ensuring reliable, low-cost electricity, number one; improving the ease of doing business on the island, number two; improving the ease in the use of infrastructure to reduce congestion, number three; as well as important enforcement of human and welfare and labor reform.

Ms. GONZÁLEZ-COLÓN. Question. What is the Board currently doing to pursue the appointment for a new revitalization coordinator?

Ms. JARESKO. We have hired a recruitment firm, and we are taking applications right now.

Ms. GONZÁLEZ-COLÓN. And you are actually coordinating these efforts with the Governor?

Ms. JARESKO. First, we have to get the applications. We have not received them yet so, yes, we will.

Ms. GONZÁLEZ-COLÓN. I have a question for Mr. Pollock. It is regarding one of the mandates of PROMESA. It is for the Board to engage in consensual negotiations with creditors. And the Oversight Board has recently decided to initiate litigation, as we just mentioned a few minutes ago, in an attempt to cancel, roughly, $6 billion worth of General Obligation debt.

Furthermore—and this is something that really concerns me. In the oversight, it is even attempting to pull back fees that have already been paid to contractors in Puerto Rico and to creditors as well. My questions to you will be in terms of what effect, if any, these kind of actions from the Board that is mandated to negotiate those debts and to re-establish the credibility of the Government of Puerto Rico will be in the market. Is this a wise action? What are your concerns with that?

Mr. POLLOCK. Thank you, Congresswoman. I can't really speak to the specific logic because I haven't been part of it. It is certainly true that the Act mandates negotiations between creditor and the Board representing Puerto Rico, the debtor. And those have been going on. They are, of course, as I said in my testimony, always controversial because, as I said, between the insolvent debtor and the creditor who is not being paid, there is a natural difference in point of view. And the whole point of the negotiations is to find an equitable place in between. And, as Natalie said, that applies to the pensions as well as claimants in the insolvency proceedings.

I really would rather hear from the Board itself on this particular issue of the lawsuit on the debt. I understand it is an important issue, but I don't know the specifics of the logic, Congresswoman.

Ms. GONZÁLEZ-COLÓN. Yes, but the question I was making to you was in terms of credibility of the Government of Puerto Rico, not about the legality of the transaction itself. What is the perception? Is it compliant with the original intent of the law in your opinion or you prefer to be silent on that issue?

Mr. POLLOCK. Well, when bonds are issued, there are lots of legal requirements about the opinions that have to be issued. And after the fact, one can dispute them, as obviously is being done here. In general, as I said to the Congressman a little before, the history of government debt, both municipal debt and sovereign debt, is a history of frequent defaults, historically speaking. And anybody who is a lender to governments needs rationally to take that into account in making investment decisions, both as to price and as to commitment. Part of that is taking into account what happens when you get into insolvency proceedings and reorganization of the debt. That is a natural part of the game. And you have to understand that happens with government debtors, just as it does with private debtors.

Ms. GONZÁLEZ-COLÓN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Some quick questions. And indications are that people want to do a second round. So, we will quickly do a second round, one more opportunity for each Member if they choose to.

Let me ask Dr. Gómez-Pérez a question regarding the University because the discussion inevitably as we move away from these hearings and information is going to be, is it a carve-out? Is it a firewall? How do you protect this essential resource for the island? I think Members are going to need to have that discussion because it is an important one, but also, as Ms. Jaresko explained and I think the Governor did as well—I think it was the Governor—that there is another body that is independent that makes decisions for the University and for the system and that much of the responsibility of the fiscal plan fell on that body and the president, chancellor of that university. Who appoints that body?

Dr. GÓMEZ-PÉREZ. Thank you for the question.

[Speaking in Spanish.] The governing board who appoint the President of the University, the majority of the members are appointed also by the Governor. They approved the fiscal plan without any regular academic process, any University process, like the budget.

The CHAIRMAN. OK. No. I thank you very much. In discussing a firewall or a carve-out, my colleagues, I think we also have to understand where the governance is and who is making the call because one of the most frustrating things has been any time there are bad consequences, nobody is responsible for them.

Dr. GÓMEZ-PÉREZ. Yes.

The CHAIRMAN. Any time there is a decision made, the Government of Puerto Rico says it is the Board. And we go back and forth in that. For instance, if I may, Ms. Jaresko, the Governor said here that the Board zeroed out any funding for roads in the first budget. Why did you zero out all of the funding for roads in the first budget?

Ms. JARESKO. We did not zero out any funding for roads in the zero budget. I am not sure what the Governor was referring to. In fact, the Highway Transportation Authority had over $800 million of capital expenditures budgeted between the general, special, and Federal funds. Unfortunately, within the first 9 months of the year, they put only 25 percent of that $800 million to work while they are also sitting on over $330 million of cash in their bank accounts. There is plenty of authority to fix roads in Puerto Rico.

The CHAIRMAN. Road maintenance. Let me ask about it.

Ms. JARESKO. I am sorry?

The CHAIRMAN. Road maintenance. Was that zeroed out as well, I mean according to the Governor?

Ms. JARESKO. We did not zero it out. What he was referring to was a reapportionment early in the year where they asked for reapportionment without providing a source. And I can't reapportion when I don't have a source. Then he provided a source that can't be used, which was previous-year spending. And we don't have access to any financial audits or any knowledge of what previous-year spending remains available. And then he withdrew that request after that and didn't ask a third time.

The CHAIRMAN. Same question I asked the Governor if you don't mind.

Ms. JARESKO. Of course.

The CHAIRMAN. Is a COFINA agreement an example of a poorly redesigned restructuring exercise that will saddle Puerto Rico with escalating debt payments for the next 20 years, the question I asked him? And is this agreement sustainable?

Ms. JARESKO. Yes. I actually believe this is a good agreement for the Commonwealth of Puerto Rico. And I think it is an example of what one of the Members mentioned before in terms of access to the markets.

So, what does COFINA do? COFINA takes a stream of income, which is the sales and use tax, which under some decisions of court potentially could have gone all to the COFINA bondholders because they have a secured instrument, and divided it roughly half and half, half going to the creditors, 53 percent and 46 percent going to the Commonwealth.

Those bonds are now trading. Those bonds are being purchased. If you talk about renewed access by traditional buyers, mutual fund buyers, Puerto Rico's bonds are once again in those holdings.

The CHAIRMAN. Mr. Guzmán, a reaction to the sustainability, both expressed by the Governor and by the Executive Director?

Mr. GUZMÁN. Yes. With all due respect, I disagree with the positions of the Governor and the Board on the virtues of the COFINA deal. First, it is important to look at the entire restructuring comprehensively. If we do it piece by piece, it is possible that at the end, the debt burden ends up being too high and Puerto Rico is forced to default again or to restructure the debt again.

Second, in the case of COFINA, there has been enormous generosity. Market prices—if I can show a slide that I have submitted, it is my number 3——

The CHAIRMAN. Let me go back because we have another round, and my time is effectively over.

Mr. GUZMÁN. Very briefly, I would address——

The CHAIRMAN. I have been shutting other people off, so I need to shut myself off occasionally. Let me now turn to Mr. Bishop. Questions?

Mr. BISHOP. Do you have a second round first? All right.

Once again, thank you for being here. I have obviously been absent for a while. And I have come back late, and you are still here. So, thank you for being here. Why aren't you going home?

For the Executive Director of the Board, let me start off with just one of the things I asked the Governor about labor forces, the bill that was actually not passed by legislature. What factors in Puerto Rico contribute to the low labor force participation? It is I think, what, only around 40 percent?

Ms. JARESKO. I think there are a variety of factors. I think tradition and culture is one. There is a very large informal market.

Number 2, I think that welfare policy has kept people for generations, unfortunately, on welfare. And there hasn't been enough incentive provided without risk to get off of welfare.

And, third, it is a simple fact of I think the amount of investment on the island in the creation of jobs. After the tax privileges started to wind down and many of the multi-national corporations started to leave because of the lack of tax preferences, the number of jobs on the island simply decreased as well.

Mr. BISHOP. All right. I am going to come back to you and ask about some of the structural reforms and what happens if the structural reforms are delayed, but I want to go to Mr. Pollock first for just a question. How effective is debt restructuring if the island's government does not also achieve fiscal reform?

Mr. POLLOCK. I think the two go together, Congressman. And, as I said in my testimony, the underlying bargain of PROMESA was to link debt reorganization, which was necessary with fiscal and financial reforms, which are equally necessary and we need to do both and then lead on to movements toward a more entrepreneurial, vibrant Puerto Rican economy.

Mr. BISHOP. Thank you. All right.

To the Executive Director, let me come back to you and ask you what kinds of structural reforms do you think the local government could take that would improve our economic health, the stability, and what happens if those structural reforms are delayed or not implemented?

Ms. JARESKO. There are four sets of structural reforms that are in the fiscal plan. They are not the only things that can be done, but those are the things we have agreed on.

The first is human capital and welfare reform. That was discussed earlier today in terms of an EITC locally funded. It is a welfare-to-work plan, which is delayed in terms of its implementation and as well as investment in training and education and improving education.

The second area is ease of doing business. And that is looking at where Puerto Rico ranks as compared to the other competitive environments with regard to how easy it is to do business. We specifically look at the ease of registering property, the ease of getting permits, the tax administration burden—not the tax rate but the burdensome nature of filing taxes.

Third, and probably most important, is energy and power sector reform. Achieving lower cost, more reliable electricity is the key to life, death, as well as all business and economic development. And, finally, infrastructure reform, again, reducing congestion, improving the roads, everything that will help economic development. If those are not implemented, either on a timely basis or at all, you will not see the potential for economic growth, especially post-Federal disaster funding, where the fiscal stimulus ends.

Mr. BISHOP. So, there will be growth, but it will be anemic growth?

Ms. JARESKO. It would be anemic without structural reforms. Actually, without any of these reforms, you won't even see growth.

Mr. BISHOP. In fact, those were the four areas I actually wanted the Governor to respond to in writing that I mentioned a lot earlier.

Let me ask you just one last question. Has the Government been successful in implementing any reforms?

Ms. JARESKO. I think we have had the most success in achieving movement on the transformation of PREPA; that is, attracting a private sector operator to the transmission and distribution grid and then having an independent regulator that is well-funded and protected from political interference. I think in the ease of doing business, there have been select improvements. I think the implementation of the EITC as of January 1 is a success. However, there is very little movement on infrastructure reform. The welfare-to-work reform, again, has been delayed and dragged out over 4 years. And the other ease-of-doing-business reforms don't see a great deal of progress yet.

Mr. BISHOP. And especially on the ease of doing business, if that progress is not there, once again, there may be growth, but it is going to be anemic and it is going to be unsuccessful and unsustainable?

Ms. JARESKO. That is correct, sir.

Mr. BISHOP. I yield back. Thank you.

The CHAIRMAN. Ms. Velázquez.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman.

Ms. Jaresko, there has been some confusion in the press in Puerto Rico that the Board may not be pursuing all legal avenues to recoup fees. Can you address those concerns?

Ms. JARESKO. I am sorry. Could you repeat that? Which concerns?

Ms. VELÁZQUEZ. Regarding the illegal debt. It has been reported in the press in Puerto Rico that the Board will not be pursuing all legal avenues to recoup fees, commissions.

Ms. JARESKO. No. As I described earlier, we have filed three sets of lawsuits, hundreds of lawsuits: one with regard to the avoidance; second, with regard to clawing back the bondholder principal interest paid of the debt.

Ms. VELÁZQUEZ. So, do you intend to recoup the fees?

Ms. JARESKO. And the third is with the fees. Yes, ma'am.

Ms. VELÁZQUEZ. OK. Thank you.

The haircut agreement with PREPA was 30 percent. Right? And then COFINA, 33 percent. Is this setting a dangerous precedent for the rest of the debt?

Ms. JARESKO. No, I don't believe these set a precedent because each and every situation is unique. I disagree with Mr. Guzmán to look at the whole thing as a single debt ball because each of these pieces of debt has different securities attached to them. Each of them has a different set of revenues potentially attached to them. And I think where you can avoid the problem that Mr. Guzmán fears, rightfully so, of promising too much overall because you do it piecemeal is solved by the fact that the Board is absolutely committed to an annual debt service maximum, a max cap, that would limit how much debt service would be paid in any given year.

Ms. VELÁZQUEZ. Mr. Guzmán, do you care to comment?

Mr. GUZMÁN. What I claim is not that the haircut on every instrument has to be the same. That is definitely not what I am claiming. But, instead, what I am claiming is that we have to look at the entire debt stock and compute what is the necessary haircut on the entire debt stock independently on how we distribute the haircut. And that is a basic principle for the resolution of debt crisis.

Ms. VELÁZQUEZ. Thank you.

Mr. GUZMÁN. And in the case of COFINA, my computations suggest that given the haircut that was imposed on COFINA, the only way in which the restructuring can actually restore debt sustainability is if there is a massive haircut on the public debt that is left, as I said before, between 85 and 95 percent.

Ms. VELÁZQUEZ. Thank you.

Ms. Jaresko, you have been quoted in the press as saying that disaster relief spending by the Federal Government is a stimulus. And based on this increase in Federal funding, many critics say you artificially boosted the island's economic projections and, therefore, its ability to repay the debt. That confusion has led the President of the United States to falsely claim the island is using disaster relief funds to pay down the debt. Can you please tell this Committee whether one single cent of Federal disaster funds has been used to pay back bondholders?

Ms. JARESKO. Not one cent of disaster funding has been used to pay back bondholders.

Ms. VELÁZQUEZ. And when making these upward revisions to the economic projections, do you take into account the continued suffering of families that are losing their homes, increasing healthcare costs, or demand for nutrition assistance, especially for those 65 percent of the children of Puerto Rico that live in poverty?

Ms. JARESKO. Medicaid funds do, in essence, run through the budget because if you don't receive them, as the Governor referenced, he pays out of his general fund what is not being picked up by Federal reimbursement. NAP funding does not work that way in the budget. And whether or not that, let's say, additional or incremental $600 million, which we support, is provided does not change the budget, the general fund, because Puerto Rico does not alternatively support that payment itself. It only does what is given.

Ms. VELÁZQUEZ. Do you agree that the disaster relief money and spending will boost the economy in the short-term?

Ms. JARESKO. It does boost it for approximately 10 years.

Ms. VELÁZQUEZ. Yes, but it will not have a longer impact because it is going to come to an end.

Ms. JARESKO. Over 10 years, yes.

Ms. VELÁZQUEZ. I yield back.

Ms. JARESKO. It doesn't have a permanent effect.

Ms. VELÁZQUEZ. Thank you. So, that means that 10 years from now, we are going to be here dealing with the same economic crisis?

Ms. JARESKO. No. The fiscal plan shows that the growth slows. Of course, as I referred to Congressman Bishop, if you do the structural reforms, you can keep growth post-fiscal Federal monies at 1½ to 2 percent. You can do more structural reforms and increase growth further than that, but so far, there has been no agreement to do that.

The CHAIRMAN. We are doing the second round.

Ms. VELÁZQUEZ. Yes.

The CHAIRMAN. Members? Mr. Soto? Miss Colón?

Ms. GONZÁLEZ-COLÓN. OK. I will go, then. Don't fight for the minutes. I will use it.

First of all, I want to say that I have, actually, many questions. Some of them I will put in writing to the panel and witnesses to answer, but I want to say thank you to Ms. Rivera for working with our office and with Members in the House and the Senate to get the child tax credit, which I think is something of the utmost importance for families on the island. Forty-seven percent of our families are living under the poverty-level line. And that means worse than the lower state. That should be Mississippi.

And you were talking a few minutes ago. Many people don't know, don't even know, that Puerto Rico has the child tax credit if you have three kids or more but not the first and the second child. And nobody can answer why that policy is still in place. I do believe that managing and getting the child tax credit extension for the first and the second child in Puerto Rico will help us out, not just to increase the quality of living on the island but taking our children and families out of the poverty-level line.

I know you endorsed H.R. 302. And I want to say thank you to Members who are a co-sponsor of that bill as well. What else do we need in order to make that happen? I mean, what other recommendations should be included?

Ms. RIVERA. As I was saying, the second thing that was included in the task force report was a creation of this interagency committee that will look at child poverty in the United States, thinking that it would also include Puerto Rico because Puerto Rico has such a high child poverty rate.

In 2016, the same year that PROMESA was crafted, in the appropriations bill, they included a mandate basically to fund a study that would create a blueprint to reduce child poverty in half in the United States through the National Academies of Sciences. This report was just published in February and it did not include Puerto Rico. So, to start off, if there is already a plan running to reduce child poverty in the United States, Puerto Rico needs to be included in that analysis because that is what is going to set all the policy for child poverty reduction in the United States. So, that is one thing.

The other thing is that we really need to come into broader investments. That is just not going to be enough for Puerto Rico. Right now, for example, Puerto Rico has really low availability of child care, of public child care. Other things that we have looked at—and we have actually discussed with Ms. Jaresko—the benefits cliff, the phenomenon that happens to families when they start working and lose their benefits. That is going to take a little extra investment, but we need to look at that because that is actually holding back a lot of families from going into——

Ms. GONZÁLEZ-COLÓN. Are you sponsoring as well the Social Security income, the SSI, as one of the measures that can help and boost, of course, a quality of living of our seniors and young people with disabilities on the island?

Ms. RIVERA. Yes. SSI has also been recommended as standard policy for——

Ms. GONZÁLEZ-COLÓN. Ms. Jaresko, do you, I mean the Board, support legislation to get equality in SSI for Puerto Rico as well?

Ms. JARESKO. Yes, we have supported equitable treatment.

Ms. GONZÁLEZ-COLÓN. And do you support the data collection and earned-income tax credit and child tax credit as well as the Medicaid provisions that are being included in Congress?

Ms. JARESKO. Yes, we have.

Ms. GONZÁLEZ-COLÓN. And Ms. Rivera?

Ms. RIVERA. Yes.

Ms. GONZÁLEZ-COLÓN. Mr. Guzmán, do you think those measures and just gaining access to equal treatment in those Federal programs will help out the economy of the island as well?

Mr. GUZMÁN. If you could again repeat the question, ma'am?

Ms. GONZÁLEZ-COLÓN. Do you think those programs—child tax credit, earned-income tax credit, getting SSI, social supplemental security for elderlies and people with disabilities on the island, as well as the provisions for Medicaid—will help the growth of the economy of the island?

Mr. GUZMÁN. I believe so, but I haven't done any analysis on that.

Ms. GONZÁLEZ-COLÓN. I have one question for Mr. Pollock. And that is the comparison between the comparable boards that were approved for Washington, DC in your city and other cities as well. How will you rate the success and the failures of the Oversight Board in Puerto Rico comparing to those similar oversights?

Mr. POLLOCK. Thanks, Congresswoman. Well, with the other boards I mentioned, in particular, New York and Washington, we have the advantage that we can look back and see that they were very successful indeed and that both cities came into fiscal health and financial discipline and economic growth and, as I mentioned in my testimony, are now AA. And in Washington's case, they have one AAA for their bond ratings. So, I think that is clear.

Now, with the Oversight Board of Puerto Rico, we are only 3 years in, not 6 or 7 years in. So, we can't see——

Ms. GONZÁLEZ-COLÓN. And there is another——

Mr. POLLOCK. I think, as I mentioned in my testimony, the Board is making progress. It would make more progress if it had greater financial authority, which I believe if the occasion arises, it should be given.

Ms. GONZÁLEZ-COLÓN. And there is also a big difference. People from New York and people from Washington have the opportunity to vote for their elected officials. We don't have that right here. I am the only one representing the island, without the right to vote on the Floor.

I want you to make a list of what failures or what successful items are being the result of the Board and what should be the next 3 years or 5 years. And Congress should be looking into that path from the Oversight Board.

I yield back.

The CHAIRMAN. Thank you very much.

Mr. Soto, sir.

Mr. SOTO. Thank you, Chairman.

Ms. Jaresko, after there are 4 years of balanced budgets, walk me through how we bring in the PROMESA Board to a landing.

Ms. JARESKO. The two mandates: (1) to have 4 years of balanced budgets, and (2) to have market access at reasonable interest rates, are what we need in order to have, as you say, PROMESA go away. The second, having market access at reasonable rates, is not well-defined in the law. And I think you can have various opinions. From my perspective, market access does not mean that Puerto Rico would have to necessarily borrow again but that it might be rated such that it could borrow and/or that the bonds that have been restructured, like the COFINA bonds, are trading well in the market, which shows that there is market access.

I think the challenge to achieve that is that it is not simply restructuring and it is not simply balancing a budget that gets you there. You also have to have, for example, timely audited financial statements in order to have market access. There are other parts of this.

Mr. SOTO. So, obviously, Congress can make the decision through subsequent legislation, but is it also self-executing otherwise should other legislation not come about?

Ms. JARESKO. I am sorry. Could you repeat that?

Mr. SOTO. Is the termination of the fiscal board self-executing should a bill from Congress terminating it at the end of that not come about?

Ms. JARESKO. I don't know. I don't know how it would be ended other than achieving those two mandates. I am sure Congress could——

Mr. SOTO. Well, that is important to know that there is a gray area there.

I know there is a lot of confusion around the role of the fiscal board and economic development. We talked about it in the meeting we had with fellow Members of Congress when we went down to the island. I recognize that there is some language in Title V that has this broad idea of economic development, but upon discussing it with you, you believe the fiscal board's only real power in there is with permitting of critical infrastructure. Is that correct?

Ms. JARESKO. That is correct, essentially a very narrow chapter. It only applies to critical infrastructure as defined in the law. And it only provides for expedited permitting. If you don't need expedited permitting or you are a company that does it on your own, you don't apply. If you are not a critical infrastructure project in the definition, you also don't apply. So, it is a very narrow category.

Mr. SOTO. And this is where I think there are some ironies and arguments, because we are trying to make sure that we protect Puerto Rico's sovereignty. So, to say that the PROMESA Board should do more economic development when we would rather have the elected leaders of the island do it, I think that latter group, the Governor and the legislature, are more appropriate to do economic development.

And I did want to take a few minutes to talk a little bit about the economic development aspect because we cannot cut our way or spend our way out of the fiscal crisis in Puerto Rico. And I think a lot of people have talked about the concerns of austerity here.

One of the big opportunities we have with the disaster relief is to convert to more renewable energy. We saw the Governor and the state legislature pass landmark legislation, everything from solar and micro grids to helping out areas be more resilient after the storm. I think having an energy revolution, getting off of oil and coal, which are two of the most expensive parts of the economy, are absolutely critical for Puerto Rico's economic future.

Agriculture, an area that my family and many others were involved in back when our families lived in Puerto Rico, is a key component. Right now, only 0.8 percent of the economy is agriculture in an island that has a 24/7 growing season that is only feeding itself at 20 percent after Hurricane Maria. I think we could at least get that domestic production up to 40 or 50 percent of the island's food needs. And think of all the billions of dollars that would during the entire lifecycle of the economy remain in Puerto Rico.

And we not only want to help with USDA loans and working with the University of Puerto Rico to encourage the expertise we need, but also with the Commonwealth Government to make sure that we can open up state lands that are not sensitive lands to potential small family farm leases.

And then I know there is also a push to assist in tourism outside of just the San Juan corridor. There is a tax credit that is being requested by the Rosselló administration that I think we need to look into, so that other areas outside of San Juan, which already does pretty well in tourism, and El Yunque, the other big draw in that area, also have more uniform prosperity among tourism while still making sure we have a strong manufacturing base, which already makes up 50 percent of the economy.

Those are the types of things I know I will be urging our Committee to continue to look at to make sure we have an economic development road to prosperity as well.

The CHAIRMAN. Thank you, Mr. Soto.

Mr. Bishop.

Mr. BISHOP. Yes. I will make this surprisingly brief for you.

First of all, Darren, you are going back to your farm roots, aren't you? You always were a farmer. You are always going to be a farmer. Yes. OK.

Ms. Jaresko, you said one thing that just clicked in my mind as you said that. In an effort to come to an evaluation of if we are ready to move on, the essential element has to be some kind of audit to be a part of that.

When is the last time the Government of Puerto Rico actually completed an audit?

Ms. JARESKO. I believe audits would be necessary to have market access at reasonable rates, yes. And the last audit was Fiscal Year 2015. The Governor said and the CFO said that they expect within weeks the Fiscal Year 2016 audit to be complete. That leaves 2017, 2018, and shortly we will be completing the Fiscal Year 2019 fiscal year.

Mr. BISHOP. And we will go on to the rationale of why that is so tardy, but some other time. This is not the time to do it.

Mr. Chairman, if you want me to quit, I do have a couple of UC requests for you. One is two letters, one from the Puerto Rico Chamber of Commerce to the Financial Oversight Board of Puerto Rico, and the other from the Puerto Rico Builders Association to President Trump. They are both expressing their opposition to the Governor's Executive Order 2018–33.

Second is a report entitled, "Economic Impact of the Adoption of a $15.00 Minimum Wage for Construction in Public Projects and of a PLA," which also highlights some of the impacts of the Governor's Executive Order, which I just recently mentioned.

And finally, a report by the World Bank comparing the business regulations of 190 domestic economies, which ranks Puerto Rico as Number 64.

The CHAIRMAN. Without objection.

Mr. BISHOP. And without objection, I yield back.

The CHAIRMAN. And unanimous consent to enter into the record communications for the Puerto Rico Bar Association, the Union of Workers of the Electrical Industry and Irrigation, and the third one is the Puerto Rico Manufacturers Association. If there is no objection, so ordered.

Let me, if I may—Ms. Jaresko, just one quick question, and then I can thank the witnesses and we can wrap up. And I appreciate very much the fact that you sat through this and responded to our questions. And your testimony is all fully part of the record, and I appreciate that very much.

If I may, how are the various fiscal plans for the Commonwealth and the various instrumentalities developed? I ask this question because does the Board write them and send them to the Governor for his approval, or is it the other way around?

How would you categorize the nature of disputes that we heard from the Governor that you have with the Governor with the fiscal plans? Were they over the level in nature of what to cut, or what was, or who was initiating? That is the question. I am still confused as to how—well, like I said earlier, whose responsibility at some point is to own up to, this was my plan?

Ms. JARESKO. The process begins by asking for a fiscal plan from the Governor or from an instrumentality, whether it be UPR or whether it be the Highway Transportation Authority or other. So, they provide the first draft.

We then have a process outlined in the law of going back and forth in providing comments, asking for more information getting data, trying to understand what is in there. And it is not just a written document, but it is a large Excel file which gives you all the numbers.

And that process, with what is called Notices of Violation under the Law, go back and forth until such time that we either get very close to agreement through negotiation, collaboration, understanding one another, cooperation; or if the Board, under law, cannot come to agreement with what has been submitted in the final instance, it has the right to certify its own fiscal plan.

The CHAIRMAN. Yes, so the disputes have been over the level of how big the cut is, or the cut itself, or the categorical area in which a cut is occurring?

Ms. JARESKO. Both. The bulk of the fiscal plan actually comes from—in the case of the Commonwealth, it comes from the Governor's own proposals. So, rightsizing was an exercise that we went through, and we worked with the Government to develop principles and agreement on what actually could be cut, what could not be cut.

And I would argue that most of that—I would say 80 or 90 percent of that—came from a collaborative process of agreeing to next steps. Five, 10 percent of it is in disagreement.

The CHAIRMAN. Thank you very much. And as we continue to pursue this, as I indicated earlier, written questions will be submitted by Members. And we would appreciate a rapid response so that this information can be part of the deliberations and the discussions that will occur after this hearing, leading to some actions.

And I said earlier, there are some issues relative to services, essential services, that I think have been highlighted over and over again. And the higher education and public schools, public education, the very profound—and thank you, Ms. Rivera, for that—the very profound issue of child poverty and family poverty, and work force development and training, and health care.

Different pieces of legislation to begin to deal with the tip of the iceberg in some instances, but also having some deep structural improvements on everything. And as I said earlier, do we carve out something? Do we redirect the emphasis of the laws that exist to create a firewall so that those essential services are indeed protected for the long haul? And as we begin to turn around the issue of poverty as an important agenda, that we look at sustainability of the economy in the long term and not just the austerity measures to meet a goal. And that is what I have learned from the visit. That is what I have learned from everything that I have read.

As we go forward, and the elephant in the room being the discussion about status in the future, I think that discussion—I have never disagreed—that discussion has to occur.

Simultaneously, just like Hurricane Maria caused both the fiscal stability efforts to be meshed with the recovery, and that is part and parcel of what we are dealing with, the efficiency and the effectiveness of the recovery being expedited is, I think, a key issue to not only the recovery but to the fiscal health of the island as will.

And as we go forward, running parallel with the discussion about status in the future will be the sustainability economically of the island itself. And given all the rationale for that discussion and the historic need to have that discussion as well. I think we should, on not only the present moment but the future and looking at the history.

We're talking about colonization here. We are not talking about anything else. So, I look forward to that conversation as well, and we will be announcing some potential dates to have that discussion.

But with that——

Ms. VELÁZQUEZ. Can I add something?

The CHAIRMAN. No. I'm wrapping up. No. That's it.

I want to thank you, and I thank the witnesses for their valuable testimony, the Members for their questions. The members of the Committee may have additional questions, and they will be forwarded to you. And they will be held open for 10 business days for those responses.

If there is no further business——

Ms. VELÁZQUEZ. Yes, sir.

The CHAIRMAN. Without objection——

Ms. VELÁZQUEZ. Just one thing.

The CHAIRMAN. You are objecting to closing the meeting?

Ms. VELÁZQUEZ. Yes. Just for 1 minute. I just want to say that, to the Puerto Rico, it is commemorating and remember the members of the Puerto Rico Air National Guard that last year lost their lives in an accident in Georgia. And their names are Robert Espala, Carlos Perez, Jim Paravisini, David Albadoz, Mario Brana, Jose Roman, Eric Circuns, Victor Colon, Jean Audriffred, and Robert Espada. And that means that sometimes people see danger just in the battle lines and not in all the people that are serving.

Thank you, Chairman, for allowing me to read that.

The CHAIRMAN. No. That is an excellent point, and I am glad you mentioned that, as we mentioned the passing of Governor Hernández Colón this morning.

And I think that we are not dealing with an issue of culture. We are dealing with American citizens that have not had access and equity in terms of how they are treated and how they are respected. I think the recovery was a good lesson for us. And PROMESA was an effort to stabilize and I supported it, that economic stability and fiscal stability is essential.

And the people of Puerto Rico—what I heard in my visit there, from anywhere from the people that served us to the people that were working outside, is a level of distrust for government as a whole, including the government that I am a part of. And we have an obligation to try to turn that around. And the best way to do it is to assure them that they will not continue to be victimized as we go forward with looking at PROMESA, re-establishing the importance of the essential services, and highlighting those going forward.

With that, thank you very much.

[Whereupon, at 2:47 p.m., the Committee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Submissions for the Record by Rep. Grijalva

STATEMENT FOR THE RECORD

Junte de Mujeres M–18
May 2, 2019—Washington, DC

Once again, we come before you to ask that you do away with the PROMESA Act and the Puerto Rico Fiscal Oversight and Management Board. With the passing of the Act and the resulting establishment of the Board, a crime against humanity is being waged against Puerto Ricans. The only acceptable remedy is for the PROMESA Act and the Fiscal Oversight and Management Board to be repealed and done away with. Congress must provide a mechanism for bankruptcy independent of the PROMESA Act. Members of the Fiscal Oversight and Management Board are federal officials; as such, Puerto Rico is not responsible for paying their expenses. The U.S. must return to the people of Puerto Rico the money paid illegally for the Board's expenses.

As we told this Committee during the public hearings in San Juan on March 15, the imposition of the PROMESA Act and the Fiscal Oversight and Management Board is an act of imperial power being exerted on a country that was invaded, occupied, and colonized in 1898. Puerto Rico is a colony dragged into bankruptcy which the administering power intends to subjugate and exploit in perpetuity for the continued benefit of its enterprises and financial interests.

The bankruptcy of the colony, for which Congress wants to lay sole blame on Puerto Ricans, was provoked and induced. The corrupt insular administrations to which you turn a blind eye are nothing more than the Congress' taskmasters in the colony. Their criminal actions and the ensuing consequences fall squarely on the shoulders of Congress, which deals the final blow through austerity measures designed to impoverish the colony and make it even more dependent. Its plan is and has always been maintaining a permanent colony. The PROMESA Act and the Fiscal Oversight and Management Board are just its latest tool for perpetuating the colonial status.

The United States' colonial power over Puerto Rico has resulted in five main outcomes:

- You destroyed our diverse agriculture to impose one that benefits you.
- You destroyed local enterprises through unfair competition, monopoly, and market control.
- You polluted and depleted our natural resources through destructive military and industrial activities.
- You tried to strip us of our language, culture, and history.
- You criminalized all attempts at resistance and rebellion against colonialism by torturing and assassinating our leaders through incarceration and disproportionate sentences.

PROMESA represents:

- the dismantling of the public education system with the closing and privatization of schools;
- the ripping apart the University of Puerto Rico to suppress the main source of academics and professionals at the service of the country;
- the stripping of acquired labor rights to impoverish and repress the working class;
- the reduction of the retirement pensions of workers to make them more vulnerable;
- the criminalization of protests by workers and students in order to get rid of them;
- the mortgaging of the country over the next forty years to pay off the bondholders and COFINA's vulture funds; and
- the imposition of a toxic labor environment characterized by despair and massive emigration.

Such is the legacy of colonialism, the PROMESA Act, and the Fiscal Oversight and Management Board.

PROMESA PROMISES NOTHING BUT POVERTY. If you think that you are helping the people of Puerto Rico tackle the fiscal crisis, THINK AGAIN. This is a humanitarian disaster. The PROMESA Act and the Fiscal Oversight and Management Board must be eliminated.

Members of Congress, colonialism is a crime against humanity. With every passing second that Puerto Rico is subjected to the indignity and inhumanity of the colonial condition, the United States is committing a crime against humanity. You, who have usurped our sovereignty, who deny us our right to our nationality, are accomplices to this crime. You are humanly, legally, morally, and ethically responsible for stopping this crime waged against the people of Puerto Rico. Step up.

STATEMENT FOR THE RECORD

Rodrigo Masses
President of the Puerto Rico Manufacturers Association

Thank you for the opportunity to share our statement and especially for your interest in the 3.4 million U.S. Citizens residing in Puerto Rico, a U.S. jurisdiction larger in population than twenty states, as it pertains to the status of our Territory; the Commonwealth of Puerto Rico.

I serve as the elected Chairman of the Puerto Rico Manufacturers Association ("PRMA"). PRMA is the primary voice of the private sector and especially, Puerto Rico's manufacturing. Our Members are the principal business sector driving the island's economy for the last 50 years. Our members generate approximately 250,000 American middle class jobs on the Island, produce close to 50% of Puerto Rico's GDP, and has been the island's primary wellspring of tax revenue for decades.

The focus of this hearing on PROMESA and the questions to be asked are not only vital for restoring the quality of life for those living in Puerto Rico but a priority task required to revitalize our economy and reverse our island's rapid loss of population to other locations in the United States. PRMA has been leading efforts focused on the need for meaningful, long term economic growth, necessary to improve the wellbeing of our people but also to stem the migration to the mainland.

Manufacturing and its economic ecosystem are the primary engine creating middle class jobs on our island. Its health and growth is critical for two critical long term challenges facing Puerto Rico: creating employment opportunities and the need for tax revenue to address the needs of the local government. Without growth, we will continue to see a brain drain as our young people continue to leave, the middle class shrinks and the government struggles to provides services and maintain infrastructure.

Our message is simple and straightforward; only robust economic growth will serve as a solution to Puerto Rico's challenges. Austerity alone will fail to secure Puerto Rico's future.

As the Committee well knows, the economy of Puerto Rico had suffered well over a decade of economic contraction by the time PROMESA was enacted on June 30, 2016 and Congress created the Fiscal Oversight and Management Board (FOMB). Despite what many had hoped from this historic Congressional action, the serious condition of the economy has continued to deteriorate hemorrhaging jobs and creating little new economic opportunity.

Many in Puerto Rico have publicly expressed their concern with the absence of a strong and proactive intervention by the FOMB in defense of Puerto Rico's economy during the negotiations concerning the Tax Cuts & Jobs Act in Congress resulting in dire consequences for the Island's future. Although we understand the far reaching and complex task the FOMB has at hand, PRMA feels that the FOMB being a creature of Congress was in a particularly strong position to influence legislation so crucial to Puerto Rico's future.

Let's remember that PROMESA requires the taxpayers of Puerto Rico to fund the FOMB. Its estimated that the cost of the FOMB to the people of Puerto Rico is an estimated $300 million so far; including millions in consulting contracts. This amount could pay for the health services under the local government's health program for 100,000 low income residents. I doubt very much that the return to our People from spending that amount in the FOMB has been positive. On the contrary, and as I indicate below, the actions of the FOMB have resulted in serious consequences both economic and socially.

We are concerned that after almost three years the FOMB has done little to advance the collective interests of Puerto Rico. The FOMB, through its actions or lack thereof has only increased the uncertainty that has clouded the economic prospects for Puerto Rico. This uncertainty raises questions concerning future local tax policy and how it will impact the operations the productive sector in Puerto Rico. The reform of PREPA and the need for attracting private capital investment into the electricity sector is in doubt.

We believe that the FOMB must be restructured and refocused to provide greater emphasis on economic development. Without a sustained development agenda Puerto Rico runs the risk of a relapse in its fiscal situation and unfortunately at this moment, there is no guarantee that any such development is a concern or priority of the FOMB The lack of attention to implementing reforms and policies that will foster economic growth along with the FOMB's continued emphasis on austerity measures only deepens the economic contraction, discourages investment and works against the positive environment needed to jump start our economy.

The lack of economic certainty is the largest impediment to achieving PROMESA goals, including those that were part of the bi-partisan Task Force on Economic Growth that was created to propose development initiatives. At PRMA, we understand that the primary mission assigned to the FOMB is returning Puerto Rico to a healthy fiscal situation. It is also our belief, given the economy's condition and outlook after both hurricanes, the new federal tax law's consequential treatment of Puerto Rico and the slow recovery process that the FOMB should place the highest priority on proposing and pursuing measures that stimulate sustained economic growth. As a creature of Congress, it is in a privileged position to argue for revisions of PROMESA that will help facilitate this.

We urge the Committee to make changes in the PROMESA authorizing statute that will shift the emphasis of the FOMB to economic growth and development.

We also urge the FOMB to rethink its own role and objectives. As mentioned, resolving the fiscal problems facing Puerto Rico will be impossible unless the economy returns to sustained growth generating new tax revenues and creating jobs. By continuing its current priority of imposing fiscal austerity, the FOMB will only make things worse. The FOMB current prescription will prevent economic recovery resulting in serious economic and social costs for the Island's residents and future generations.

We strongly urge the Committee to concentrate efforts in the following specific areas:

1. Collaborate with the local government and the private sector to aggressively pursue Congressional action to assure Puerto Rico remains a viable option to retain and attract manufacturing facilities and their productive capacity essential to our future economic wellbeing. Let's remember that manufacturing is ½ of the local GDP and the primary source of middle-class jobs.
2. Renewing our electrical grid together with a modernized regulatory framework that promotes private investment with the goal of achieving efficient and diverse distribution and generation of electricity at competitive rates. The recently approved Public Policy on energy is a major step in this direction.
3. Development and implementation of government reforms and economic policies that will attract new investment and lead to long term sustainable economic growth.
4. Continue efforts to secure a consensual solution to the island's debt load to eliminate uncertainty and thus stimulate economic investment.
5. The PRMA has been insistent on introducing transparency into PREPA transformation and other government actions. The same process of transparency should also apply to the FOMB's contracting practices. Sunlight is the best disinfectant.

I must also mention that it has recently been made public that the FOMB will target local, small and medium size businesses to recover payments made by the government to its suppliers before it declared bankruptcy. This will place an enormous burden on these firms, many of which have been suppliers of government services for years. This is a major new source of uncertainty for business since it is now subject to legal proceedings for simply providing goods and services to the Government. How is an honest businessman to know if the Government is about to declare itself bankrupt? At the very least the FOMB's actions will undermine confidence in Government, increase the cost of its acquisitions and will, additionally, generate legal proceedings that will be very costly for the already battered local business sector. The PRMA will keep its options open to exercise all means at its disposal to oppose the intended legal proceedings against local businesses and prevent the FOMB from bringing additional harm to our economic wellbeing.

We appreciate your consideration and welcome the opportunity work with you and your Committee to advance economic growth in Puerto Rico. Thank you for the opportunity to share our statement with you and the Committee.

STATEMENT FOR THE RECORD

Hon. Carmelo Ríos Santiago
Senate Majority Leader of the Senate of Puerto Rico

Thank you for the opportunity to share with you the impact the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) has had on Puerto Rico these past three years. Despite the controversies that surrounded the legislative process that led to PROMESA's enactment, once in place it was seen by many on the island as a beacon of hope in the middle of the fiscal crisis. Even though many in Puerto Rico opposed the imposition by Congress of a fiscal control board that threatened the few self-governing rights of the territory, it was accepted at the time as the only option to rebuild our economy, restructure our debt, and get us back into the financial markets.

The people of Puerto Rico understood that they needed to make sacrifices in order to put the economy in a path of financial stability that will lead to a prosperous future for all. Although there was distrust toward the Board, many welcomed the possibility of having a non-partisan entity advocating and advancing the best interests of the people of Puerto Rico.

Earning the trust of the people of Puerto Rico should have been the number one priority of the members appointed to the Fiscal Oversight and Management Board ("the Board"), if they wanted to be effective in implementing the much needed austerity measures. Unfortunately, that was not the case. In fact, recent polls show that the people of Puerto Rico distrust the Board and find it to be ineffective. In the past 6 months the approval numbers of the Board have dropped significantly.

Amidst a fiscal crisis that has forced so many to make the heart wrenching decision to leave their families behind to move to the states in search of a brighter future, how can the Board justify the $625,000 annual salary of its Executive Director and their million dollars consulting contracts? How can the Board justify the steep cuts to the pension plans, which in most cases are the only source of income of our aging population, while at the same time their president publicly admits that he couldn't maintain his lifestyle on the low payments the Board was proposing?

The members of the Board are the only ones responsible for their poor public image. Their actions, the drastic measures that significantly affected pensions, the work force, students, the healthcare system, public safety, along with their blatant disregard of the reality many Puerto Ricans face has undermined their credibility.

PROMESA was supposed to put in motion a set of compromises between the Board and the democratically elected Government of Puerto Rico. The reality is that this should have been a balancing act. The Legislature understood it that way and demonstrated its willingness to work with the Board since the beginning. In fact, starting January 2017, we worked with the recommendations of the Board and adopted a significant number of measures to comply with the certified fiscal plan while protecting the best interest of our constituents. We reformed government structures, we consolidated numerous agencies resulting in a significant reduction in the government work force, we approved the smallest budgets in the last few decades, we reduced tax rates, and have done everything in our legislative power to attract private sector investment.

However, in the past two years we have found ourselves constantly battling the Board in court due to its insistence in dictating public policy. For instance, in May 2018, the Board insisted that in order to certify the fiscal plan submitted by Governor Ricardo Rosselló, the Legislature had to repeal Act 80 without showing any evidence of how the repeal will positively impact the economy. This law provides protection to over 800,000 employees and employers in the private sector. After many demands from the press, the Legislature, and several economists, the President of the Board finally explained that the repeal of Act 80 along with other labor reforms would result in 0.8% economic growth for Puerto Rico. However, it must be noted that this 0.8% translates into a 0.5% increase if NONE of the labor reforms presented by the Board were implemented.

In spite of this, the Senate reached a comprise so that Act 80 would continue to apply retroactively so as to not divest employees of the rights already acquired, but would no longer apply to new hires. Nonetheless, this compromise was flatly rejected by the Board.

In reprisal for not voting in favor of the repeal, the Board declined to approve the balanced budget submitted by the Legislature of Puerto Rico and instead approved their own a budget. A budget that was $40 million higher than the one approved by the Legislature, but that reduced the operating funds of the Legislature in over $19 million. It also eliminated the Christmas bonus, eliminated a $25 million scholarship fund at the University of Puerto Rico, the annual appropriation of $50 million for economic development initiatives for municipalities, among other budget cuts. Yet, the Board's $64 million operating budget suffered no cuts.

The Government of Puerto Rico and the Board have been able to work together in many areas like for example debt restructuring agreements, the PREPA transformation, the implementation of a local EITC, and lobbying Congress for additional federal funds. However, the Board's actions and disregard for the People of Puerto Rico and their elected officials has created so much distrust on the island that it makes it very difficult to work together.

As legislators we cannot be expected to give in to every whim of the Board, especially when they offer no reliable data to justify their requests. We paid the price for refusing to repeal Act 80. It is evident that the Board is overstepping its mandate by attempting to dictate public policy and blatantly disregarding the democratically elected public officials.

Currently, the Oversight Board is not accountable to anyone—not even Congress—yet it has the final say in the decisions affecting our government. This is why it is necessary to amend PROMESA. For months I have been promoting that Congress amends the federal law to replace the Board with an Oversight Monitor who will have broad investigative powers and will advise the Governor, the Legislature and the Court. This Monitor would have federal authority, would have to send Congress periodic reports on fiscal, budgetary and debt restructuring issues, and would be appointed by the President with the consent of the Senate. He will have to be involved in every step of the process to ensure transparency and legitimacy. This Monitor will be independent and have unlimited access to all government documents.

The Government of Puerto Rico and the Oversight Monitor will be tasked with the drafting of the fiscal plans and budgets. However, in the event they are unable to reach an agreement then it will be up to the court to decide. Any agreement made and ratified by the court will stand, but any other decision or agreement not ratified could be revised by either the Government or the Oversight Monitor.

This is the right time to act. If PROMESA is amended, the new Oversight Monitor could come in right after the end of the terms of the current members, if they are confirmed by the U.S. Senate. Meanwhile the Government of Puerto Rico would continue under the jurisdiction of the U.S. District Court for the District of Puerto Rico, which would also certify the fiscal plans.

To date the Board has not been able to accomplish any of the tasks it was assigned by Congress. Furthermore, it creates more political uncertainty in Puerto Rico, which is the worst that a government could offer the markets. Thus, we should have a Board or a Monitor that does not try to micromanage every aspect of public policy on the Island, that does not strangle the working class and that protects the essential services in the Island.

PROMESA is much more than the Board and as uncomfortable as we may be with it, it is still necessary, but it needs to be amended. Puerto Rico, now more than ever needs certainty and clarity, and the way to start is by changing the current Board members.

[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE COMMITTEE'S OFFICIAL FILES]

Submissions for the Record by Rep. Grijalva

— Congressional Research Service Report on Status of Funding Oversight Following the Response to and Recovery from Hurricanes Irma and Maria in the Commonwealth of Puerto Rico and the U.S. Virgin Islands, dated April 29, 2019.

— The Plan of Adjustment of Debt of COFINA: Sustainability and Financial Capacity of Puerto Rico's Economy, by Dr. José I. Alameda Lozada, dated December 31, 2018.

Submissions for the Record by Rep. Bishop

— Letter from the Puerto Rico Builders Association to Donald Trump, dated September 19, 2018.

— Letter from the Puerto Rico Chamber of Commerce to José Carrión III, President of the Fiscal Oversight & Management Board for Puerto Rico, dated August 20, 2018.

— Estudios Técnicos, Inc. Report, "Economic Impact of the Adoption of a $15.00 Minimum Wage for Construction in Public Projects and of a PLA," dated November 15, 2018.

Submission for the Record by Ms. Rivera

— 2019 Chart on Child and Youth Well-Being Index in Puerto Rico from the Instituto Desarrollo Juventud.

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