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# DISCUSSION DRAFT OF H.R. ___, "TO AMEND THE PUERTO RICO OVERSIGHT, MANAGEMENT, AND ECONOMIC STABILITY ACT OR 'PROMESA,' AND FOR OTHER PURPOSES—PARTS 1 AND 2

## LEGISLATIVE HEARING

BEFORE THE

## COMMITTEE ON NATURAL RESOURCES
## U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

Tuesday, October 22, 2019 (Part 1)
Wednesday, October 30, 2019 (Part 2)

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# LEGISLATIVE HEARING ON DISCUSSION DRAFT OF H.R. ___, "TO AMEND THE PUERTO RICO OVERSIGHT, MANAGEMENT, AND ECONOMIC STABILITY ACT OR 'PROMESA,' AND FOR OTHER PURPOSES—PART 1

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**Tuesday, October 22, 2019**
**U.S. House of Representatives**
**Committee on Natural Resources**
**Washington, DC**

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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, Napolitano, Sablan, Lowenthal, Gallego, Cox, Van Drew, Cunningham, Velázquez, DeGette, Soto, San Nicolas; Bishop, Gohmert, Lamborn, Wittman, McClintock, Westerman, Johnson, González-Colón, Hern, and Fulcher.

Also present: Representative García.

The CHAIRMAN. The Committee on Natural Resources will come to order.

The Committee is meeting today and on October 30 to hear testimony on the draft bill on the amendments to the PROMESA Act of 2019.

Under Committee Rules, any oral opening statements at the hearing are limited to the Chairman and the Ranking Minority Member or their designees. This will allow us to hear from our witnesses sooner, and help Members keep to 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 objection, so ordered.

Let me begin with my statement.

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

The CHAIRMAN. We are here today to begin the first of 2 days of hearings on the legislation to make changes to PROMESA, the Puerto Rico Oversight, Management, and Economic Stability Act.

Today, we will hear from witnesses representing the Governor and the Legislature of Puerto Rico, as well as the Oversight Board and the Municipality of San Juan. Next week, at the second hearing, we will hear from non-profit organizations and representatives of labor and the private sector.

Many of you heard me say that when Congress drafted and passed PROMESA, Democrats would have written a different law if we were in the Majority. I believe then, and still do today, that PROMESA relies too heavily on austerity measures falling on the backs of ordinary Puerto Ricans to achieve the goals of debt reduction and balanced budget. In this regard, the amendments to PROMESA that are contained in the draft that we will be discussing today deal with that.

The draft bill includes provisions to improve PROMESA's implementation by defining essential public services, assigning Federal funding for the operation of the Oversight Board, reducing conflicts of interests, and auditing the public debt, among other policy priorities. It also includes provisions to address Puerto Rico's disaster recovery challenges.

The purpose of today's hearing, as well as the one next week, is to receive feedback from all the stakeholders on the draft's provisions. As a result, I want to encourage anyone who is not able to be a witness at either hearing to submit comments for the record. We want to hear from all interested parties. We are not under any illusion that what we have proposed is the best way to address the challenges the people of Puerto Rico are facing because of the implementation of PROMESA, or the recovery from Hurricane Maria, and we welcome all those suggestions to improve this draft bill.

We have already received numerous comments, both in favor and strongly opposed to some of the provisions in the draft. You will hear many of those comments from our witnesses today. However, I want to caution those who raise objections to the way we are proposing to limit austerity measures to also offer alternatives to accomplishing this goal.

I plan on doing all that I can to prevent the Oversight Board from using the existing provisions of PROMESA as an excuse to cause further suffering to the residents of Puerto Rico. It is already the view of many that current policies contained in several fiscal plans and annual budgets will result in more social polarization, unemployment, extreme poverty, and lower educational levels in Puerto Rico.

The draft bill also includes two coordinated provisions for PREPA and the overall disaster recovery of the island that have received significant opposition. Our goal in proposing these provisions was to eliminate concerns, which have led to severe delays in the release of recovery funds. Those concerns center around Puerto Rico's ability or inability to manage billions of Federal disaster funds in a transparent and open manner. To address these concerns, we propose using practices that were utilized during Hurricanes Katrina and Sandy recoveries.

We also provide an opportunity for municipalities and community organizations to have input into recovery plans and decisions in response to criticism that they had been shut out.

As with objections to our proposals for reversing austerity measures and increasing transparency, we also expect to hear alternatives to achieving our objective of expediting the release of Federal disaster funds and increasing participation in the recovery efforts.

In closing, I want to welcome our witnesses and thank them for traveling all the way from Puerto Rico to be with us today.

I look forward to receiving your testimony, and continuing to work with each of you in improving the lives of the people you represent, and the ordinary people of Puerto Rico.

Like I said, this is a draft discussion. The legislation and the provisions are intended to be draft. They are intended to have feedback. They are intended for the discussion of the members of this Committee to also raise their concerns, offer alternatives, and, as we go forward, leading to a potential markup, those issues will become more and more prominent as we head toward the finalization of a piece of legislation.

[The prepared statement of Mr. Grijalva follows:]

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

We are here today to begin the first of 2 days of hearings on legislation I am considering, to make changes to PROMESA—the Puerto Rico Oversight, Management and Economic Stability Act.

Today, we will hear from witnesses representing the Governor and Legislature of Puerto Rico as well as the Oversight Board and the Municipality of San Juan. Next week, at the second hearing, we will hear from nonprofit organizations and representatives of labor and the private sector.

Many of you have heard me say that when Congress drafted and passed PROMESA, Democrats would have written a different law if we were in the Majority. I believed then and still do today, that PROMESA relies too heavily on austerity measures, falling on the backs of ordinary Puerto Ricans, to achieve its goals of debt reduction and balanced budgets.

It is in this regard, that I wrote the amendments to PROMESA that are contained in the "Draft" we will be discussing today. The draft bill includes provisions to improve PROMESA's implementation by defining essential public services, assigning Federal funding for the operation of the Oversight Board, reducing conflicts of interests and auditing the public debt, among other policy priorities. It also includes provisions to address Puerto Rico's disaster recovery challenges.

The purpose of today's hearing as well as the one next week, is to receive feedback from all stakeholders on the draft's provisions. As a result, I want to encourage anyone who is not able to be a witness at either hearing to submit comments for the record. We want to hear from all interested parties. We are not under any illusion that what we have proposed is the best way to address the challenges the people of Puerto Rico are facing because of the implementation of PROMESA or the recovery from Hurricane Maria and welcome all suggestions to improve the draft bill.

We have already received a number of comments both in favor and strongly opposed to some of the provisions in the draft. You will hear many of those comments from our witnesses today. However, I want to caution those who raise objections to the way we are proposing to limit austerity measures, to also offer alternatives to accomplishing this goal.

I plan on doing all that I can to prevent the Oversight Board from using the existing provisions of PROMESA as an excuse to cause further suffering for the residents of Puerto Rico. It is already the view of many, that the current policies contained in the several Fiscal Plans and annual budgets will result in more social polarization, unemployment, extreme poverty, and lower educational levels in Puerto Rico.

The draft bill also includes two coordinator provisions for PREPA and the overall disaster recovery of the island that have received significant opposition. Our goal in proposing these provisions was to eliminate concerns—which have led to severe delays in the release of recovery funds—about Puerto Rico's inability to manage billions of Federal disaster funds in a transparent and trustworthy manner. To address those concerns we propose using practices that were utilized during Hurricanes Katrina and Sandy recoveries.

We also provide an opportunity for municipalities and community organizations to have input in the recovery plans and decisions in response to criticisms that they are being shut out.

As with objections to our proposals for reversing austerity measures and increasing transparency, we also expect to hear alternatives to achieving our objective of

expediting the release of Federal disaster funds and increasing participation in recovery efforts.

In closing, I want to welcome our witnesses and thank them for traveling all the way from Puerto Rico to be with us today. I look forward to receiving your testimony and continuing to work with each of you on improving the lives of ordinary Puerto Ricans.

---

The CHAIRMAN. I want to thank you again, and I want to now yield to the Ranking Member, Miss Colón.

The floor is yours.

**STATEMENT OF THE HON. JENNIFFER GONZÁLEZ-COLÓN, RESIDENT COMMISSIONER FROM THE COMMONWEALTH OF PUERTO RICO**

Miss GONZÁLEZ-COLÓN. Thank you, Mr. Chairman. And thank you, the witnesses, for coming here today.

I think the first thing we should be looking at today is explaining the draft legislation to amend the Puerto Rico Oversight Board management, better known as PROMESA. This bill was enacted in 2016. I remember I was a Minority Leader at the time in the Puerto Rico House of Representatives. I opposed this bill, for two major reasons.

First, it gave a federally-appointed board power over elected officials of a jurisdiction of more than 3 million Americans living on the island that have no votes in the Federal Government, other than the votes that I have in a few committees in the House, and now in the amendment process on the Floor. No other control board was named by officials for whom the people could not vote. The members of the Board are very capable, and should be greatly appreciated for their unpaid service. But, again, it is as undemocratic as can be.

Relatedly, PROMESA's premise was that Americans of Puerto Rico were solely to blame for the territory deficit and debt, and I could not sponsor that premise. There was no recognition that our area of the United States was underdeveloped and in economic decline because of its unincorporated territory status, a status that has denied our islands the economic benefits of equal treatment in Federal laws and votes and those making those laws. There does not appear to be the same interest among the key leaders of improving PROMESA as there were in the past in passing it, and somewhat late in the process, but we should give it a try.

For that reason, I will not decide how until we hear a witness today, but I have this initial inclination.

First, I truly believe that we should have a realistic effort to amend PROMESA that requires a broad bipartisan and bicameral support. That was the way it was done in 2016. We should do the same thing now.

For instance, the draft includes different kinds of controversial proposals regarding the debt. But in the other way, I support provisions that are worth exploring. For example, the bill seeks to define essential services to include public safety, health care, education, and pensions.

It also incorporates language from H.R. 683, bipartisan legislation introduced by Congressman Velázquez—and I am a co-sponsor

of that bill—that would encourage increased disclosure requirements for persons employed by an oversight board to manage potential conflicts of interest. And I will always support measures that lead to more transparency and accountability, as well.

On the other hand, the draft provision also established a Reconstruction Coordinator from Puerto Rico, a Reconstruction Coordinator for PREPA. In the past, I have been supporting and advocating for a Federal Coordinator that could work with various Federal agencies as a liaison to facilitate, access, and speed up the disbursement of disaster funds for the island. And that is the main issue. We approved the money, but still now a lot of local agencies and Federal agencies are not getting to a court to get that money down there.

And as currently drafted, the office of the Reconstruction Coordinator will simply add more bureaucratic layers to the process. And that is the main question. This coordinator will likewise disrupt ongoing efforts to transform our energy system and restructure the public corporation finances.

I believe we should also have a more in-depth discussion regarding the purpose and intent of the infrastructure Revitalization Coordinator, establish what type of life for PROMESA, before we move forward to eliminate it, as the draft bill proposed.

There are several issues that I do support, and many others that we should have a more in-depth discussion.

Additionally, we must recognize that solving Puerto Rico's fiscal and economic problems requires that we ultimately address the root of the problems: our unequal territorial status. Only through statehood will we be able to acquire the necessary tools to grow our economy and ensure our island's 3.2 million Americans are being treated equally.

I look forward to hearing today's witnesses, and I thank you.

Before yielding back, I do want to introduce for the record this statement from the University of Puerto Rico President, Dr. Jorge Haddock, as well as our Ranking Member of this Committee, Rob Bishop.

The CHAIRMAN. So ordered.

[The information follows:]

**Statement for the Record**

**Mr. Jorge Haddock, Ph.D.**
**President, University of Puerto Rico**

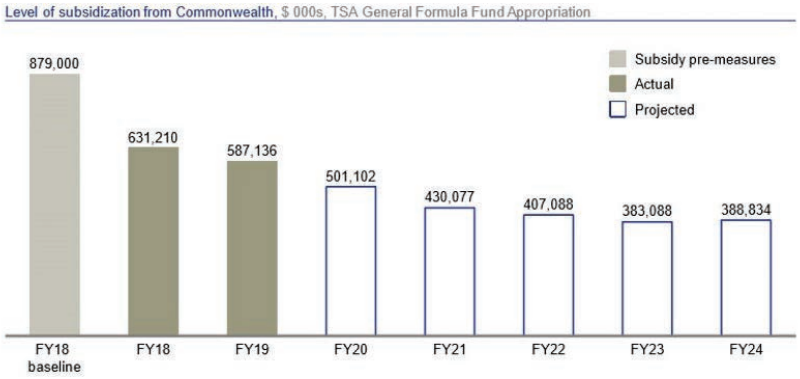
Thank you, Chairman Grijalva and Ranking Member Bishop for the opportunity to submit this written statement with our comments regarding the Discussion Draft to amend the Puerto Rico Oversight, Management, and Economic Stability Act of 2016 (also known as PROMESA, Public Law 114–187) under the consideration of this Committee.

The University of Puerto Rico ("UPR") was established by Puerto Rico Law No. 12 of March 1903. Pursuant to Puerto Rico Law No. 1 of January 1966, as a public institution of higher education, it is required to serve the people of Puerto Rico responding to the ideals of a democratic society such as ours. The mission of the University of Puerto Rico is to meet the following objectives: (1) Knowledge creation and dissemination in science and liberal arts, and service of the community by professors, investigators, and other university personnel, students and alumni; (2) Contribution to the development, culture, and enjoyment of the aesthetic and ethical values of society. The University must comply with the law that establishes it while fulfilling its mission and vision.

Currently, the University of Puerto Rico has an enrollment of approximately 52,036 students, a reduction of 5,884 students since Fiscal Year 2017. Although Hurricanes Irma and María had an impact over the island's demographics, UPR's enrollment experienced a decrease of less than 1 percent from Fiscal Year 2013 to the current fiscal year. The University offers 649 academic programs throughout its 11 campuses. It has the highest annual graduation rate among all higher education institutions on the island.

Since the enactment of PROMESA, the University of Puerto Rico has seen a drastic reduction of the budget that will eventually have a negative impact on the quality of its education, the number of low-income students it can serve, and make it very difficult to fulfill its mission and vision.

Prior to the enactment of PROMESA, the University received from the central government a formula-based appropriation established by Law No. 2 of 1966 from the central government, which was equal to 9.6 percent. For Fiscal Year 2017, prior to the implementation of the 2019 UPR Fiscal Plan, the University received a total allocation of $879 million from the central government. Since Fiscal Year 2017–2018, the UPR has seen a reduction of an accumulated $379 million or 43 percent in the funds allocated to the institution from the central government budget. The graph below portrays the formula fund appropriations foreseen for the following years, including the decreased allocation from the state.




In light of the huge funding cuts it was facing, the UPR engaged in an urgent, yet effective, exercise to identify the areas that required modifications to reach a sound fiscal system and to update information and practices. This exercise included identifying methods to become more efficient without sacrificing student excellency and its accreditation. After an exhaustive revision of expenses, needs, and priorities to ensure it could continue to function appropriately and increase its sustainability, the University of Puerto Rico developed an action plan with specific timelines and presented a Fiscal Plan to the FOMB in compliance with the requirements established by PROMESA.

The University revised its tuition exemption policy and the total amount of financial aid, focusing now on students' high performance, needs, and work study basis. Today, we estimate that 80 percent of the undergraduate students are covered by scholarships or financial aid, including Pell Grant, providing access to students with financial needs.

Although the University is complying with its action and fiscal plans, and headed toward achieving sustainability, in order to remain competitive, it also needs to increase its investments in key areas. Among these are: faculty; increased minimum wage; additional income programs; investment in student services; financial systems and cloud infrastructure; and pension reform, among others. Investment in those key areas will result in modernization and a better allocation of resources to the academic community. It would specifically benefit the students directly in the short-, mid-, and long-term.

The Middle States Commission on Higher Education (MSCHE), as well as other accreditation bodies, requires a certain level of full-time faculty members. The American Association of University Professors explains the importance of having full-time faculty members this way: ". . . tenure protects academic freedom by insulating faculty from the whims and biases of administrators, legislators, and donors, and provides the security that enables faculty to speak truth to power and

contribute to the common good through teaching, research, and service activities." In the UPR, crucial full-time faculty positions remain vacant due to lack of funding. The aging workforce and faculty, similar to the island's aging demographics, means that more professors will retire annually and in light of the budgetary constraints, those positions will remain vacant, placing our most prestigious programs and their accreditations at risk.

The FOMB just requested an additional amount of $80 million to fund the retirement pension plans. Those additional funds must come from an already significantly reduced operational budget that supports the minimum standards for the University of Puerto Rico. It is simply not feasible, in such a short amount of time, to recover through sponsored programs or grants the funds that were cut without making significant investments.

The Federal Government has made substantial investments in the University of Puerto Rico through grants. These have furthered research, student services, and infrastructure improvements, among others things. Additional reductions threaten the upkeep and protection of these investments as well as the continuity of programs financed with Federal funds. The University of Puerto Rico received over $368,000,000 in grants from the Federal Government between Fiscal Years 2015 and 2018. The abrupt and drastic reduction of funding threatens the maintenance and up-keep of infrastructure investments made with Federal funds that benefit the students. The University of Puerto Rico generates over 70 percent of the scientific publications on the island. These infrastructure investments (labs, software, computers) help make this possible.

Hurricanes Irma and María in 2017 aggravated the University of Puerto Rico's dire economic situation. The total estimated in damages to the University is approximately $176,000,000. The recurrent financial cuts have reduced the University's financial liquidity, substantially threatening the access to an allocation of $100,000,000 in CDBG-DR funds.

The financial adjustments already made by the University of Puerto Rico have resulted in better management and use of funds, as well as a culture of transparency and reporting throughout all units and campuses. This institutional transformation is continuous. As a result, once full funding is reinstated the use of funds will be optimized, resulting in a return on investment that would be measured with tangible metrics.

The University of Puerto Rico fully supports reinstating the funds for its operation as established by Puerto Rico Law No. 1 of 1966 or, $800,000,000 annually until termination of the Oversight Board pursuant to Section 209 as included in Section 4 of the Discussion Draft amending Section 201(b)(1)(B) of PROMESA. These funds will allow the University of Puerto Rico to fulfill its major role as an essential public service that is able to comply effectively with its obligations and accreditation requirements. This amendment will ensure accessibility of students to the best education possible, particularly to those that do not have the economic capacity to afford a quality higher education.

Thank you

---

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

Three years ago this Committee crafted a bi-partisan compromise between the then Republican-controlled Congress and the Obama administration Treasury Department to help bring stability to Puerto Rico's quickly unraveling debt crisis. The effort it took for Congress to come together and craft such a complex and balanced law was nothing short of herculean. I was surprised we got it done.

It was made possible by the sincere and genuine commitments made by both Democrats and Republicans to put aside politics, realize we were dealing with an unprecedented situation, and work for the betterment of the territory. At the time, there were no certain outcomes. We had a choice: have Puerto Rico continue its chaotic spiral into decades of litigation, or, provide them a legal mechanism for orderly and equitable adjustment of debt.

There was no silver bullet then—nothing could cure decades of fiscal mismanagement at this scale—and there isn't one now. **But, with PROMESA's enactment, we are in a far better situation than what the territory faced in 2016.**

Today, unfortunately, we sit here to consider the exact opposite of what a bipartisan compromise looks like. The Majority has decided to propose an effort that would catastrophically dismantle every bit of the balanced law that Congress and the Obama administration worked so hard to put in place.

With such blatant disregard for the well-being of the island's citizenry that this proposal represents, the question must be asked: who does this benefit? The answer, much to my dismay but to the surprise of no one is simple: Democrats would rather listen to their radical special interests groups than to consider the detrimental impacts this reckless proposal will have on the current fragile situation.

I want to thank the Governor, Wanda Vázquez Garced, for declining to appear at this fabricated circus, and instead deciding to send her head of Federal affairs. A wise use of her time it would appear.

I would also like to acknowledge the steadfast presence of Ms. Natalie Jaresko, the Executive Director of the Oversight Board, who has the thankless job of balancing the actual real work of righting Puerto Rico's debt crisis while having to also appear at these political circus rings that my Democrat colleagues feel the need to schedule. Nevertheless, Ms. Jaresko's testimony today will provide valuable insight into the actual progress the Board and the new governor are carrying out.

It is important we all remember what got Puerto Rico into this mess: decades to fiscal mismanagement, a limitless appetite for borrowing to pay for bloated government services, lack of adequate structural reforms, and an inability to invest wisely in crucial energy infrastructure.

Despite progress with the Board, little changed in the past 3 years in Puerto Rico's government, other than the resignation of the previous governor. Unfortunately, the prior governor refused to work productively with the Oversight Board to make the difficult choices to get the island on the path to fiscal and economic stability.

Hurricanes are not the main cause of the chaotic situation Puerto Rico finds itself in today, they are merely another challenge the island was ill-equipped to face due to a catastrophic breakdown in local government that began long ago.

Unfortunately, the Democrat bill under consideration here today is not a realistic step forward for the island, but another empty attempt to halt real progress for our fellow Americans.

I thank the Resident Commissioner for her stalwart leadership and the work she conducts to find real solutions for her 3 million constituents, and I yield back.

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The CHAIRMAN. Let me now invite our first panel.

Under Committee Rules, oral statements are limited to 5 minutes, but your entire statement will be made part of the record, as submitted.

The lights go from green to yellow, and then it is over.

[Laughter.]

The CHAIRMAN. That will give us enough time to follow up with the Members that are here with any questions that they might have for you.

Let me begin with Mr. Omar Marrero, Executive Director of the Puerto Rico Fiscal Agency and Financial Advisory Authority.

Sir, the floor is yours.

## STATEMENT OF OMAR MARRERO, EXECUTIVE DIRECTOR, PUERTO RICO FISCAL AGENCY AND FINANCIAL ADVISORY AUTHORITY

Mr. MARRERO. Thank you. Good morning. Chairman Grijalva, Ranking Member, Congresswoman Jenniffer González-Colón, and members of the Committee, it is a pleasure to be back in front of you.

Governor Vázquez regrets that she was not able to attend today because of a critical meeting with the U.S. Department of Education to address, among other items, the freeze of more than $1.5 billion in Federal funding earmarked for Puerto Rico's public education system. The Governor asked me to attend today to

provide the administration's perspective on the proposed amendments to PROMESA.

As you know, I serve as Chief Financial Officer for the Government of Puerto Rico, and Executive Director of the Puerto Rico Fiscal Agency and Financial Advisory Authority.

In addition, I would like to introduce the ex officio member to the Financial Oversight and Management Board for Puerto Rico, who is attending with me today.

Since taking office on August 7, 2019, Governor Vázquez has made it a top priority to use the tools provided in PROMESA to advance the interests of the people of Puerto Rico. To that end, we have worked to establish a more collaborative relationship with the Oversight Board. We prioritize moving the debt restructurings forward, and meeting with various agencies and instrumentalities of the government in order to implement structural reforms and transparency within the government.

Our administration is fully committed to making progress for the benefit of the people of Puerto Rico. We owe it to them.

With regard to the proposed amendments to PROMESA, the written statement submitted sets forth the Governor's position of each of the amendments. However, I would like to highlight a few of those positions here.

First, the proposed amendments related to territorial relief for unsecured public debt. While the proposed amendments may seem on their face to assist territories in relieving the debt burden, we believe the effect of the proposed amendments will be detrimental to Puerto Rico. Instead of being able to fully access the bond markets in the future, we will be limited to only the least optimal mechanism for funding future projects such as secure or high interest bonds.

It would also make our restructuring more challenging, and likely prolong the existence of the Oversight Board. And with all due respect, we just want to get it done and terminate the Oversight Board role in Puerto Rico.

Second, we would like to address the proposed amendments that will create additional bureaucracy in the form of a public credit comprehensive audit commission, an office of Reconstruction Coordinator, and a Revitalization Coordinator for PREPA. These functions are either unnecessary or are already being addressed by the government of Puerto Rico and/or the Oversight Board.

Specifically, first, there is no need for a public credit comprehensive audit commission, because the Oversight Board has already completed and published a comprehensive audit of Puerto Rico's debt, and commenced litigation as a result thereof. Nor is such a commission necessary to address future debt obligations, as we are working with the Oversight Board to incorporate certain debt management policies into the Title III plan of adjustment. What we want to make sure of is that the practices that took Puerto Rico to where we are today, that they don't happen again. And we will make sure that doesn't happen again.

Similarly, the office of Reconstruction Coordinator is unnecessary, because the challenge Puerto Rico faces is accessing Federal funding sources, not management of recovery funds. As required by the Federal Government, Puerto Rico established the COR3 as a

centralized oversight authority to manage and oversee disaster funding, hired third-party experts with global disaster experience to implement best practices, and implemented the transparency measures, including, without limitation, a portal that provides detailed information about the uses of Federal recovery funds provided to the island. No other jurisdiction in U.S. history has come up with such transparency measures.

Again, any amendment to PROMESA should be focused on centralized coordination at the Federal level.

One option that needs to be is to really empower the Federal disaster recovery coordinator to direct and liaise with the various Federal agencies to assist the Puerto Rico government in accessing Federal funding sources. Because, as Congresswoman González just mentioned, we need the close coordination at the Federal level.

Finally, a Revitalization Coordinator for PREPA is unnecessary, and could be damaging to the ongoing transformation process. The government of Puerto Rico and the Oversight Board are working together to bring private management to the transmission and distribution system, encouraging private investment in and building of new generation, and creating a strong and predictable regulator.

We have made substantial progress toward that effort, and are hoping to select a counterparty and begin implementation of the transaction in early 2020. Appointing a coordinator for PREPA will be disruptive to the ongoing process, and could damage Puerto Rico's overall recovery.

In closing, on behalf of the Governor, I would like to express our continued appreciation for the efforts of the Committee to make PROMESA a more effective law that can better meet the needs of the people of Puerto Rico. Congress and the members of this Committee have always been great friends of Puerto Rico, and we look forward to that continued partnership, as well.

I am happy to take your questions, sir.

[The prepared statement of Mr. Marrero follows:]

PREPARED STATEMENT OF OMAR MARRERO, CHIEF FINANCIAL OFFICER FOR THE GOVERNMENT OF PUERTO RICO AND EXECUTIVE DIRECTOR OF THE PUERTO RICO FISCAL AGENCY & FINANCIAL ADVISORY AUTHORITY

Chairman Grijalva, Ranking Member Bishop, and members of the Committee, I am Omar Marrero, the Chief Financial Officer for the Government of Puerto Rico and Executive Director of the Puerto Rico Fiscal Agency and Financial Advisory Authority ("AAFAF", by its Spanish acronym). Thank you for the opportunity to address the Committee today on the proposed amendments to PROMESA.

I. INTRODUCTION

It is a privilege to appear before you again this year, although this time in a different capacity. I was appointed Executive Director of AAFAF and CFO of the Government of Puerto Rico in July. Pursuant to its Enabling Act, AAFAF serves as the fiscal agent for the Commonwealth and its instrumentalities, and is tasked with communicating with the Oversight Board and overseeing matters of fiscal planning and debt restructuring on behalf of the Government of Puerto Rico. Prior to serving as the Executive Director of AAFAF, I served as the Executive Director of the Puerto Rico Public-Private Partnerships Authority and the Central Office for Recovery and Reconstruction of Puerto Rico—roles that involved close coordination with the Oversight Board and Federal agencies.

Since taking office on August 7, Governor Vázquez has been focused on promoting integrity and transparency in the public sphere and working with AAFAF to move Puerto Rico forward and give the people of Puerto Rico a bright future. Governor Vázquez and her administration are determined to bring real progress to Puerto

Rico. We believe that Puerto Rico will benefit from cooperation between the Federal Government, both the legislative and executive branches, the Oversight Board, and the Government of Puerto Rico. It is in that spirit that we address the proposed amendments to PROMESA today.

## II. GENERAL OBSERVATIONS ON PROPOSED AMENDMENTS

The proposed amendments are a good faith attempt to address certain specific issues that have arisen in the implementation of PROMESA and many of them are worthy of consideration. We are concerned, however, that certain of the proposed amendments do not address critical issues that have hindered the effectiveness of PROMESA and impose unnecessary bureaucracy in areas where we are already making progress. We address those issues here.

*Fiscal Plan and Budgeting Process*

The proposed amendments do not address the flawed fiscal plan and budgeting process. PROMESA created a power-sharing arrangement that contemplates the Oversight Board setting spending caps or limits within which the Government of Puerto Rico determines spending in line with its public policy. In certain instances, the Oversight Board has used its fiscal plan and budgetary power to impose detailed spending restrictions that have the effect of dictating public policy—an approach that undermines the Government's powers and turns the Oversight Board into something more akin to a control board. The lack of a forum for the Government of Puerto Rico to challenge the Oversight Board's decision to certify a fiscal plan or budget exacerbates this problem. While we are working diligently with the current Oversight Board to establish a more effective process, this concern with PROMESA is broader than our current relationship and will impact how future administrations and future oversight boards work together.

To address this issue, we submit that Sections 201 and 202 of PROMESA should be amended to make clear that the Oversight Board's fiscal plan and budgetary powers do not extend to determining day-to-day operating level expenditures. In addition, Section 106(e) of PROMESA should be amended to provide a mechanism for the Government of Puerto Rico (but not other third parties) to review and potentially challenge Oversight Board fiscal plan and budget certifications. This would (1) allow the Government of Puerto Rico to enforce the key provisions required in fiscal plan and budgets and (2) prevent abuses of power that strip the Government of Puerto Rico of its ability to make operational decisions.

*Additional Bureaucracy*

The proposed amendments would create additional bureaucracy in the form of a Puerto Rico Public Credit Comprehensive Audit Commission, an Office of Reconstruction Coordinator for Puerto Rico, and a Revitalization Coordinator for Puerto Rico Electric Power Authority. These functions are either unnecessary or are already being addressed by the Government of Puerto Rico and/or the Oversight Board.

**Puerto Rico Public Credit Comprehensive Audit Commission.** The Oversight Board has already completed and published a comprehensive audit of Puerto Rico's debt and commenced litigation to invalidate certain bond issues based on that audit. Repeating that exercise would only result in an unnecessary expense and create a strain on resources. Nor is such a Commission necessary to address future debt obligations as we are working with the Oversight Board to incorporate certain debt management policies into the Title III plan of adjustment that will limit Puerto Rico's ability to incur debt in the future to an appropriate level.

**Office of Reconstruction Coordinator for Puerto Rico.** Establishing another agency to manage Puerto Rico's use of recovery funds is likewise unnecessary. Puerto Rico established the COR3 to promote and implement reconstruction efforts with efficiency, effectiveness, and transparency. Among its many other functions, COR3 established a transparency portal (found at https://www.recovery.pr/home) that provides detailed information about the uses of Federal recovery funds provided to the island. COR3 has been very successful in its mission and has provided unprecedented transparency on the use of recovery funds.

The challenges with regard to Federal funding relate primarily to the difficulties in coordinating the various Federal agencies that provide funding. The requirements for receiving the appropriated funding are often opaque and seem to change regularly. We believe that Puerto Rico would benefit from the Federal Government providing a coordinator who could work with the various Federal agencies as a liaison to assist the Puerto Rico Government in accessing the Federal funding sources.

**Revitalization Coordinator for Puerto Rico Electric Power Authority.** The Government of Puerto Rico and the Oversight Board share a common goal of transforming the electric system in Puerto Rico. We are working to bring private management to the transmission and distribution system, encouraging private investment in and building of new generation, and creating a strong and predictable regulator. We have made substantial progress with well-known and qualified private parties toward a contract for management of the transmission and distribution system and hope to select a counterparty and begin implementation of that transaction early in 2020. We have also established the Puerto Rico Energy Bureau and begun the revamping of the generation assets. Our goal is to address PREPA's liabilities through a plan of adjustment in 2020 concurrently with the transition to a private operator of the transmission and distribution system. We expect the transition to the private operator to start in early 2020 and be completed by year-end. Appointing a Revitalization Coordinator for PREPA would disrupt the ongoing process and potentially damage Puerto Rico's overall recovery efforts.

III. SPECIFIC OBSERVATIONS ON THE PROPOSED AMENDMENTS

In addition to the observations above, set forth below is a chart that summarizes our positions on the specific proposed amendments to PROMESA.

| Proposed Amendment Title | Government Position |
|---|---|
| Sec. 3. Federal Funding for Operation of Oversight Board and Title III Proceedings | We do not object to the Federal Government paying for the Oversight Board's operational and Title III costs.<br><br>The Committee should consider, however, the potential legal risk that doing so provides additional support for the argument that the Oversight Board's actions are actions of the Federal Government and that any debt restructuring could therefore give rise to takings claims against the Federal Government. |
| Sec 4. Definition of Essential Public Services | We oppose this amendment because a narrow definition of essential public services could limit Puerto Rico's flexibility to meet the needs of its citizens. If the amendment is going to be included, then we suggest that it be clear that the word ''including'' means ''including without limitation.'' |
| Sec 5. Definition of Economic Growth | We support this proposed amendment and suggest the Committee slightly modify the proposed definition of ''expenditures and investments necessary to promote economic growth'' to also include expenditures sufficient to cover funding for disaster recovery activities. |
| Sec 6. Disclosure By Professional Persons Employed by Court Order | We support these new disclosure standards because they facilitate transparency.<br>The Committee may wish to consider modifying the mechanics so that the process works more effectively with the standards already implemented in the Title III process and does not create additional cost or competing standards. |
| Sec 7. Access to Information | We oppose this proposed amendment for several reasons including, without limitation, the following:<br>• First, this amendment could infringe on privileges and immunities that are important to the government being able to function, such as the attorney-client privilege and the deliberative process privilege.<br>• Second, this amendment could result in bondholders having the ability to obtain information that bondholders would not otherwise be able to obtain under the guise of free exchange of information. That information could be used to disadvantage Puerto Rico and the Oversight Board in restructuring negotiations.<br>• Third, this amendment is unnecessary because the Puerto Rico Constitution provides sufficient protections for parties seeking information. |
| Sec. 8. Puerto Rico Infrastructure Revitalization Repealed | We do not have a position on this proposed amendment, but to the extent Title V of PROMESA is not repealed, we suggest the Committee amend Title V to include the Federal permitting process, especially with respect to recovery activities. |

| Proposed Amendment Title | Government Position |
|---|---|
| Sec. 9. Territorial Relief for Unsecured Public Debt | We oppose the proposed new Title VIII of PROMESA because we believe the provision would eliminate Puerto Rico's ability to access unsecured credit in the future resulting in Puerto Rico having to borrow only secured debt. |
| Sec. 10. Puerto Rico Public Credit Comprehensive Audit Commission | We oppose this proposed amendment for the reasons set forth above. |
| Sec. 11. Office of Reconstruction Coordinator for Puerto Rico | We oppose this proposed amendment for the reasons set forth above. |
| Sec. 12. Revitalization Coordinator for Puerto Rico Electric Power Authority | We oppose this proposed amendment for the reasons set forth above. |

IV. CONCLUSION

We appreciate the efforts of the Committee to make PROMESA a more effective law that can better meet the needs of Puerto Rico. Our comments are intended to be constructive in helping you evaluate the proposed amendments and focus on areas where change can be most effective. We look forward to working with you to achieve a brighter future for the people of Puerto Rico.

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The CHAIRMAN. Thank you. And please, sir, if you don't mind extending the appreciation of the Committee to the Governor, we understand that her presence at her meeting relative to the education issue is of utmost importance, and, while we miss her presentation, we understand the priority. So, I appreciate it very much.

Mr. MARRERO. Yes, sir.

The CHAIRMAN. Let me now introduce Ms. Natalie Jaresko, Executive Director of the Financial Oversight and Management Board for Puerto Rico.

The floor is yours.

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

Ms. JARESKO. Chairman Grijalva, Ranking Congresswoman González, and members of the Committee, thank you for this opportunity to update the Committee on the Board's work on behalf of the people of Puerto Rico.

I have submitted written testimony for the record and look forward to your questions.

In 2016, Congress passed PROMESA in a bipartisan manner. While we could all think of ways of improving compromise legislation such as this, the fact is PROMESA is working. Together with the new governor, Wanda Vázquez, and her administration, the bipartisan Oversight Board is making substantial progress on restructuring Puerto Rico's debt, and is continuing to improve fiscal responsibility and management on the island.

Last month, the Board filed its proposed plan of adjustment to restructure $35 billion of debt and other claims against the Commonwealth, the Public Buildings Authority, and the employment retirement system, and more than $50 billion of unfunded pension liabilities. That plan reduces $35 billion in Commonwealth liabilities to $12 billion. That plan limits the annual maximum debt service from $4.2 billion to an annual $1.5 billion. That plan

keeps debt service to a sustainable level of less than 9 percent of government-owned source revenue, compared to 28 percent prior to PROMESA.

It creates a debt management policy to ensure that Puerto Rico never again finds itself in this position, it provides that 74 percent of current and future pensions are not cut, and it establishes a multi-billion-dollar trust to support the payment of pensions for the next 30 years. It restores $1.3 billion of mandatory employee contributions that no longer exist, and assumes new collective bargaining agreements with public-sector unions to give them predictability and certainty.

In sum, this plan represents a series of compromises on the part of various stakeholders who all recognize the need to give Puerto Rico a fresh start. Together with COFINA, GDB, PREPA and PRASA, we are finally moving forward with restructuring most of Puerto Rico's debt.

In addition to restructuring this immense debt load, PROMESA charges the Board with helping Puerto Rico to achieve fiscal sustainability. And to do this, Puerto Rico must focus its efforts on implementing structural reforms to improve the economy's competitiveness, managing its scarce funds more efficiently, consolidating the government agencies that exist, and attracting high-quality managers to a smaller, better-managed government.

If spending alone was the answer, the decades of excessive spending that led to this accumulation of debt would have left Puerto Rico with efficient infrastructure and robust government services. But it did not. That is because it is not just the amount of spending that matters, but how efficiently it is spent.

For example, just last year the Department of Education in Puerto Rico underspent $56 million of its budget, despite the need to improve educational outcomes. The Department of Corrections left $22 million unspent, despite clear needs of adult and juvenile facilities. At the police bureau, $35.8 million went unspent, despite clear needs for investment in personnel, and more and newer equipment. At the Highway and Transportation Authority last year, only 30 percent of available funds for investment into roads was used, despite the overwhelming need for repair.

As I stated at the beginning, PROMESA is working. Having said that, we agree that certain parts of the discussion draft would improve PROMESA. For example, the proposed provision authored by Representative Velázquez to expand certain disclosure requirements for professionals in the Title III case would be effective at avoiding conflicts of interest and creating greater transparency.

On the other hand, as my colleague has noted, the Board is concerned that other parts of the discussion draft, while well-intentioned, could compromise the Board's ability to fulfill its mandate under PROMESA. For example, the unsecured debt discharge language may make it harder and more expensive for the Board to restructure Puerto Rico's debt. The provision on essential services could have the opposite of its intended effect, because it provides ammunition to those arguing and litigating that the Board should be limited to funding only those services that are truly essential, and only at the bare minimum.

Finally, installing a Federal Revitalization Coordinator for PREPA would disrupt the transformation of the energy sector, which is well underway. The recently filed proposed plan of adjustment in ongoing work restoring fiscal responsibility and management has brought us substantially closer to satisfying the conditions that PROMESA establishes for termination of this Oversight Board. Rather than focusing on changes to PROMESA, we remain committed to working with the government to fulfill the mandates of PROMESA so that Puerto Rico can reach its real potential, where businesses can have the confidence they need to invest, and the people of Puerto Rico can live in a vibrant and sustainable economy.

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 Financial Oversight and Management Board for Puerto Rico (the "Board" or "Oversight Board"). Thank you for this opportunity to update the Committee in this hearing on the work the Board is doing for the benefit of the people of Puerto Rico. Since I testified before this Committee on May 2, 2019, the Board has made substantial progress toward achieving its mandate under PROMESA. I also appreciate the chance to comment on the PROMESA discussion draft and the impact of its proposed changes on the Board's work.

I. INTRODUCTION

Before PROMESA was adopted, Puerto Rico faced an unsustainable burden of more than $70 billion in debt and more than $50 billion in unfunded pension liabilities, exacerbated by a decade of economic decline and significant outmigration. The sitting governor had 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 in search of greater economic opportunity. Nonetheless, 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 people of Puerto Rico. In 2016, Congress through PROMESA provided a way forward for Puerto Rico.

As the Board got underway with its work, Hurricanes Irma and María inflicted the most horrific natural disaster devastation to strike the United States in 100 years, compounding the financial and humanitarian distress to the Island and its people. The Board worked extensively with the Government in joint post-hurricane efforts, including the critical importance of transforming the power sector to be more reliable, resilient, and cost-effective. The Board continues to support the efforts of the Puerto Rico Government and the U.S. Government to provide the critical disaster relief funding to the Island and its residents.

This summer the people of Puerto Rico spoke clearly about their demands for better governance and more responsive government services. The resignation of Governor Rosselló was complex and disruptive to the ongoing work of the Puerto Rico Government for the Island and the people of Puerto Rico. However, it did not deter the Board in carrying out its obligations under PROMESA and persisting in its work to assure the efficient and effective delivery of those important government services. The Board has continued to work with the elected leaders of Puerto Rico to provide its people with the stability needed by all stakeholders. Since Governor Wanda Vázquez took office on August 7, the Board has engaged in a collaborative, working relationship with the Governor and her team. In addition to three working meetings of the Governor and the Board, the Board has held dozens of meetings with the Governor's team on fiscal plan and budget implementation. We have made great progress working together, despite ongoing differences which remain.

As you know, a significant aspect of the Board's responsibility for administering the largest public entity restructuring in U.S. history includes defending against nearly 100 lawsuits filed in opposition to the Board's certified fiscal plans and budgets formulated to carry out PROMESA. Predictably, those creditors dissatisfied with the proposed Plan of Adjustment the Board recently filed are also gearing up to

launch challenges to the Board's plan proposal. The Board continues to try to resolve these disputes as fairly and expeditiously as possible consistent with the mandates of PROMESA. The Board also continues to monitor more than 120 reform implementation plans the Board inserted into its certified fiscal plans, necessitating hundreds of working meetings with the Government and Legislature, and numerous hearings, as well as town hall meetings across the Island with members of the public.

The month of September was of particular significance for the Board's work. Last month we filed our proposed Plan of Adjustment for the Commonwealth and a proposed disclosure statement explaining it. This filing is a major milestone for the Board, as it addresses over $35 billion of debt and other claims against the Commonwealth of Puerto Rico, the Public Buildings Authority (PBA), and the Employee Retirement System (ERS), and more than $50 billion of pension liabilities, and represents the beginning of the end of the bankruptcy-like state that Puerto Rico has been in since 2017. I will discuss the proposed Plan of Adjustment in detail further in my testimony.

I will now cover the Board's main accomplishments since my previous testimony in the areas of debt restructuring and fiscal plan implementation and responsibility.

## II. DEBT RESTRUCTURING AND THE PLAN OF ADJUSTMENT

On September 27, after years of extensive negotiations, the Board filed its proposed Plan of Adjustment (the "Plan") to restructure $35 billion of debt and other claims against the Commonwealth of Puerto Rico, PBA, and ERS, and more than $50 billion of pension liabilities.

The Plan has five main elements of debt restructuring: the debt of the central government, the debt of PBA, the debt of ERS, claims against the Commonwealth alleging wrongful clawback, as well as general unsecured claims against the Commonwealth, PBA, and ERS. Combined, those elements comprise about $35 billion in debt and claims, which the Plan seeks to haircut by more than 60 percent.

The Plan would significantly reduce debt service from $82 billion over 30 years to $44 billion. Together with the debt of COFINA, which the Board restructured earlier this year through the Title III process, the amount the Government would have to spend on servicing its debt would fall from a maximum of $4.2 billion a year to $1.5 billion a year—a substantial reduction that leaves Puerto Rico with an amount it can sustainably afford over the next 30 years.

The proposed Plan has 10 key points:

1. Reduces $35 billion in Commonwealth liabilities to $12 billion.
2. Ensures sustainable and affordable annual debt service of less than 9% of government own-source revenue (from 28% prior to PROMESA).
3. Ensures that 74% of current and future pensions are not cut.
4. Establishes a trust supporting pensions for 30 years.
5. Provides predictability to public employees via collective bargaining agreements.
6. Restores $1.3 billion of withheld employee contributions to Sistema 2000, which was until recently a virtually defunct employee-funded retirement benefit fund.
7. Creates a mechanism to settle claims against challenged bonds.
8. Creates a mechanism to eliminate pension cuts to the extent that in any fiscal year the surplus is greater than projected.
9. Allows retail bondholders to elect bonds with monthly interest payments.
10. Establishes a debt management policy to ensure Puerto Rico never again finds itself in this situation.

In sum, this Plan represents a series of compromises on the part of various stakeholders who all recognize the need to move Puerto Rico out of Title III and toward a future of prosperity. All supporters of this Plan have compromised for the good of Puerto Rico.

### A. PROMESA Requirements for Confirmation of the Plan:

It is important to remember that PROMESA requires that the Title III Court confirm the Plan before it can become effective. For example, the Court must conclude that the Plan is feasible and in the best interests of creditors collectively. The Board believes this Plan is feasible and in the best interests of all creditors because it restructures Puerto Rico's debt and pension liabilities in a way that provides reasonable compensation to creditors without endangering Puerto Rico's fiscal future,

while ensuring pensions and enabling Puerto Rico's renewed growth and investments needed to prosper. Without satisfying these legal requirements, Puerto Rico cannot exit Title III. That is why consensual support from retirees, public employees and bondholders is helpful to lifting the cloud of bankruptcy that endangers Puerto Rico's future well-being. With the support of these groups, the Board demonstrates that it has struck a fair balance in the best interest of all parties for a realistic restructuring Puerto Rico can afford.

**B. Stakeholder Support of the Plan:**

The Board has, after months of rigorous negotiations, secured the support of three significant stakeholder groups for the Plan:

- the Official Committee of Retirees (COR), which represents retired government employees;
- a group of current government employees represented by the Public Service Union, the Puerto Rico chapter of AFSCME; and
- the Lawful Constitutional Debt Coalition (LCDC), a group of investors and funds who hold Puerto Rico's general obligation bonds and PBA bonds.

**C. Public Employee Retirees:**

Consistent with the consensual plan support agreement reached with the Official Committee of Retirees, the Plan restructures pension liabilities for the long-term, protects more than 74 percent of current and future retirees from any reduction, and ensures a reasonable reduction in pensions overall. Pensioners are considered unsecured creditors under the Title III restructuring process, whose treatment under the Plan will have to be approved by the Court. That makes the Board's consensual agreement with COR an important element of the Plan. The Board agreed with COR to a flat 8.5 percent pension cut provided that no one will have their total monthly retirement benefits reduced below $1,200. The Board also agreed the Commonwealth would establish a pension reserve fund for the PayGo pension system to support payment of pensions over the next 30 years. Moreover, if in any given year the surplus is larger than projected, 10 percent of the incremental surplus will be reserved to restore the pension cuts of that year.

**D. Public Employees:**

As to public employees, the Plan covers over 11,000 active public employees and union members in eight agencies of the Government. The Board and the Public Servants United of Puerto Rico/AFSCME Council 95 ("SPU") reached an agreement that secures collective bargaining agreements, protects workers from further compensation cuts, provides workers with bonuses, and ensures savings projected in the Fiscal Plan. The proposed Plan includes the following benefits for public employees:

1. Collective bargaining agreements will remain in effect for 5 years, reflecting labor terms in the Fiscal Plan.
2. Guarantees stability in the working conditions of employees and prevents further cuts to workers' benefits.
3. Any bonus or economic benefits to public employees lawfully granted by the Government will also apply to SPU members. This agreement, thus, represents the baseline of treatment of public employees.
4. At least $1.3 billion of employees' contributions to Sistema 2000 will be restored.
5. Signing bonus of $1,000 to all SPU members that ratify the agreement.
6. Employer contribution to medical plan set at $170 per month, rather than the $125 previously proposed.
7. Establishes a $5 million trust for healthcare to support transition of employees for whom $170 per month is below their current benefit.
8. Affiliates may keep the right to negotiate the Single Medical Plan, and they will not have to be changed to the Government's health plan.
9. If Government outperforms the Fiscal Plan, 25% of the excess will be allocated to public employees in that year, incentivizing employees to help the Government work more efficiently.

The Board is seeking to broaden active public employee support for the Plan. As you may know, the Board negotiated a preliminary agreement with the "Asociación de Maestros" (AMPR), represented nationally by the American Federation of Teachers. Unfortunately, AMPR was not able to secure a majority vote in support

of the agreement with the Board. The Board is hopeful that the filing of the proposed Plan will encourage AMPR to reconsider engaging with the Board.

For the prosperity of all government employees, it is important to move on, to leave this state of financial distress behind, to build a secure future for Puerto Rico. This secure future can only be built working hand in hand with the public sector employees who are critical to the success of Puerto Rico. For too long, so much was taken away from them. We look forward to continuing our discussions with other unions and groups so that they can also be consensual parts of this process.

**E. Bondholder Support:**

As to the LCDC bondholders, their agreement with the Board includes meaningful reductions of the par value of Puerto Rico outstanding bonds and sustainable, affordable debt service payments over the next 30 years. The Board remains committed to negotiations with additional bondholders who have yet to support Puerto Rico in this effort to secure an affordable level of debt and to rebuild a path to renewed prosperity.

**F. Debt Investigation and Challenges:**

Under PROMESA, the Board undertook a careful review of any potential legal infirmities of the debt that was issued by Puerto Rico and its various agencies and instrumentalities. A Special Investigation Committee of the Board hired Kobre & Kim to conduct a comprehensive study of Puerto Rico's debt and its relationship to the financial crisis. In light of the Kobre & Kim findings, the Board immediately created a Special Claims Committee to determine whether any of Puerto Rico's debt should be challenged and to bring any other litigation involving the debt. As a result of this review, in January, 2019, the Board, along with the Official Committee of Unsecured Creditors (UCC) objected to the validity of over $6 billion of general obligation (GO) bonds as exceeding the debt limit in Article VI, Section 2, of Puerto Rico's Constitution (the "Challenged Bonds"). This includes all GO bonds—bonds backed by the full faith and credit of Puerto Rico—issued by Puerto Rico in 2012 and 2014.

This challenge was followed by other legal challenges, filed by other parties, to additional bond issuances:

- the UCC challenged the validity of approximately $2.1 billion of GO and PBA bonds issued in and after March 2011 as exceeding the constitutional debt Limit;
- the UCC and the Official Retiree Committee challenged the validity of over $3 billion of bonds issued by ERS asserting that ERS lacked the authority to issue the bonds; and
- an ad hoc group of bondholders argued that if the arguments in the Board's objection are sustained, then certain GO and PBA bonds issued from and after 2009 may also be invalid.

These objections are forward-looking, meaning they are to determine whether Puerto Rico must repay obligations on these bonds in the future. To the extent, however, that any debt is determined to be invalid, the Commonwealth may be able to collect back prior payments of principal and interest on invalid debt. Thus, to preserve Puerto Rico's rights, other "backward" looking litigation was initiated by the Board:

- The Board and the UCC filed the "Underwriter Complaint" against over 20 banks, law firms and other parties to recover fees they earned when they helped Puerto Rico and certain of its instrumentalities issue nearly $9 billion of bonds. The Underwriter Complaint alleges that these parties aided and abetted the Government Development Bank's breach of its fiduciary duty to the people of Puerto Rico and, as a result, were unjustly enriched by receiving hundreds of millions of dollars in fees.
- The Board and the UCC filed several hundred complaints against entities to recover payments they received on account of the Challenged Bonds in the Title III cases. The Board also initiated litigation against large bondholders who own at least $2.5 million worth of the Challenged Bonds. If the objections to the validity of the Challenged Bonds are successful, then payments of purported principal and interest may constitute fraudulent transfers that can be recovered by Puerto Rico.

When determining whether to object to the validity of the GO bonds and commence the related litigation, the Board considered its fiduciary responsibility to challenge debt that violates Puerto Rico law. The laws of Puerto Rico limit

government borrowing authority for a reason: to prevent the Government and its financiers from obligating Puerto Rico and its instrumentalities, as well as taxpayers and legitimate creditors, to a level of debt that cannot be repaid without sacrificing services necessary to maintain the health, safety, and welfare of Puerto Rico and its people.

**G. Final Confirmation of the Plan of Adjustment:**

The Board continues to negotiate with other groups to build an even stronger coalition of those willing to step forward and close this chapter of financial distress consensually. There may be amendments to the Plan of Adjustment as the Board brings additional stakeholders to support the Plan. The Board hopes the Title III court will be in a position to confirm the Plan in 2020.

III. FISCAL PLAN IMPLEMENTATION AND FISCAL RESPONSIBILITY

The Board's duties and empowerment under Title II of PROMESA, as you will recall, center around the development and certification of multi-year fiscal plans which must balance competing priorities enumerated in the law and review or formulation, and certification of governmental budgets consistent with those fiscal plans.

**A. Prioritizing Critical Spending:**

In June 2019, the Board certified Fiscal Year 2020 budgets for the Commonwealth of Puerto Rico, the Puerto Rico Electric Power Authority, the Puerto Rico Aqueduct and Sewer Authority, the Highways and Transportation Authority, the University of Puerto Rico, and COFINA. All these budgets are in full force and effect.

The total amount of government spending (including General Fund, Special Revenue Funds and Federal Funds) for Fiscal Year 2020 is $20.2 billion, which is broken down to the following priorities: 21% for health, 17% for education, 13% for pensions paid via PayGo, 12% for families and children, and 5% for public safety.[1] For example, the budget provides for increased salaries (a 30% increase over 2 years) and benefits for police officers and more funding to purchase bullet proof vests, radios, and vehicles. Moreover, police officers will receive Social Security for the first time in this year's budget to provide them a more secure future retirement.

In addition, the budget raises teachers' and school principals' salaries for the second consecutive year and the salaries of firefighters. Notwithstanding these and other spending increases in priority areas, right-sizing the Government to create more efficient government services continues: professional fees declined by 30 percent year over year, and redundancy in administration within agencies is being reduced via consolidation of the more than 120 government agencies and public corporations.

As in prior budgets under the Board's oversight, the Fiscal Year 2020 budget intentionally does not provide for the Government spending all the revenues it collects in the current fiscal year. For example, much of the projected surplus of $2.6 billion is being reserved to protect future pension payments and manage other legacy obligations such as the debt. Given the limited structural reforms agreed upon with the Government and outlined in the Fiscal Plan generate insufficient growth to maintain long-term balanced budgets, some of the currently projected surpluses are dedicated to fund PayGo payments for retirees in those years when the Government projects a deficit. This is to ensure that retirees never again have to worry about future governments lacking the resources to fully pay their pension. The only solution to the unfortunate forecast return to deficits is increased commitment to new and additional structural reforms to make the economy of Puerto Rico more competitive and economic development more certain.

Recently, the Board has been working closely with AAFAF and OMB to better understand the Department of Education and Correctional Department needs. Both the Department of Education and the Department of Corrections concluded Fiscal Year 2019 underspending their budgets, in personnel as well as and capital expenditures in some cases. Thus, more detailed analysis of the actual needs is necessary and underway to determine how funds can be best allocated to priority areas, while ensuring their efficient utilization.

**B. Improved Financial Transparency in Government:**

The Fiscal Year 2020 budget includes four sets of major improvements in budgeting practices. First, the Board worked with the Government to provide a deeper level of detail in the budget, detail that had not previously been available to the

[1] See the Board's Fiscal Year 2020 budget presentation at: https://drive.google.com/file/d/1woI5fhb02lfnW4GbF-B4xkgauDarWBSQ/view.

Legislature or public, enabling a better understanding of how funds are being spent. Second, the consolidated budget is more comprehensive and captures items not budgeted previously, including all cash subsidies, which amount to approximately $428 million in Fiscal Year 2020. Moreover, the Fiscal Plan calls for the Government to consider limiting tax credits issued each year by capping the notional amount authorized, and including sunset provisions that eliminate the ability to claim unused credits previously issued. The Government also now has the capacity to make decisions around limiting and more selectively targeting tax expenditures based on the recent publication of the first-ever tax expenditures report. Third, the published budget resolution includes more detailed specific concepts of spending within the personnel and non-personnel categories for each agency to provide a more detailed look at how the Government uses its funds. Finally, a series of budget controls are established within the budget to improve fiscal responsibility and discipline.

The Government has much more work to do to improve its budgeting practices. The Government still operates with six different accounting systems that need to be consolidated to provide better accountability over spending and visibility in budgeted to actual spend reporting. The Government also needs to finally complete the delayed financial audits for Fiscal Years 2017 and 2018. Completion of the overdue audits and implementing a process that will ensure best practices in issuance of the audited financial statements going forward (completed within 180 days of the end of the fiscal year) is a critical element of fiscal responsibility.

**C. Importance of Disaster Aid:**

The Fiscal Plan assumes the government of Puerto Rico receives $75 billion in Federal disaster aid funding over more than a decade. This funding is critical to restoring resiliency to the power grid, to rebuilding schools, roads, and other critical infrastructure, and to generating positive economic growth on the Island.

Unfortunately, this Federal aid, particularly public assistance funding from FEMA and CDBG-DR funding from HUD, has been slow to obligate and disburse. More than 2 years after the tragedies of Hurricanes Irma and Maria, very few permanent work projects have begun. This is highly unusual and does not remotely match the timeline from other disasters such as Hurricane Katrina and Hurricane Harvey. Additionally, of the $19.9 billion in CDBG-DR funds allocated to Puerto Rico, only $1.5 billion has been made available and only a fraction of that amount drawn down. Moreover, another $8.2 billion still requires HUD's authorization to release and $10.2 billion requires HUD's publication of notice in the Federal Register.

The rapid and efficient deployment of this funding is critical to meeting fiscal plan targets and long-term recovery prospects.

**D. Ensuring Fiscal Responsibility in Municipal Government:**

The Board announced its decision in May to require a fiscal plan from Puerto Rico's property tax collection agency, CRIM. Since then, the Board has been working with CRIM to outline a series of measures to improve collections without increased tax rates. The primary goals for the CRIM fiscal plan include strategies to update the property registry, revise the classification and valuation of registered properties, review administrative guidance regarding exemptions and exonerations, and improve enforcement and collection efforts. Notwithstanding ongoing litigation between the Board and the Commonwealth surrounding Act 29–2019, which burdens the Central Government with the municipalities' pension and healthcare costs, the Board seeks to continue working with CRIM to review and certify its fiscal plan in the upcoming weeks.

The Board also designated all 78 municipalities as covered instrumentalities under PROMESA, though it has required a fiscal plan from only 10 municipalities at this time. The Board selected these municipalities after considering a combination of factors including fiscal challenges, impact of the reduction of transfers from the Central Government, and their experience implementing innovative and creative initiatives and collaborating with other municipalities. This was a proactive step toward helping the municipalities avoid insolvency, finding a path toward financial stability and economic development, and enabling municipalities to do what they do best: serve the needs of their residents. Following the certification of the CRIM fiscal plan, the Board will proceed with the review and certification of the municipality fiscal plans, including spending efficiency measures, such as intermunicipal shared services arrangements, programs to improve and optimize local revenue collection, economic development guidelines, and decentralization proposals. Throughout this fiscal plan development process, the Board has been visiting the municipalities and working with the mayors to better understand their realities. Just 2 weeks ago, for instance, Chairman Carrión and I visited the municipalities

of Aibonito and Barranquitas to hear about the successful collaboration between their municipalities and Comerío in the provision of permits and other shared services. I want to personally thank all the mayors for their commitment to this process.

**E. Transformation of the Island's Power Sector:**

The Board continues to work with Government on the transformation of PREPA to ensure reliable energy for the residents, more effective and efficient management, as well as lower fuel costs. The Board and the Government are in full agreement that private management of the transmission and distribution system, as well as generation, are key to these improvements. The Board is working collaboratively with the Government on the pending Request for Proposal process for selection of a private operator for the grid and strongly supports the Government's efforts to secure FEMA funding to help with the cost of restoration and reconstruction of an affordable, resilient, and reliable power system that is environmentally compliant and that serves as a driver of economic growth. Selection of this operator and securing this Federal funding in the next few months are critical next steps in the modernization of PREPA which is essential to increased economic development on the Island. In order to ensure that PREPA adheres to its Fiscal Plan and the rate-reduction initiatives required, the Board is holding regular meetings with the PREPA Governing Board to ensure the PREPA Governing Board and PREPA management are all aligned.

**F. Title V:**

On August 12, the Board designated the $5.3 million expansion of the Fajardo Municipal Landfill as a critical project under Title V of PROMESA. The Fajardo Municipal Landfill serves as the primary municipal and commercial disposal site for the north-eastern region of Puerto Rico, serving nine municipalities. Engineering estimates state that the current disposal space would be available for only 3 additional years, and the expansion represents approximately 20 additional years of operating capacity for this critical infrastructure. The project complies with the fundamental criteria to be considered a critical project and addresses two of the Island's most pressing issues: the need to diversify energy generation and to tackle the solid waste management crisis. During a recent visit, I was impressed with the facility and management's plans for the future. The landfill has a four-megawatt gas-to-energy operation and the expansion will allow the site to reach full capacity.

**G. The Board's Operations:**

The Board remains a small organization, with a flat hierarchy. One of its organizational goals during Fiscal Year 2019 was to take advantage of Puerto Rico's incredible talent to build organizational strength through local recruiting, thereby reducing costs and the use of third-party mainland consultants. The overwhelming majority of the new hires are Puerto Ricans, several of whom have returned from the U.S. mainland to help the Island recover. The expenses incurred by the Board in carrying out its mission are substantial and necessary. Nevertheless, the Board was able to reduce its Fiscal Year 2020 budget by 11 percent from a year earlier, to $57.6 million.

On July 31, the Board released its Fiscal Year 2019 annual report and sent it to the Governor of Puerto Rico, the Legislature, the U.S. Congress and the U.S. President, as required by PROMESA.[2]

## IV. FISCAL PLAN FOR THE UNIVERSITY OF PUERTO RICO

As I stated in my prior testimony, the University of Puerto Rico (UPR) is undeniably a center of academic excellence and a source of pride for all Puerto Ricans. There's probably not one person in Puerto Rico who would disagree with that statement. The Board believes that UPR is genuinely one of the best things that Puerto Rico has to offer. The Board remains committed to targeted measures to increase revenues and reduce expenditures essential to UPR operating sustainably and ensuring it 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.

As you will recall, the Government has been subsidizing UPR at a rate far exceeding the average for mainland U.S. states—roughly 70% instead of 20–30%—and at a time when it can no longer afford these subsidies in light of its own financial pressures. The UPR Fiscal Plan focused on creating savings by consolidating back-office functions across UPR's 11 campuses and improving procurement processes.

[2] See the Board's Fiscal Year 2019 Annual Report at: https://drive.google.com/file/d/19wcmgD-iYwi_JAsSGYWL_WK5kXJJggwV/view.

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 Fiscal Year 2023) 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 ensures funding of $280 million in needs-based scholarship funds over the Fiscal Plan period at both internal UPR and Commonwealth scholarship funds to guarantee that tuition increases never affect anyone who chooses to attend the UPR. If all these funds are disbursed each year (i.e. none of the external scholarship funds are converted to an endowment) they could provide the equivalent of over 12,000 full undergraduate scholarships (covering all tuition and fees) per year. Furthermore, after listening to the students of UPR, the Board increased the scholarship fund for students in need, so every Puerto Rican has access to the education they deserve. We have met with UPR administration numerous times and are willing to work with them to diversify UPR's sources of revenue.

Unfortunately, the UPR Administration recently announced that it is contributing less than half the actuarially required pension contribution to the UPR Retirement Plan ("UPRRP") for Fiscal Year 2020. This decision to undermine its pension obligations and to put the pensions of its faculty and staff at risk is grossly irresponsible, contrary to the Government's public policy of prioritizing pensions, and violative of PROMESA and the UPR Fiscal Plan certified by the Board in June.

According to the Board's recent actuarial analysis, if UPR makes no changes to its benefit structure or its funding policy, its pension plan could be insolvent by 2031, meaning that the UPRRP would not have sufficient funds to pay pension benefits after 2031. Rather than accepting that UPR may repeat the mistakes of ERS, JRS, and TRS at the Commonwealth, which became insolvent because their funding was far too low relative to the benefits they offered, the Fiscal Plan outlined three options that UPR could take to adequately fund the UPRRP, but each of the options requires UPR to make the full actuarially required contribution.

Instead of pursuing one of these options, UPR is knowingly defunding the UPRRP, putting the pensions of its faculty and staff at risk rather than heeding the advice of its actuaries, the Fiscal Plan, and the unfortunate experience from the Commonwealth. The Board will continue urging UPR to act to stave off its looming pension crisis. The first step is UPR making a determination about whether or not it wishes to reduce its required actuarial contribution in the future, in other words reforming its pension system. But, whatever UPR chooses, it must not put the UPRRP or pensions of faculty and staff at risk.

As stated in the UPR Fiscal Plan, the Board looks forward to partnering with UPR's stakeholders—including the Government of Puerto Rico, the UPR Governing Board, and the UPR Administration—in making the transition to a 'new status quo' operating model—one that is both more efficient and effective to bring the student and future generations of Puerto Rico the higher education that they deserved.

Although the path to implementing these reforms will not be easy, we want UPR to emerge a leaner and more effective academic institution among the best and most affordable in the United States and on the Island.

## V. FIRST CIRCUIT DECISION ON THE UNCONSTITUTIONALITY OF THE BOARD

As you know, on February 15, U.S. Court of Appeals for the First Circuit concluded that members of the Board are Federal officials whose appointments must be made consistent with the Appointments Clause of the U.S. Constitution. Based on our belief that the members of the 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 Board filed a petition with the U.S. Supreme Court to review the decision by the First Circuit. The Supreme Court agreed to review the decision, and, at the Board's request, the First Circuit stayed its 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 members of the Board to undergo U.S. Senate confirmation to serve out the remainder of their terms. Those nominations have yet to be formally submitted to the Senate.

Last Tuesday, the Supreme Court heard oral arguments in the appeal, and we are expecting the Court's ruling in the coming months.

VI. PROMESA DISCUSSION DRAFT

I appreciate the opportunity to now comment on aspects of the PROMESA discussion draft published by the Committee and the impact of those provisions on the work of the Board. The Board has serious concerns that several of these provisions, while well intended, will undermine the Board's pending negotiations and efforts to achieve a fair and expeditious resolution of claims consistent with the mandates of PROMESA and in the best interests of Puerto Rico and the people of Puerto Rico.

- **Section 4. Definition of Essential Public Services**

This definition of essential public services specifies that public education, public safety, healthcare, and pensions are "essential public services," with the stated purpose to ensure their funding in the certified Fiscal Plan to the maximum extent possible. However, the Board believes that this provision could have the exact opposite effect, as it provides ammunition to those who have been arguing that the Board cannot fund services above and beyond their own highly restrictive interpretation as to what services are truly essential. The Board is facing this claim in the Title III cases. Creditors would welcome congressional support for an essential service definition that could be used to advance their arguments. The result could be substantially reduced funding for services that the Board and the Government consider essential but that other parties convince the Court are not essential.

As proposed, the definition in the discussion draft also provides for a minimum annual appropriation of $800 million to UPR. UPR's over-dependency on Central Government appropriations has led to its lack of commitment to generate its own revenue from out-of-state tuition, alumni donations, patent monetization and other means and its unwillingness to implement efficiencies. As previously noted, most U.S. universities receive 20–30% of their revenue from state government, whereas UPR received 70% from the Government in Fiscal Year 2018. The Board also considers any mandatory appropriations ill advised, as it does not and cannot take into consideration changes in circumstances, such as a significant increase in revenue from overseas students, a large increase in grant funding, or significant donations.

- **Section 6. Disclosure by Professional Persons Employed by Court Order**

The Board supports the legislative proposal of Rep. Velázquez incorporated in the discussion draft to extend certain disclosure requirements from the Federal Rules of Bankruptcy Procedure to professionals employed by the Board to avoid conflicts of interest and its goal of greater transparency and disclosure.

- **Section 7. Access to Information**

The draft provides that any document, record, or information relating to the public debt of the Commonwealth of Puerto Rico is a public document and accessible to any interested party. Existing Puerto Rico disclosure laws adequately provide the public with rights to access to government documents. This provision over-riding Puerto Rico law and making public any document relating to the negotiations or restructuring of the public debt would also be prejudicial and detrimental to the Board's effort to effectively and expeditiously secure the best deal possible for Puerto Rico and its people.

- **Section 8. Puerto Rico Infrastructure Revitalization Repealed**

The Title V process has had some successes, most recently a generation facility for PREPA as noted above, but most private investment activity in recent years has been through the Puerto Rico P3 Authority, and those projects do not necessarily require the benefits of the Title V permitting process.

- **Section 9. Territorial Relief for Unsecured Public Debt**

The discussion of a provision to allow Puerto Rico to cancel some of its unsecured debt may lead existing Puerto Rico General Obligation bondholders to demand secured debt in the current negotiations, which is more expensive and restrictive than unsecured debt. In effect, this provision could ultimately significantly reduce the amount of funding available to the Government to provide critical services to the people of Puerto Rico.

- **Section 10. Puerto Rico Public Credit Comprehensive Audit Commission**

The Kobre & Kim independent debt investigation mentioned above effectively served the purpose of a debt audit. The Special Claims Committee is pursuing valid claims arising out of that report, and the Debt Management Policy in the Plan is designed to make sure these issues do not arise again.

- **Section 11. Office of Reconstruction Coordinator for Puerto Rico**

The establishment of this office to manage and administer Federal funds for the reconstruction of Puerto Rico as a result of Hurricane Maria could be helpful if it effectively served as a coordinator of the various Federal agencies administering funding. Otherwise, the office risks becoming an unnecessary, additional level of bureaucracy further slowing down deployment of Federal funds.

- **Section 12. Office of Revitalization Coordinator for Puerto Rico Electric Power Authority (PREPA)**

The discussion of creating a Revitalization Coordinator for PREPA risks disrupting and undermining the transformation process of PREPA which is well underway. This process is being jointly run by the Board and Government and involves hiring a private operator to take over management of transmission and distribution as well as opening up generation for private investment and management.

The Board remains committed to working with the Chairman, the Ranking Member and members of the Committee and the Congress as you continue oversight over implementation of PROMESA and consider any changes to the law.

## VII. FEDERAL LEGISLATION SUPPORTING PUERTO RICO

Finally, the Board also continues to support legislative efforts of Chairman Grijalva, Ranking Member Bishop, Puerto Rico Resident Commissioner González-Colón, Representative Velázquez, Representative Soto, and many members of this Committee and Congress to provide fairness for Puerto Rico in the distribution of Federal funding and other Federal programs essential to Puerto Rico and its people.

On behalf of the Board, I submitted a statement for the record in light of the Committee on Natural Resources' hearing on "The Insular Areas Medicaid Cliff" in support of equitable treatment for Puerto Rico in terms of the Medicaid program.[3] On June 19, I submitted a statement to the House Ways and Means Committee in support of proposed legislation expanding the Earned Income Tax Credit to families in Puerto Rico.[4] On June 20, I submitted the Board's statement of support to Congresswoman Anna Eshoo, Chair, House Energy and Commerce Subcommittee on Health, again in favor of proposed legislation for more equitable distribution of Medicaid funding to Puerto Rico.[5]

The Board also continues to support the Government's request to receive equitable treatment in Medicare. Residents of Puerto Rico pay the same level of Medicare taxes as mainland residents, but the Island receives substantially lower payments in Medicare programs.[6]

## VIII. CONCLUSION

In 2016, PROMESA—although not perfect—provided Puerto Rico with an opportunity to reset its reality. The compromise between both sides of the aisle to provide the Island with a novel mechanism to restructure its debt was certainly not easy to achieve. The leadership at the time of PROMESA's adoption, and key figures such as Congresswoman Nydia Velázquez and Congressman Rob Bishop, fought hard to ensure Puerto Rico had a way out of its fiscal mess.

The Board strongly believes that the proposed draft text is a distraction from the real work already in process that we all need to do: to focus on getting the debt restructuring behind us and ensure the Government of Puerto Rico continues

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[3] See Executive Director Natalie A. Jaresko's statement on this topic at: https://drive.google.com/file/d/1XeMmC0FCoq_S_uIdOR_JZU3FIO02Tmz-/view.

[4] See Executive Director Natalie A. Jaresko's statement on this topic at: https://drive.google.com/file/d/1EIjpHW-FVgdgVOYV_ftlwti5GiS2mCAo/view.

[5] See Executive Director Natalie A. Jaresko's statement on this topic at: https://drive.google.com/file/d/14PluCoX3012kDEY0CpZyDUgAkUl3k4CA/view.

[6] A non-exhaustive list of legislation supported by the Board is available on page 80 of the Board's Fiscal Year 2019 Annual Report at: https://drive.google.com/file/d/19wcmgD-iYwi_JAsSGYWL_WK5kXJJggwV/view.

implementing the structural reforms, the fiscal responsibility, and better delivery of public services that the people of Puerto Rico deserve.

Massive debt is what caused Puerto Rico so much pain, and what is holding Puerto Rico's economic recovery back. That massive debt did not result in massively improved public safety, public health or public education. It takes a huge toll on the life of everyone who lives on this beautiful Island, and it is what denies us the stability Puerto Rico requires to rebuild its future and achieve prosperity.

The proposed Plan of Adjustment the Oversight Board filed is the beginning of a process that enables Puerto Rico to reach its real potential, where businesses large and small can have the confidence they need to invest and expand with certainty, and where the people of Puerto Rico can expect their government to provide safety, education and the public services the island needs. This is an important first step. We hope to continue our progress and to continue providing certainty that a better future lies ahead for Puerto Rico.

I concluded my May testimony with optimism and will conclude this one repeating it: Difficulties aside, I am optimistic and confident that we can and are all working 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.

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The CHAIRMAN. Mr. Marrero, the people of Puerto Rico are looking for some signal that their government is looking out for their interests, and is that complicit with the Oversight Board, and imposing further hardships on them.

So, when we hear of the opposition of the administration to the provisions of the discussion draft that they perceive as beneficial to their interests, the people—the public, in general—such as defining essential services, doing an audit of the debt, that adds to the cynicism that is out there. They feel that PROMESA—and I heard that, and Members that have visited have heard that—and the Oversight Board is working against them.

How do you respond to that concern, that there is no independent auditing transparency process that is going on, and the cynicism rises?

Mr. MARRERO. Thank you for the question, Mr. Chairman.

First of all, as to the audit, as an accountant I can tell you that an audit can take many forms. I think that the most important part is the fact that the people of Puerto Rico would like to know if some of the issuance of debt was invalid, was illegal. Or, if that was illegally incurred, what are the rights and remedies for that?

That is addressed in the 600-page report that the Oversight Board released in August 2018. It delineates specifically what happened and what many administrations did. Deficit financing, scope and talks financing, the interest financing, amortization principal, and many others. That report, it was done by international law firms who specialize in this.

However, the Oversight Board is already invalidating or questioning the legality of several issues, including over $6 billion of general obligations. So, that is part of the process.

If there is any interest body that would like to audit or examine the closing binder of all the issuance of Puerto Rico, they are available. They can get a copy of that. Actually, we are working in order to digitalize that and make it available to the entire people of Puerto Rico.

However, we already are 3 years into this game. We have already restructured over $23 billion. Our concern is that an audit or a comprehensive audit done by a new body, a new entity, how

are they going to be chosen? That will take time, sir, and it will take years. And our specific objective is to comply with PROMESA and get out of bankruptcy as soon as possible, because that is the only way that the people of Puerto Rico will be better off, if we exit bankruptcy and we——

The CHAIRMAN. OK, let me follow up. HUD recently told members of the House Appropriations Subcommittee that the Department had not released disaster funding to Puerto Rico, which I believe is central, because of the concerns that the money would not go to the people, but would be wasted and abused instead. The validity of that comment I don't subscribe to. But besides the point, how do you eliminate that concern?

One of the reasons that we included a provision for a disaster Reconstruction Coordinator for Puerto Rico in the discussion draft is this coordinator would work with the local disaster recovery agency—at this point, COR3—and Federal officials to expedite and provide some reassurance to allow those funds to flow the way they should.

So, the coordinator position along the lines that was created for Sandy and Katrina, could that be beneficial for Puerto Rico?

Mr. MARRERO. If we are talking about the Federal coordinating officer created under the national disaster framework that was used in Louisiana and any other state, yes, sir. Because that will help the coordination at the Federal level.

At the state level, we already centralized the coordination based on the best practices following the model of New York, Louisiana, and many others. That is exactly the position of Ranking Member Congresswoman Jenniffer González. That is exactly what we need. We need effective coordination at the Federal level.

It is really hard when we, as officials, have to come to FEMA, HUD, Treasury, DOE, and many others, and sometimes we don't see that coordination that we have at the state level. Again, the last 2 years we have managed over $10 billion with zero funding at the state level, and I think that the record attests to the fact.

The CHAIRMAN. My time is up. And if we have another opportunity, Ms. Jaresko, I will have a couple of questions for you, I will come back around to that. OK? Thank you.

At this point, let me turn to the Ranking Member for her questions, comments.

Miss GONZÁLEZ-COLÓN. Thank you, Mr. Chairman. There are several issues that should be discussed here, and we were just talking about that Federal Coordinator.

One thing is, Congress and the President signed a law approving $49 billion, approximately, to the island. Yet, we just have received $1.5 billion under the HUD Department on the island. Again, we haven't received the publication in the Federal Register for the next tranche of funds.

We were talking about a Federal Coordinator or expediter to make this money available to the island. That is one thing. But adding layers with another appointee locally, I think, will do the worst in adding more bureaucratic layers.

So, how can we mix having a Federal Coordinator like was used in other states, and the one proposed in the bill, Mr. Marrero?

Mr. MARRERO. Thank you, Ranking Member. Again, I totally agree with your position. If we add a layer, I think it will just, again, be disruptive to the process. The people of Puerto Rico, the government of Puerto Rico, has done everything that has been asked by the Federal Government to access this funding in less than a year. Not only have we developed the action plan, but we submitted it and got it approved, and we signed the grant agreement for the initial allocation.

On the FEMA side, we were required in October 2017 to create a centralized oversight authority. We did that. We were required to hire third-party experts. We did that. We were required to implement internal controls, processes to make sure that the money will flow to the people that need it. We did that. And if you go to recovery.pr, we have the most transparent information of any other U.S. jurisdiction, as to recovery.

The way that we see it is that, at the state level, ma'am, the COR3 director——

Miss GONZÁLEZ-COLÓN. Do you support a Federal Coordinator for expediting, not a local one?

Mr. MARRERO. Yes, ma'am.

Miss GONZÁLEZ-COLÓN. OK.

Mr. MARRERO. Yes, we will support a Federal Coordinator to expedite——

Miss GONZÁLEZ-COLÓN. The whole Federal Government, or just to PREPA——

Mr. MARRERO. No, I think it is to the Federal Government.

Miss GONZÁLEZ-COLÓN. OK.

Mr. MARRERO. To the Federal Government.

Miss GONZÁLEZ-COLÓN. I have a question to Ms. Jaresko. And although this was not supposed to be a hearing on recovery funds, it has been in the testimony. And this is one of the main issues the island is facing right now: How can we receive the funds that have been already appropriated by Congress and by the President?

Your written testimony reports your projections counted on Puerto Rico receiving about $75 million in Federal recovery aid during the next decade. However, last Thursday the Board submitted to the Municipal Securities Regulatory Board a statement that, of $69 billion originally forecast in FEMA and CDBG-DR funds, they now expect that the obligations and delays will mean only $39 billion will get there. I don't know if we were talking about a 10-year period. What is this about?

And, again, where did the expectation of $75 or $69 billion over the next decade came from?

Second question will be how this will affect, then, the fiscal plan and the plan of adjustment.

And third, it is not the case that much of the slowness in getting the funds going has been part of the Federal agencies themselves. HUD has been sitting on $8 billion in grant agreements since May. How can we complain, and how can the Federal agencies complain that we are not efficiently using the funds, when the money is not even in the island?

Ms. JARESKO. Thank you, Congresswoman. With regard to the first question, there seems to be a misunderstanding as to the document that was released. The belief of the Board is what is

represented in the fiscal plan with regard to the $75 billion or so of both Federal funds and private insurance proceeds expected, that number is built up from conversations with the Federal Government, FEMA, CDBG, as well as with the Insurance Commissioner of Puerto Rico with regard to the private insurance numbers. And that is the belief and our best judgment at this time as to what is expected.

The document that was released last week is a document that came from discussions with creditors and was, specifically, an outline of risks to the fiscal plan, downside risks that the creditors had to keep in mind. As you can well imagine, in discussions with the creditors, the conversation most often leads to upside to the fiscal plan, how much more monies may be received by Puerto Rico, earned by Puerto Rico, or less can be spent. That document, which outlined a variety of risks, one of which was a slowing down or lack of receipt, had to be put together in response to those creditors who are asking all the time about upside, and we needed to share with them, as well, the downside risks that exist.

It is the best judgment of the Oversight Board that all of the funds will be received and hopefully on the schedule that has been provided to us over time by the Federal Government, together with COR3 and the government of Puerto Rico.

In terms of your second question, with regard to how would a slowdown affect the plan of adjustment. First and foremost, if the number remains the same, that would not affect it in any great amount.

The Board has proposed, together with the government of Puerto Rico today, a plan of adjustment that limits annual debt service to $1.5 billion per year, which is less than 10 percent of own-source revenues—in other words, taxes and other revenues collected, not Federal funding, excluding Federal funding—less than 10 percent of Fiscal Year 2019 revenues, which is this year, and constant for the next 30 years.

The CHAIRMAN. The time has expired. Let me now turn to Mrs. Napolitano for her time.

Mrs. NAPOLITANO. Thank you, Mr. Chairman. Ms. Jaresko, you represent a very impressive list of the accomplishments of the Board in your statement, including the recent proposed plan of adjustment, which you say enables Puerto Rico to reach its highest real potential.

Where businesses large or small can have the confidence, they need to invest and expand with certainty, and where the people of Puerto Rico can expect the government to provide safety, education, and public services they need desperately.

Are the people of Puerto Rico and others wrong in believing that all the Board has meant is crippling austerity measures?

Ms. JARESKO. I understand and I accept that this fiscal plan and the measures taken by the Board can sometimes cause pain and cynicism.

However, the fact of the matter is many of the things that the Board, together with the government of Puerto Rico, have been able to accomplish are for the benefit of the people of Puerto Rico, including in the plan of adjustment.

In terms of the things that we have done, aside from the plan of adjustment, we have worked together with the government of Puerto Rico to provide greater transparency to the people——

Mrs. NAPOLITANO. Right, but when you do that, do you provide the same information to the general public?

I would like to release the balance of my time to the Chair.

The CHAIRMAN. Thank you.

Ms. Jaresko, the Board has won almost every legal challenge brought by creditors on its decisions.

So, my question is why would it be unreasonable to believe that, if essential services were defined as one of the provisions, one of the recommendations prescribed, as we do in this discussion draft, that you wouldn't win those challenges, as well?

Ms. JARESKO. Thank you, Mr. Chair. I wish I could say that we had won all of our challenges, but we have not. And we have over 100 cases pending.

I think that you have seen a variety of outcomes—in the Title III court, some having been overturned at the First Circuit, and there is no certainty.

I think the key issue here is to narrowly define essential services or leave to the deliberation of the courtroom the narrow definition of essential services, potentially puts at risk things like costs that the Board has determined, together with the government of Puerto Rico, are very necessary, whether they be environmental, whether they be in the arts, in culture—the funding of the Institute of Culture of Puerto Rico, for example—as well as other areas which might be challenged in a courtroom.

The CHAIRMAN. OK, so the point being it is more of definition than opposition in your statement?

Ms. JARESKO. It is the risk of forcing and moving the definition into the courtroom, yes.

PROMESA, as stated today, the language that Congress provided, does not require the Board to define it, but ensure the funding of, which we believe we have done, together with the government of Puerto Rico.

The CHAIRMAN. OK, my last question, if I may, Ms. Jaresko. In your testimony, you claim that the discussion draft is a distraction from the real work already in progress that the Board is making. And, yet, ordinary Puerto Ricans continue to decry the Board's existence.

In fact, having read the testimony of the next panel, and primarily the elected officials, the repeal of PROMESA seems to be a constant throughout those commentaries. Yet, they decry the Board's existence and call for its abolishment.

And I am talking about the public, in general, because they believe the Board has primarily been working to ensure creditors receive as much repayment of their bonds as possible.

And you talked about cynicism, and I mentioned the word, and others. Since it appears that you are not in support of most of the provisions in the draft, what do you suggest can be done to enable a favorable outlook by the Puerto Rican people of the work that you are doing, and that the Board is doing?

Ms. JARESKO. I think the key issue is for us to move forward as quickly as possible, remove the burden of this bankruptcy, define

what is affordable and sustainable, and work together with the government of Puerto Rico to put in place a sustainable financial budget, which then leads to the end of the Oversight Board as quickly as reasonably possible under the law.

The CHAIRMAN. The support of the people of Puerto Rico, the voters of Puerto Rico, to that end, doesn't that facilitate what you are talking about and make it that much easier to have a support from the people in general, as opposed to the opposition?

Ms. JARESKO. Of course, sir. And we do have the support of certain segments of the people on certain issues. When we work together with the government to increase pay for the police, I assure you that the police are supportive of that increase in pay, and the ability of the government, together with this Board, to find the funding within the budget and focus it on that need.

The CHAIRMAN. Thank you very much.

Mr. Lamborn, the time is yours, sir.

Mr. LAMBORN. Thank you, Mr. Chairman. And I also want to thank the Ranking Member for her leadership on this issue.

Ms. Jaresko, I have a couple of questions. If the proposed legislation to amend PROMESA were enacted, how would it impact the work that the Board has done and is in the process of completing, especially when it comes to PREPA and the restructuring of the debt?

I know you talked about this briefly in your opening remarks, but with a little bit more detail, please.

Ms. JARESKO. Thank you. Specifically with regard to PREPA, as my colleague mentioned in his testimony, and I did, we are right now significantly progressing along a path of attracting a private operator to unbundle PREPA, separate the transmission and grid, and have it managed by a private operator. I believe that the selection could occur under the P3 law in Puerto Rico before the end of this year. I think that installing a Revitalization Coordinator at PREPA today would confuse those bidders, confuse the process, and potentially delay it, if not even make it impossible.

From the perspective of transforming PREPA into something different, new, something in which both the Federal Government and the people of Puerto Rico could have confidence in the operations, I believe that the path that we are on is the most efficient, and that it is the most beneficial.

With regard to the debt restructuring, the key concern we have is whether or not creditors will use the concept that is represented in the draft legislation with regard to discharging the unsecured debt to further demand, during this restructuring and in the future, secured debt from the government of Puerto Rico, which would incrementally be additional cost, and much less advantageous to the people of Puerto Rico.

Mr. LAMBORN. OK, thank you. And a general question I would like to ask—if there ever were to be a bailout that allows Puerto Rico to write off substantial amounts of debt, which I believe this bill does, to the detriment of investors who put money in, in good faith, what would that do to the future of investment in Puerto Rico?

Ms. JARESKO. Yes, sir. That is, of course, an issue. Creditors who believe that they are at risk of being removed from the scene will

likely not provide Puerto Rico in the future with access to funds that are desperately going to be needed to continue to invest in the capital infrastructure of the island.

So, not only the bondholders themselves, but future investors in the island, both equity and debt, will take note and be fearful of investing into an environment like that.

Mr. LAMBORN. OK, thank you. I would like to yield the balance of my time to the Ranking Member.

Miss GONZÁLEZ-COLÓN. Thank you, Mr. Lamborn. This is a question to Mr. Marrero and to Ms. Jaresko.

We were talking about the reduction to pension plans, and the plan of adjustment. And although I know the House and the Senate in Puerto Rico both approved being against any cuts to reduction to the pension system, some of you say that this is the best path to ensure Puerto Ricans come out of bankruptcy.

My question will be what is the reasoning behind it, when you have pensioners that are gaining less than $1,200 a month, and you are proposing a cut of 8.9 percent to each of them.

Ms. Jaresko?

Ms. JARESKO. Thank you, Congresswoman. The pension cut that is proposed in the plan of adjustment is 8.5 percent, but never going below $1,200.

The only reason that there is a pension cut proposed in the plan of adjustment is because of the bankruptcy laws in the United States, and the requirement to not have disparate treatment. There is no desire on the part of anyone in government, in the Oversight Board to cut pensions. However, left with no reasonable proposal that protects those pensioners at that $1,200, we again do not wish to leave it to the court and the creditors to argue.

It is important to note that this pension proposal not only includes a cut, but also includes setting aside some $6 billion of available surplus in these early years, as per the fiscal plan, into a pension trust to assure that pensions can be paid for the next 30 years, regardless of the fiscal situation in Puerto Rico, even if we fall into deficit times.

In addition to that, it has a segment that allows for the restoration of a cut if the government of Puerto Rico achieves excess surplus—in other words, has a better outcome in any fiscal year than is projected in the fiscal plan. Ten percent of that excess goes in any fiscal year, then, to restore that pension cut this year. So, in essence, when the Committee of Retirees agreed with the Board on supporting this plan, they did that because of the benefit of having 30 years of security of their pensions ahead of them, as well as the opportunity in better times to restore that cut.

Miss GONZÁLEZ-COLÓN. Mr. Marrero?

Mr. MARRERO. Thank you, Congresswoman. Just for the record, to be clear, the position on the public policy of the government of Puerto Rico is that we are opposed to any pension cuts. And that is why we left the negotiation table in June when the Official Committee of Retirees, a committee established by the U.S. Trustee as part of the bankruptcy proceeding, they agreed to a pension cut.

However, after careful consideration, and in light of the best interests of the people of Puerto Rico, not only the retirees, but the people of Puerto Rico, we agreed not to oppose that agreement that

was duly entered with the Official Committee of Retirees, because opposing that agreement will be harsher for them.

The CHAIRMAN. Time is up. Thank you.

Let me now turn to Mr. Gallego.

Mr. GALLEGO. Thank you, Mr. Chairman. To all, thank you for your testimony at this important hearing.

I was new to Congress when PROMESA was passed, but actually voted against it, knowing that it was a bad year for Puerto Rico. And in the years since, I have witnessed the plight of the Puerto Rican people as they have dealt with a struggling economy, the difficult, demoralizing process of implementing PROMESA, and, of course, the devastation of Hurricane Maria.

While we continue to pressure this Administration to keep its promise to Puerto Rico and disperse the billions of dollars of aid Congress has already approved for relief, aid, and mitigation, it is important for us to also plan for the future. That is why I am grateful to all of our witnesses who are here today to make sure that we are doing what we can to ensure that Puerto Rico has a prosperous and empowered future.

With that, I have a few questions for Mr. Marrero.

Mr. Marrero, in your testimony, you mentioned some difficulties in the budgeting process under PROMESA related to the Board's ability to set overly restrictive limits and the Puerto Rican government's lack of ability to appeal. Could you expand on that, or give an example of this particular problem?

Mr. MARRERO. Sure, definitely. Thank you for the question and for all the help for the people of Puerto Rico, Mr. Gallego. I can attest to the fact that you have helped a lot under this process.

As to the specific issue that we have in front of us, it is about micro-budgeting. We have been supportive of the restructuring tool that PROMESA has, and we understand that we have to collaborate with the Oversight Board in order to move forward. That is the spirit of the law, and we agree with it.

However, we believe that the role of the Oversight Board should be tied to the fact that they have to set the spending limits. There are two objectives within PROMESA: to achieve fiscal responsibility that is essentially balanced budgets for 4 consecutive years; and access to capital markets at reasonable rates. That is, essentially, get out of bankruptcy.

And that is what we really want to make sure that we can be focused on, because that is the ultimate goal. Let's end bankruptcy, let's end Title III, let's terminate the Oversight Board, and we regain access to capital markets.

However, we believe that the role of the Oversight Board should be to set the size of the room, not necessarily to arrange the furniture, or to tell me where the furniture is going to be. So, again, they have to set the spending limit, the cap limits, and will decide how it is going to spend the money. Because, in the end, that should be the responsibility of the elected government of the people of Puerto Rico to determine, according to its police power and policy-making functions, how the money is going to be spent, not only for our administration, but for many, many other——

Mr. GALLEGO. And that over-prescription creates a scenario where it takes longer for the decision and execution cycle that the government has to make. Is that what I am hearing?

Mr. MARRERO. Yes, sir. Exactly.

Mr. GALLEGO. OK, thank you. Let's switch over to Ms. Jaresko.

Similar to my question to Mr. Marrero, how has the Board worked with the Puerto Rican government?

Or not a similar question, a different question. How has the Board worked with the Puerto Rican government to improve the elected leaders' autonomy in this area, or eliminate the problems they have experienced with the budgeting process under PROMESA?

Ms. JARESKO. It is our belief that, in working on a more detailed budget, and with giving more transparency and public knowledge to how the budget is being spent, we are helping the people of Puerto Rico to ensure better decisions, and helping the government of Puerto Rico.

An example that I gave earlier is specifically with the police bureau. Last year, given that there is, unfortunately, little financial management in many of these spending entities, it came to the attention of the Board by following this level of detail that the police bureau had been underspending its personnel budget, even though the secretary at that time had been announcing that he did not have enough for personnel.

He was misleading his own team, and police were leaving the island until we could hold a public hearing and show that, in fact, he had underspent, and had more than enough. In fact, some of that underspent went to solve other problems within the budget.

We don't take a lot of time for the reapportionments, if the reapportionments are requested on a timely basis with information.

When the issue of rape kits came up and the need to choose to spend $3 million, we gave our agreement within 40 minutes.

Mr. GALLEGO. OK, and before our time runs out, are there any other ideas or proposals the Board may have regarding modifications to PROMESA that the Committee has not considered that could be helpful, that could both work for all sides included, and also, obviously, work for the PROMESA Board?

Ms. JARESKO. We don't have any requests for further amendments to PROMESA.

Mr. GALLEGO. You may not have any requests. Do you have any suggestions?

Ms. JARESKO. Not at this time, sir.

Mr. GALLEGO. So, your opinion is everything that we are doing right now is copacetic and it is working well.

Ms. JARESKO. As I said in my testimony, we did agree that additional disclosure would be valuable. And other parts—a Federal Coordinator that, as my colleague had mentioned, would help with the Federal oversight of the disaster funds would be helpful. There are parts of this draft that we agreed with.

Mr. GALLEGO. OK, thank you. Mr. Chairman, I yield my time.

The CHAIRMAN. Mr. Wittman, sir.

Dr. WITTMAN. Thank you, Mr. Chairman. I would like to thank our witnesses for joining us today.

Ms. Jaresko, a question for you. You had mentioned in your testimony that the people of Puerto Rico were recently demanding better governance, and more responsive government services, and we know recently of the resignation of Governor Rosselló. With all of this change happening within the Commonwealth's government, how challenging is it for the Financial Oversight Management Board going not only now, but in the future, given the government's opposition to helping correct some of the inefficiencies in local government?

We know the dynamic between local government and state government or territory government there have been significant. So, I just want to get your perspective about how the current situation unfolds.

Ms. JARESKO. I think we have had a very collaborative relationship with the new governor and the new government officials. Many of the people had stayed, so there has been some continuity. Others have changed, and there have been improvements.

I think that our focus on working as quickly as possible to restore sustainability and remove this debt burden is probably the single thing that we can agree on. There are always differences in the details, but it generally, I think, is working better for the people of Puerto Rico not to be constantly litigating against each other.

Dr. WITTMAN. That is good to hear, because I know the divisions there have created some challenges.

I want to get your thought on Section 9 of this discussion draft, which would allow Puerto Rico to cancel some of its unsecured debt. What do you believe would be the effect of this provision on the Commonwealth's ability to fund services needed for the people of Puerto Rico?

Ms. JARESKO. I believe there are two primary concerns that we need to have.

One is that the risk of having that unsecured debt discharge raises the risk that creditors today, in the midst of negotiations, will demand better security for the debt, and that security is costly to the government of Puerto Rico.

The second great risk, I believe, is what it means with regard to future potential access to markets and access to capital that Puerto Rico will, of course, need as they move forward.

Dr. WITTMAN. Thank you. I want to also look at Section 8 of the draft bill that repeals Title V of PROMESA, which put in place a process by which the Revitalization Coordinator could designate critical infrastructure projects for expedited permitting process removal, trying to speed things up to make sure, when you see a need, that the need can be addressed quickly.

I know in the past that there have been a number of hurdles for economic development that were really put in place by local government bureaucracy. Give me your sense on how this repeal of this section would hinder economic advancement.

Ms. JARESKO. I think Title V was very well-intentioned when established, but the utilization of it has been very limited by the private sector for multiple reasons. The value that Title V brings is an accelerated permitting on the island. And to the extent that the government has worked to already accelerate that permitting

process, many private-sector players have not chosen to apply for Title V.

Title V has been of great interest to those who would like to invest in generation and generation facilities on the island, private sector energy generation. But given that situation, and the bankruptcy that we are working through at PREPA, those contracts, those opportunities have been somewhat delayed by the bankruptcy process.

I believe that Title V could be improved if it included additional access to improving Federal permitting. And I believe that Title V still has an important role to play, as we move forward in economic development on the island.

Dr. WITTMAN. Very good. Do you believe, in looking at the current situation and the expeditious manner in which projects either have or have not proceeded, that there are additional things that the Federal Government can do for the Commonwealth, or are there things that the Commonwealth can do by itself, or are there more efforts that need to take place in simplifying the relationship between the Commonwealth and the local governments?

Ms. JARESKO. I think there is a great deal of work that still needs to be done in the ease of doing business for all business people, Puerto Rican business people, as well as non-island investors. And I think that many of them are outlined in the fiscal plan, and are being worked on currently by the governor of Puerto Rico.

One of the areas that has been focused on is permitting, in particular, because that is the No. 1 problem. But aside from permitting, there are a variety of other administrative burdens—for example, registration of property, the administrative nature and burdensome nature of taxes. So, I think there are many things there.

I think, with regard to looking at municipalities and the relationship between the territories and municipalities, the single thing that is criticized most often by the business sector is something called an inventory tax, which is right now an important revenue stream for municipalities, but it is also very burdensome to the business sector.

Dr. WITTMAN. Very good. Thank you, Mr. Chairman. I wanted to thank the witnesses again. My apologies, I think earlier I referred to Puerto Rico as the territory. It is, indeed, the Commonwealth, just as Virginia is the Commonwealth. So, my apologies for that oversight.

Mr. Chairman, with that, I yield back.

The CHAIRMAN. Thank you, sir.

Mr. Sablan.

Mr. SABLAN. Thank you very much, Mr. Chairman, for holding today's hearing, and the hearing next week.

We are in a very unfortunate situation, in terms of Puerto Rico. And I hope we get all of this. But I have some questions for Ms. Jaresko, if I may, please.

Ms. Jaresko, in your testimony you stated the Board's proposed plan has 10 key points, and I see that. The plan is to ensure the 74 percent of current and future pensions are not cut. Who are the other 26 percent of those affected? And what are the proposed cuts to this population?

Ms. JARESKO. The average pension of the 26 percent, on average, that are not being cut is $1,500. Again, no cut can take any pensioner below $1,200. What is being offered to all of those 100 percent is security that over the next 30 years, funds will be invested by an independent trust and can't be touched by governments, politicians in the future, and assure their pensions.

Mr. SABLAN. Yes, I see that. And it is too late to go back and point fingers of who is responsible for some of these problems, but let's hope and see that when, after all is said and done, that more is done than is said.

You also mentioned the Board hopes to establish debt management policy to ensure Puerto Rico never again finds itself in this situation. Could you please elaborate on which steps the Board will be taking to ensure this, and what specific policy measures will you be promoting?

Ms. JARESKO. Yes, the proposed plan of adjustment reflecting that Kobre & Kim debt review report that my colleague described to you earlier specifically outlines different principles so that Puerto Rico doesn't return to those practices.

First, new debt can only be used to finance capital improvements, capital expenditures. It cannot be used, as it has in the past, to finance operating expenses and satisfy deficits.

Second, refinancing debt can only be used to actually decrease the amount of debt, so you cannot borrow to take out borrowing if it increases your costs, overall.

And finally, there has to be an amortization within 2 years for any new debt of its issuance date.

Mr. SABLAN. All right. Thank you. What has been the impact of the American Federation of State, County, and Municipal Employees' support for the plan of adjustment?

And do you expect further support for the plan from any other organized unions?

Ms. JARESKO. Yes, we have reached agreement with AFSCME, which on the island is SPU, and that agreement reflects, as I described earlier, the agreement to provide collective bargaining agreements to ensure 5 years, in terms of next policy and next agreement with that union, as well as providing a higher level of health care on a monthly basis, as well as restoring that $1.3 billion, as I said, of employee withholding in something called Sistema 2000, which was a hybrid pension system that has disappeared.

We are in active discussions with other unions, both those represented nationally, as well as those with only local representation.

And we do hope—and we believe—we will reach additional agreements.

Mr. SABLAN. Thank you. And what has been the impact of your constructive working relationship with Governor Vázquez on the Board's work with the government on fiscal plans, and government spending, and delivery of services?

Ms. JARESKO. I believe that we have, together, made sure that we can answer questions more quickly, that we can restore things that have, for whatever reason, fallen on the side, and that we can respond to the needs of the people, whether they be providing air conditioning at a Bayamón women's correction facility quickly, or

whether they are fixing problems and identifying where to find funds for very important things like special education needs.

Mr. SABLAN. All right. Thank you. Please excuse my cynicism sometimes because what happens in Puerto Rico affects the Northern Marianas. And both Puerto Rico and the Northern Marianas are commonwealths, but it doesn't really matter what you are called. We could be called colonies, so long as we have the insular cases doctrine, which is discriminatory and actually treats people—we are not possessions. You don't own us, Mr. Wittman. Nobody owns us.

In the Commonwealth of Virginia, sir, they cannot impose a board like they did in Puerto Rico without your permission. But with Puerto Rico and the Northern Marianas, they could.

But, excuse my cynicism. We are running off the Medicaid cliff, as you may understand, and we are having problems re-negotiating both bipartisan and bicameral because of this problem that has happened in Puerto Rico. Very unfortunate. But my time is up, so I will come to that at some later time. Thank you very much for joining us this morning.

I yield back, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Sablan.

Mr. McClintock, you are recognized.

Mr. MCCLINTOCK. Thank you, Mr. Chairman. I opposed PROMESA because I felt it broke the most important promise that a government can make, and that is to put its full faith and credit behind its bonds. I was concerned that this breach of faith would cost Puerto Rico access to credit markets at reasonable rates for many years to come, and establish a dangerous precedent that would affect our other territorial governments.

I was also concerned that it would relieve the elected officials of their responsibility for this mess with an unelected board that is insulated from direct responsibility, which I think sets another dangerous precedent.

This arrangement has now been in place for 3 years. We were promised it would put the government's finances in order, establish a plan to repay bondholders, and restore Puerto Rico's access to credit markets at reasonable rates. It is not clear to me that any of these objectives have been achieved. And, in fact, the degree of political instability seems to have increased, rather than decreased.

So, my first question—and I will start with Mr. Marrero—is what am I missing?

Mr. MARRERO. Well, I think that you are missing the fact that we have restructured $23 billion of debt already, not only tax back bonds, but also the water utility, as well as the government bank.

We also have been able to give a security to pensioners. Today, the retirees are able to receive their pension checks at their mailbox because we transformed the depleted retirement system into a PAYGO. So, 22 percent of our budget goes to pay retirees.

Also, I think that the fact that in 3 years we already have $23 million restructured, we have a plan of adjustment already filed——

Mr. MCCLINTOCK. Restructured or repaid?

Mr. MARRERO. Restructured, and we——

Mr. MCCLINTOCK. Restructured? Well, again, that is exactly the point that I am making. I don't see a lot of progress in straightening out the territory, the Commonwealth's finances.

Mr. MARRERO. With all due respect, sir, we have already—we have over——

Mr. MCCLINTOCK. How much debt has actually been retired, has been repaid?

Mr. MARRERO. The $23 billion we have of the—I think $6 billion, around $6 to $8 billion between COFINA and——

Mr. MCCLINTOCK. OK, that is debt that has actually been repaid to——

Mr. MARRERO. No, no, no. I said restructured, I am sorry——

Mr. MCCLINTOCK. I understood.

Mr. MARRERO. I didn't get the question——

Mr. MCCLINTOCK. And what I am saying is there is a big distinction between restructured and repaid.

Mr. MARRERO. Yes, sir. And that is why we ask Congress—when Congress passed PROMESA, it gave Puerto Rico a tool to restructure debt to a sustainable level in order to repay our debts.

And yes, sir, the intent of the government of Puerto Rico is to repay its debts to a sustainable level.

Mr. MCCLINTOCK. But that was the intent 3 years ago. I wonder how different the situation would be if the full responsibility for this mess was placed where it belongs, on the elected officials of Puerto Rico, and that the normal process for dealing with this debt had actually been followed.

Mr. MARRERO. Well, if I may add, sir, before the approval of PROMESA, the government of Puerto Rico did not have the capacity to restructure its debt.

Mr. MCCLINTOCK. Why not?

Mr. MARRERO. Because it was not allowed. The bankruptcy code only allowed for municipalities of a state to restructure. So, a city or county can restructure, but no state can restructure its debts. There is no mechanism for that——

Mr. MCCLINTOCK. Well, that is exactly right, which is why their full faith and credit means something.

Mr. MARRERO. Exactly.

Mr. MCCLINTOCK. Puerto Rico's promise of full faith and credit now means absolutely nothing.

Mr. MARRERO. With all due respect, sir, Puerto Rico is a territory subject to the plenary powers of Congress under Article IV, and——

Mr. MCCLINTOCK. Yes, but this was a mess not made by Congress. We have made our own mess. This was a mess made by the people of Puerto Rico by electing irresponsible officials that made these decisions over the years, and I do wonder if at some point there is something to be said about accountability.

Mr. MARRERO. Yes, sir. However, I would have to disagree with you slightly. I think that the responsibility of Puerto Rico is shared, not only with the people of Puerto Rico, but also with the people of the United States and the Federal Government, as it is a territory subject to the plenary powers of Congress.

Mr. MCCLINTOCK. Well, many believe that a mess that is made in my state of California ought to stay in California, and a mess that is made in Puerto Rico ought to stay in Puerto Rico.

Mr. MARRERO. But to the extent that it is——

Mr. MCCLINTOCK. Ms. Jaresko, I will give you the last word.

Ms. JARESKO. I will simply say, sir, that Puerto Rico has started to repay in those areas where they have restructured the debt, for example, and COFINA, which is a sales and use tax, we are starting to repay our debt. In fact, those new bonds are trading at above par and traditional municipal bond holders are once again holding Puerto Rico debt.

I believe, in the end, that this restructuring, which enables it to be sustainable, provides those creditors with a better chance of a reasonable repayment of what is affordable than had no alternative to PROMESA been put in place.

The CHAIRMAN. Mr. Soto, you are recognized.

Mr. SOTO. Thank you, Mr. Chairman, and thank you all for coming today.

It is a complex history, the history of the debt of Puerto Rico. You have so much to do with both the relationship between the territory and the Federal Government—936, underfunding of Medicare and Medicaid, Social Security, child tax credit—all unequal treatment, and all helping contribute to where we are today.

The good news is we have already passed bipartisan legislation to create Medicaid parity and, just recently, last week, to help low-income seniors on Medicare.

And we know the history. Puerto Rico used to be able to file bankruptcy until, I think, about 1983, 1984. Because it is not a state, it doesn't have sovereign immunity, so it can't reject—it is in a weird spot, and it was taken out of the bankruptcy code without really much reason for it.

And here we are, a few years ago, where you have to do something about it. So, PROMESA was this compromise that has been contorted and had sacrifices, and now we are here to see whether we need to reform it or not.

We have had some movement, $23 billion in debt restructuring certainly is a lot. And lowering the debt service from $4.2 billion to $1.5 billion, those are all big milestones.

One thing I continue to hear from a lot of folks on the island and in my district and others is about this idea of eliminating the debt. So, I want to start out with that.

Mr. Marrero and Ms. Jaresko, is there any legal way to eliminate the entire debt?

Ms. JARESKO. No, not under the bankruptcy code, as far as I understand it, sir. None.

Mr. SOTO. Mr. Marrero?

Mr. MARRERO. Right now we have to go through the process delineated by PROMESA. It is the only process that we have to restructure our debt.

Mr. SOTO. The bill draft talks about an audit, and I understand that PROMESA has already done an audit. But what would be the harm, since there is a perception that maybe the audit was done well, or maybe it wasn't?

Would there be any harm in having an audit while we continue on with these issues, Mr. Marrero? Then Ms. Jaresko.

Mr. MARRERO. I believe it will be a waste of taxpayers' money. Because, in the end, let's remember the fact that not only all the fees that we were incurring as part of the process, the government has to pay them, but also the Oversight Board, as well as the advice of any other committee that is created through the process.

So, for me, it is a waste of taxpayers' money and time.

Mr. SOTO. Thank you, Mr. Marrero.

Ms. Jaresko? Sorry, my time is limited.

Ms. JARESKO. I believe the two values of doing an audit have been achieved. One, to identify which debt needs to be invalidated in the court. And, as we described, we have submitted for over $9 billion, this is being invalidated by different players, including the special claims committee of the Board. And second, to identify the practices of the past that led Puerto Rico to this situation, and avoid them going forward by putting a debt management policy in place so that this never occurs again.

Mr. SOTO. OK. Ms. Jaresko, what do you think the timetable is of winding down PROMESA, based upon the current course of history so far?

Ms. JARESKO. I believe that we first need to get the Commonwealth through this plan of adjustment and have a court confirm it. Hopefully, depending on the amount of litigation, that would be 2020, next year. After that, we would have 4 years of balanced budgets. And that, in my mind, would take us through the end of PROMESA.

Mr. SOTO. So, 2024 is what you are estimating right now.

What about you, Mr. Marrero, based upon your experience, where are we at?

Mr. MARRERO. Again, our priority is to get out of bankruptcy as soon as we can. And we do believe that, as soon as we get out of bankruptcy, out of Title III, and we have access to capital markets, we just have to finish the process to achieve fiscal responsibility.

Mr. SOTO. Thank you. Now, last, is the Reconstruction Coordinator. I can appreciate, having spoke with both the Governor and folks on both sides of the aisle about this, after already having a Federal layer with the PROMESA Fiscal Board, having just another layer is, obviously, something people are very concerned about.

We know that COR3 has faced barriers with the Administration. So, Mr. Marrero, what are the barriers? Because we allocated $42.5 billion, and you have received, what, $14, $15 billion to date?

What are the barriers you are facing with the Federal Government right now?

Mr. MARRERO. Well, with all due respect, we believe it is just bureaucracy and lack of timely decision making. From our perspective—on the CDBG side. Let's talk about the CDBG side. The CDBG side, for the $1.5 billion, which was the initial action plan, we did it in less than a year. It took Louisiana 3 years to access the initial funding on the CDBG side. We did it in a record time.

By the way, at that time, the undersecretary of HUD said publicly that it was the best action plan that she had seen at her post at HUD.

Mr. SOTO. Thank you, Mr. Marrero, because I have to wind up.

But if we could just put a switch into this bill, Mr. Chairman, to make the Trump administration release the funds, I think we would actually resolve this. Thank you, and I yield back.

The CHAIRMAN. Thank you very much.

Mr. Westerman, sir, you are recognized.

Mr. WESTERMAN. Thank you, Mr. Chairman. Thank you to the witnesses.

Ms. Jaresko, the current labor force participation numbers in Puerto Rico are hovering around 40 percent, which is 20 percent or more lower than what we have here in the mainland. Can you tell me what factors would be contributing to that?

Ms. JARESKO. Yes. The labor participation rate is affected tremendously by the amount of burdensome regulation in the labor market and the lack of free movement within the labor market.

One of the things the Board had done previously, with the support of former Governor Rosselló, was to suggest the repeal of Law 80, which did not allow for employment at will. Employment at will exists in 49 out of 50 states, with the exception of Montana. And that, unfortunately, was not acceptable at that time to the legislature. So, you continue to have very high severance levels, which is a discouragement to employers to employ in the formal market additional people.

Amongst other things, of course, we need to increase the amount of investment on the island to create new jobs, jobs that the people of Puerto Rico can fulfill. And that then directly translates into our investment into human capital, making sure people are trained for the jobs of the future.

Mr. WESTERMAN. How has this low labor participation rate impeded the rebuilding process in Puerto Rico? And can you address that?

Ms. JARESKO. I don't think at this point that it has impeded the reconstruction post-Hurricanes Irma and Maria. To the extent that there might be a possible conclusion, it is that we now do not have enough construction companies to support the level of construction that is being demanded.

But I think that it is a broader and bigger issue for economic development in Puerto Rico.

Mr. WESTERMAN. Of this 40 percent that participates in the work force, what percentage of that is employed by the Puerto Rican government?

Ms. JARESKO. I don't know the number, sir. I can get back to you. It is a significant portion, but I don't know the percentage.

Mr. WESTERMAN. And what effects does this have on the sustainability of Puerto Rico's pension system?

Ms. JARESKO. We have just issued a report I recommend—it is called a 211—to talk about all of the different problems that have occurred to de-fund the pension system in Puerto Rico. I think that the number of employees is one element, but I think the greater elements that have led to the de-funding is an insufficient funding, borrowing from those funds, as well as increasing benefits that accrue additional pension liability without increasing the investment into the fund.

Mr. WESTERMAN. Do you believe the rightsizing of the Puerto Rican government is needed?

Ms. JARESKO. I do believe that the rightsizing of the government is needed for several reasons: (1) to reflect the actual de-population of the island and the current demography of the island; (2) to reflect the fiscal capacity of the island; and (3) frankly speaking, because it is very difficult to manage a government with over 150 government agencies.

Therefore, some rightsizing, some consolidation, and the previous governor and the Governor have agreed that some consolidation would make the government more efficient to manage and more responsive to the people of Puerto Rico.

Mr. WESTERMAN. Has the government, or has the Oversight Board worked to streamline or consolidate any aspects of the Puerto Rican government?

Ms. JARESKO. Yes, we have. And we have seen success already in two departments in particular. The Department of Economic Development has consolidated a variety of bureaus, and the Department of Public Safety has consolidated and begun the process. This consolidation, to be clear, means a centralized administration, procurement, and budgeting, whereas the bureaus continue to do, of course, their individual functions, whether they be firefighters, or police, or other.

Mr. WESTERMAN. You talked about it a little bit, it has been brought up already. We know that the Puerto Rico pension system is virtually bankrupt. Can you go into more detail on what the Oversight Board is doing to prevent this situation from getting worse, especially with the sheer percentage of the island that is employed by the government and expects a pension?

Ms. JARESKO. I think the most important thing we have done, and I think it is something that, in fact, places Puerto Rico maybe ahead of the 50 states that are also challenged at times with funding their pension systems, is that we have moved to a pay-as-you-go system.

We no longer are attempting with the employment retirement system to continue to fund a defined benefit plan. All employees have moved, on a going forward basis, to a defined contribution type of plan. And payment for pensions, those who are currently retired, is paid from the budget from the general fund each year.

Mr. WESTERMAN. I know my colleague, Ranking Member Bishop, did a lot of work on that when he was in the Utah Legislature, and kind of led the country in getting pension systems sustainable. Maybe he could be a resource for you, because that is not just a problem in the Commonwealth, it is a problem in many states across our country.

I yield back.

The CHAIRMAN. Mr. San Nicolas, the floor is yours.

Mr. SAN NICOLAS. Thank you, Mr. Chairman.

Mr. Marrero, you mentioned earlier that you believe the PROMESA Board should be determining the size of the room, not the placement of the furniture. Could you elaborate with some examples on how that is occurring?

Mr. MARRERO. Sure, definitely. I will take, for example, the Christmas bonus. I think that, to the extent that we have—

according to PROMESA, the Oversight Board will tell us what is the forecast on the revenues, and we will use that figure and start working on the budget. We believe that, according to PROMESA, the Oversight Board has fiscal and budgetary powers. We know that. Obviously, that was the responsibility that it was bestowed with.

However, the fact that once that spending limit is determined, the elected government of the people of Puerto Rico should be the one to determine how that money should be spent. For example, the Christmas bonus. We have been working on that and we are confident that we will come to a resolution to this matter. But in the past, it was a point of contention because, even though it says a bonus for us, it was supplementary wages, it was a way to do social justice to the people of Puerto Rico, to the workers of Puerto Rico, that they don't earn the same as on the mainland.

So, again, that was one of the areas, as many others, in which we believe the Oversight Board is overstepping its role into the area that should be left to the people of Puerto Rico.

Mr. SAN NICOLAS. Ms. Jaresko, we are all trying here.

When I listen to Mr. Marrero and what he is sharing, I have a strong tendency to agree with him. I am a Congressman from Guam, and my district is also a U.S. territory similar to Puerto Rico and my colleague from the Northern Mariana Islands, as well as my colleague from the U.S. Virgin Islands and American Samoa.

And we have a lot of fiscal challenges as territories, because we receive inequitable funding from the Federal Government for liabilities that would receive a much different rate of funding if they were being incurred in any of the 50 states. And, oftentimes, our territories tend to try to get creative in ways to try to make up for those Federal funding shortfalls. It often results in deficit spending, bond borrowing, and the like. And I think that is something that territories need to work on to correct here at the Federal level, so that we are not suffering those same inequities that tend to contribute to our fiscal challenges.

That being said, my concern is that, if the PROMESA Board is overly involved in the operational decisions of the government, how is the local government going to be able to build the credibility necessary to satisfy creditors and investors when PROMESA goes away?

If the operational decisions are being made by the Board, and not the local government, wouldn't that make interest rates higher, and wouldn't that make investors more wary that when PROMESA is gone the local government hasn't demonstrated the credibility over the years that was in place?

Ms. JARESKO. Thank you. I don't believe we are overstepping in the budgetary area, and I think what we are leaving behind is a much more detailed and transparent——

Mr. SAN NICOLAS. That is not my question, Ms. Jaresko. My question is, wouldn't that injure the credibility of the government, for investors and for creditors, if the government was not fully responsible for making the decisions during the period that PROMESA was in place?

Ms. JARESKO. No, I don't believe so. I think what we are leaving behind is a better financial environment, one which is more

transparent for those creditors, one where the government, on a going forward basis—the legislature, which you will hear from, on a going forward basis, will have more data and more ability to do the same work that we are doing right now from a budgetary standpoint, but they will be doing it themselves on a going-forward basis——

Mr. SAN NICOLAS. I really would have to respectfully disagree with you, because, at the end of the day, creditors and investors are going to be looking to management, and whether or not management is going to be able to deliver on the revenue projections that are being put in place. And if management are not the ones who are actively involved in making the financial decisions, and if they are not the final arbiters of those decisions, then the credibility isn't being established. And that is the case when you are talking about the private sector, that is the case when you are talking about municipal governments in the United States, and that is the case when you are talking about territorial governments.

Ms. Jaresko, I just wanted to close with my concern with respect to this, and I hope my colleagues can indulge, but I pulled up your background, and your background in particular with respect to your work history in Ukraine. In Ukraine, you were advocating for a technocratic government, at least with respect to what I am reading here. And I am just concerned that this is almost turning into a practice that you are getting excited about without necessarily factoring in whether or not it is in the best interest of the people of Puerto Rico and the government of Puerto Rico to be able to establish the credibility necessary for them to be able to emerge from PROMESA with the full faith and confidence of creditors and investors when this process is over.

Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. Mr. Gohmert, sir.

Mr. GOHMERT. Thank you, Mr. Chairman. I appreciate the witnesses being here. And like Mr. San Nicolas, I was looking at the background, Ms. Jaresko, that we were provided. It said you were an American, or are an American-born Ukrainian investment banker who served as Ukraine's Minister of Finance 2014 to 2016.

I am curious. In your position there in Ukraine, were you aware of Ukrainian President Petro Poroshenko dispatching Olga Bielkova or any other Ukrainian official to the United States in order to conduct an influence campaign on the 2016 election here in the United States?

Ms. JARESKO. I am here to report on PROMESA, and Puerto Rico's——

Mr. GOHMERT. Your credibility is an issue, just as Mr. San Nicolas——

Ms. JARESKO. I don't have any knowledge of the details that you just described, sir.

Mr. GOHMERT. I didn't ask you if you had knowledge of the details. I asked if you had any knowledge of the president sending Bielkova to the United States.

Ms. JARESKO. I do not have any knowledge of that.

Mr. GOHMERT. You don't have any knowledge on how that was financed, as director of finance?

Ms. JARESKO. It did not occur while I was Minister of Finance, sir.

Mr. GOHMERT. Well, you were there.

The CHAIRMAN. Mr. Gohmert, if I may——

Mr. GOHMERT. This is critical to her credibility. She is now director of this finance operation in Puerto Rico.

The CHAIRMAN. I am not trying to dictate the questions you can ask. The time is yours, sir. But the issue today is PROMESA, and any other conspiracy tale that we want to chase, that is up to you.

Mr. MCCLINTOCK. A point of order——

Mr. GOHMERT. My clock is still running, as the Chairman is eating up my time, lecturing me and trying to cover up this matter.

But let me ask you, Ms. Jaresko, are you aware of Ukrainian parliamentarian Bielkova's April 12 meetings with Liz Zentos and Eric Ciaramella of the Obama National Security Council?

Ms. JARESKO. No, sir.

Mr. GOHMERT. You were not aware of any meetings between them?

Ms. JARESKO. None, sir.

Mr. GOHMERT. All right. How did you go about becoming the Executive Director of the Financial Oversight and Management Board of Puerto Rico? How did that come about?

Ms. JARESKO. I was recruited by the members of the Oversight Board, based on my experience as Minister of Finance in both the fiscal area and the debt restructuring that I did in Ukraine.

Mr. GOHMERT. And those were the people in Puerto Rico, correct?

Ms. JARESKO. The seven bipartisan members of the Oversight Board. One of them is resident in Puerto Rico, yes.

Mr. GOHMERT. Do you know who recommended you for that position?

Ms. JARESKO. It was a recruitment firm that was hired, and a variety of candidates. I believe the Oversight Board was searching for almost a year, maybe 9 months. And it was at the recommendation of the Board members that the Board took that decision.

Mr. GOHMERT. Yes. To become the Executive Director of Finance in Ukraine—obviously, you are American born, you are an American citizen.

Ms. JARESKO. Yes, sir.

Mr. GOHMERT. Did you have to become a citizen of Ukraine in order to take that position?

Ms. JARESKO. Yes, sir. They awarded me citizenship the day I became minister.

Mr. GOHMERT. The day you became minister?

Ms. JARESKO. Yes, sir.

Mr. GOHMERT. How long had you been living there?

Ms. JARESKO. I lived in Ukraine from my initial posting in the U.S. State Department as the Economics Officer in 1992, and I left in 2017, when I accepted this position. So, 25 years.

Mr. GOHMERT. So, you were there until you accepted this position in 2017, correct?

Ms. JARESKO. Yes, sir.

Mr. GOHMERT. All right. And what did you do from April 2016 until you accepted this position and moved to Puerto Rico?

Ms. JARESKO. I took a break from my role as Minister of Finance during the war and during the economic collapse of the country, which was very demanding. I did some public speaking, both here in the United States and in Europe, and reacquainted myself with my children.

Mr. GOHMERT. OK, so you were Director of Finance in Ukraine during the economic collapse?

Ms. JARESKO. I was Minister of Finance. After the Revolution of Dignity, I became Minister in December 2014.

Mr. GOHMERT. Right.

Ms. JARESKO. Remember, the revolution there ended in February. Crimea was occupied illegally. And then Eastern Ukraine was attacked.

Mr. GOHMERT. Was attacked—are you talking about by Russia?

Ms. JARESKO. Yes, sir.

Mr. GOHMERT. And that was with regard to the Crimea?

Ms. JARESKO. First Crimea, than Eastern Ukraine after that.

Mr. GOHMERT. Right.

Ms. JARESKO. The war continues.

Mr. GOHMERT. OK. Is that what you are attributing the economic crisis to?

Ms. JARESKO. It also was based on financial policies of past governments that led the country to be over-indebted, as well as to run very large and significant deficits.

Mr. GOHMERT. Indebted like Puerto Rico, I guess. My time has expired.

The CHAIRMAN. Mr. Lowenthal.

Dr. LOWENTHAL. Thank you, Mr. Chair. And thank you to the witnesses. As a former college professor, I have some questions myself about Ms. Jaresko, about what is occurring at the University of Puerto Rico.

Ms. Jaresko, you mentioned in your written testimony, especially, that the UPR, the University of Puerto Rico, is genuinely one of the best things Puerto Rico has to offer. And I probably agree with you in many ways, in that you mentioned also it is a source of pride for all Puerto Ricans.

However, I would like to ask you some things. In 2017, the University had a system-wide strike due to austerity measures, poor infrastructure, and increased tuitions. But you also stated in your testimony that the fiscal plan calls for an increase in tuition, and that the maximum annual tuition for Fiscal Year 2023 would be $5,090, and that all students will be able—you guarantee, basically, because of scholarships and others—that all students in Puerto Rico will be able to access education at this price.

Are you really telling us that you are guaranteeing all students will be able to access the University, with a median income of less than $20,000 in Puerto Rico, and that the scholarships will make this up for all students applying?

Ms. JARESKO. No, sir, not all students. What I was describing in my statement was that tuition has been raised to some level just under, excuse me, $1,000 under the Pell Grants.

So, first of all, those who can apply for and achieve a Pell Grant can afford tuition.

Dr. LOWENTHAL. Right.

Ms. JARESKO. Second, that we have set aside the equivalent of 12,000 full-time scholarships per year for those who may not qualify for a Pell Grant but are still needs-based. It is not about providing tuition for those who can afford tuition who do not have a need.

Dr. LOWENTHAL. All right, so you believe that will cover all the students at the University, either the Pell Grants or the scholarships, so the tuition increases will not impact students?

Ms. JARESKO. That is correct. They should have access to needs-based scholarships if the Pell Grant is unavailable to them.

Dr. LOWENTHAL. OK. Thank you, and I hope that is so. I am just not sure. And you are saying that student debt will not increase because of this?

Ms. JARESKO. Again, I can't speak to student debt. The University has to determine what the elements of the needs-based test will be. And I don't know whether other students will continue to take debt that perhaps wouldn't qualify for that.

Dr. LOWENTHAL. I would be interested in knowing how this is going to impact student debt, not just because of Puerto Rico. You know, that is a crisis throughout the Nation, student debt. And I am just wondering how, with what is going on in Puerto Rico, if you could, at some point tell the Committee how is that going to impact student debt that is going on, because I agree with you, it is the hope and the pride of the Commonwealth of Puerto Rico.

Ms. JARESKO. Yes, we will follow up.

Dr. LOWENTHAL. The other question I want to ask you is, you mentioned about the looming pension crisis, UPR. Can you explain that?

Ms. JARESKO. Yes. Unfortunately, although the University of Puerto Rico retirement system is better funded than the employee retirement system of the Commonwealth, which was funded at practically zero, the fact of the matter is that, at the current level of funding that the University is currently providing, it will become bankrupt within the next 10 years.

Today, what we see is a funding of approximately $60 million per year, when the requirement identified by actuaries is almost twice that.

What we have suggested in our fiscal plan is that the University do one of three things: either fully fund what is necessary, and/or take on some pension reform aspects to reduce the amount that is necessary actuarially, but in no cases to under-fund and lead to the same situation that we find ourselves in at the Commonwealth, to learn from the lessons that we——

Dr. LOWENTHAL. And where is the University administration, in terms of these recommendations?

Ms. JARESKO. It is my understanding that they have begun to work specifically on one of those options.

Dr. LOWENTHAL. Thank you.

With that, Mr. Chair, I yield back.

The CHAIRMAN. Thank you, Mr. Lowenthal.

Mr. Bishop.

Mr. BISHOP. Thank you, Mr. Chairman. Like many people, I am not crazy to be here. That is why like many people, we are actually

not here for us, we are here to talk to you and to those who are out there.

So, Natalie, first, you have taken a couple of infamous shots here today. Let me apologize for that situation and thank you for what you are both doing. A lot of the things that have been charged to this panel really are the things that the second and third panel here had charged to them, but those are elected officials, so it comes with the territory, unfortunately. It is not the way things ought to be.

So, since today is an important day, far more important than this hearing, this is the first day of the World Series.

[Laughter.]

Mr. BISHOP. And I know this is more important to you, and if you don't, then ask the Alomar family, the Rodriguez, Clemente's relatives, they will say that that is more important.

When one starts little league, home plate is 17 inches. And when you get to high school, it is still 17 inches. And the minors, it is 17 inches. And in the majors, it is still 17 inches. And the pitchers are expected to hit those 17 inches. And even a major league pitcher that can't hit the 17 inches basically gets sent to Pocatello afterwards. One of the things that never happens in any of those levels is to say, "OK, if you can't do the 17 inches, let's make it 18, or 20, 25 inches. We will change the plate so that you can actually do the job."

The draft that is floating around here is one of those things that is trying to change home plate, and it doesn't have to be. Keep home plate the same, and just do the proper and appropriate things.

Let's face it, the problems that Puerto Rico is facing right now, that the island is facing, simply come from a lot of bad decisions that were made in past governments. Not all. There were some great governors and some great governments that tried, definitely, to institute those reforms. But they happened.

The PROMESA legislation was unique in the annals of Congress. Our Committee was assigned to try to come up with something. We based it on a process that has historical precedents of effectiveness. If anyone thinks working with the Obama administration Treasury Department is an easy practice, I have some other oceanfront property in Phoenix to sell you. It just simply does not happen.

But this was one of the bills that, ironically, had a majority of the House Republicans and a majority of the House Democrats in passing it. Even Mr. Grijalva said some nice things like it was necessary. And, as a compromise, it was workable. And the irony that the Senate didn't change a single word, that is unique for the Senators who still think they are paid by the word in the first place.

Changing it is not going to solve the issue at hand. It is like trying to expand home plate. It simply won't be there. You have the tools that are there. What you need is to make sure you hit home plate, and that requires a government that is willing to work with the Board on this temporary procedure to solve the problems.

I am proud of the current governor. She is doing, I think, a remarkable job, as she said in my office, and promised to solve these issues by working with the Board. And I am proud of the

Board trying to now work with the Governor. And if we go forward with that, then actually you can accomplish something that is positive.

This entire process was always intended to be temporary. And this entire process has three goals, at least in my mind. One is to provide economic success to an island that has potential—not a lot of resources, but you have potential. The second is to provide governmental stability, which hasn't happened necessarily in the last several years, but can happen in the future if the Board, as well as the Governor's office and the rest of the political appointees, actually are working together. And finally, for me, it is an avenue, a pathway to statehood, which is still the important process at the end of the day.

Without this Board, without the structure we have in hand, those three goals—the economic success, the governmental stability, as well as the path to statehood—are going to be significantly retarded, if not eliminated. That is why I am proud of what you are attempting to do, and I am proud that the new governor is attempting to work very closely to actually solve problems, instead of creating problems, and that some of the draft that has been thrown out there can be situated as nothing short of political pandering to special interest groups.

And the other bottom line about why this hearing and the next hearing is so significant is any of the proposals that have been floating out there aren't going anywhere. The idea that they will be passed in the Senate or signed by a President is delusional, at best. You have home plate; use it.

Satchel Paige once said, "Home plate don't move. Just throw strikes." Throw strikes.

I actually have no time left. Mr. Grijalva, you are more generous to me than I would have been to me.

[Laughter.]

Mr. BISHOP. Would you please gavel me down? But at least I said something intelligent.

The CHAIRMAN. I am sorry, Mr. Bishop, it is a character flaw of mine, of being respectful.

Mr. BISHOP. If you say of your elders, I am going to go on for another 3 minutes.

[Laughter.]

The CHAIRMAN. Ms. Velázquez, you are recognized.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman.

Mr. Marrero, I gather from your testimony that you are open to supporting a Federal monitor coordinator. Is that true? Is that the case?

Mr. MARRERO. More than the name, I think that what we need is to expedite the recovery funds. So, if we can have someone to coordinate at the Federal level, that will be more efficient, and that will help the people of Puerto Rico.

Ms. VELÁZQUEZ. Do you think that adding another layer to what is already in place will facilitate accessing Federal money?

Mr. MARRERO. I don't see us——

Ms. VELÁZQUEZ. Yes, I hear you. I don't know if you are aware that last week before the Appropriations Subcommittee, the administration testified that intentionally they missed a legally required

deadline that would have made congressionally appropriated funds available to Puerto Rico. And we are talking about HUD and CDBG-DR. Are you aware of that?

Mr. MARRERO. Fortunately, I am aware——

Ms. VELÁZQUEZ. So, is the issue adding another layer, or is the issue dealing with the fact that this Administration has put roadblock on top of roadblock to make it difficult for Puerto Rico to access that money?

That has been the history of the disaster relief package that we passed. Seventeen localities that were affected by Maria, Harvey, all of them got their money, right? And yet Puerto Rico didn't.

I just came back from a Financial Services Committee hearing where I questioned Secretary Carson on that respect.

So, I don't believe that adding another layer will address the issue of the contempt of the Administration to make it difficult for the government of Puerto Rico to access the money that we appropriated. In fact, I consider that to be a violation of the law.

And people love to talk and lecture us about accountability of the government of Puerto Rico, but we don't talk about accountability of the Federal Government. And people use corruption, but no one mentioned here that two Federal officials were arrested in Puerto Rico 3 or 4 weeks ago.

So, I don't believe that adding another layer will resolve what is at the crossroad here, in terms of facilitating the money that was appropriated. No one, no agency, is empowered to unilaterally withhold CDBG-DR funds. You want to talk about accountability? Let's talk about accountability.

Ms. Jaresko, according to the Board's own documents, further delays could reduce the amount of money reaching Puerto Rico by $30 billion. Given that this Federal aid is not coming in, and the economy is not growing, the people of Puerto Rico continue to suffer. Can you assure the people of Puerto Rico that any additional belt tightening will not be put on their backs?

Ms. JARESKO. The document that you referred to, Congresswoman, was simply something that we were discussing with creditors as downside risks. We are still confident that Puerto Rico will receive the monies that it——

Ms. VELÁZQUEZ. I hear you. You are confident that Puerto Rico is going to get the money?

Ms. JARESKO. Yes, ma'am.

Ms. VELÁZQUEZ. Yes? Here we are, how many years later after Maria?

So, what is your plan B if Puerto Rico doesn't get the money?

Ms. JARESKO. With regard to the plan of adjustment, it would not affect it. We have limited debt service to $1.5 billion per year, which is less than 10 percent of own-source revenues this year, regardless of any future receipt or future growth in the economy. It would be terribly unfortunate, and we will do everything in our power to work with the government and with you to assure that they get the funds.

Ms. VELÁZQUEZ. Sure, I hear you, but you know what, Ms. Jaresko? The plan of adjustment is viewed by many as very generous to bondholders. It will be unacceptable for you to force

more austerity on the people due to the Administration's willful withholding of funds.

Ms. Jaresko, in a motion submitted to the court, it is alleged that Duff and Phelps, one of your many contractors, has overcharged the Board and, in turn, the people of Puerto Rico. So, we want to discuss accountability? Let's discuss accountability. How are you going to make sure that the people of Puerto Rico are not overbilled by your hundreds of contractors and consultants?

Ms. JARESKO. That is a Title III expense. It went through the fee examiner, and that fee examiner is responsible for doing exactly what they have done. We don't review those bills. Those bills are reviewed by the court and the fee examiner. And we are grateful for the fee examiners' work in doing that.

The CHAIRMAN. Thank you very much.

Ms. VELÁZQUEZ. But you can get consultants that will charge much less for the trip from San Juan to New York City. Five thousand?

The CHAIRMAN. I want to thank both of you. I appreciate it. And thank you for the testimony and for your response.

There are other follow-up questions that we will direct to you, for responses, with more specificity in terms of the coordinator question and other questions in terms of the question that Ms. Velázquez just came up with that she asked Ms. Jaresko having to do with delays, and the Federal funding being expeditiously coming in, and the consequences of that which the report alluded to, but we ask for some more specificity on it.

With that, thank you very much. And let me invite the next panel up.

Ms. JARESKO. Thank you.

Mr. GALLEGO [presiding]. Thank you, everybody. Let's continue on. I would like to now thank and welcome Panel 2. As part of our witness list, I would like to welcome the Honorable Carmelo Ríos, the Honorable Eduardo Bhatia Gautier, the Honorable Antonio Soto Torres, and the Honorable Rafael Hernández as part of our Panel 2 witnesses.

I also want to remind the witnesses that we do have 5-minute limits. You will see the lights in front of you. As the light turns yellow, that means you should start wrapping up your answers. And when it turns red, we ask you to please finish your answers.

With that, the Chair now recognizes our Ranking Member, Mr. Bishop.

Mr. BISHOP. Thank you, Mr. Chairman pro tem. I just want to quickly thank the witnesses for being here.

And not being rude, Miss González-Colón is the Ranking Member of the T&I Committee, which is talking about the very issue you are talking about here. So, she has gone to fulfill her duties over there. I am going to sit in a few minutes, and then will apologize for leaving later. Mr. McClintock will be finishing up this panel. I want you to understand that is why we are playing musical chairs here, as well as thanking you for being here.

I yield.

Mr. GALLEGO. Thank you, Mr. Bishop.

I now recognize the Honorable Carmelo Ríos, the Majority Leader of the Senate of Puerto Rico, for his 5-minute testimony.

**STATEMENT OF THE HON. CARMELO RÍOS SANTIAGO, MAJORITY LEADER, SENATE OF PUERTO RICO**

Mr. RÍOS. Thank you, Chair Gallego, Acting Chair, and thank you Mr. Bishop, as well as Mr. Grijalva and Commissioner González. On behalf of the President of the Senate of Puerto Rico, the Honorable Thomas Rivera Schatz, I would like to thank you for this opportunity to share with the Committee our thoughts regarding the proposed amendments to PROMESA.

During the Chairman's recent visit to Puerto Rico, Senator Rivera Schatz made clear our position regarding the draft under consideration today. PROMESA does not need to be amended. It needs to be repealed. After over 3 years since its enactment, PROMESA, with its Financial Oversight Management Board, has failed to bring fiscal responsibility and access to capital markets to the territory of Puerto Rico. Instead, PROMESA has exacerbated the economic situation on the island, putting a magnifying glass over 121 years of colonialism that are the real root of our problems.

President Rivera Schatz believes that you should use your jurisdictional power under Article IV, Section 3, Clause 2 of the United States Constitution, not to amend a Federal law, but to enact the legislation that will do away with our second-class status as a colony, and admit Puerto Rico as a state of the Union. Only then will Puerto Rico truly possess the tools and mechanisms necessary to solve the social and economic crisis.

Nonetheless, we would like to thank the Chairman Grijalva and other Members of Congress for recognizing that PROMESA is not working, and for proposing a fix to what is, in our opinion, unfixable. With this total of $214 million in our budget from Fiscal Year 2017 to the current fiscal year, which includes a very lucrative salary, PROMESA is an unfunded mandate that has proved to be costly to the 3.1 million Americans in Puerto Rico.

I would like to point out to this Committee that the annual salary of the Board's Executive Director, Ms. Jaresko, is 50 percent more than the President of the United States and three times the Speaker's salary.

In addition, through January 2019, the Title III court has approved $300 million in fees and expenses. In a letter addressed to various U.S. Senators dated October 7, 2019, the Chairman of the Board, Mr. José Carrión, referred to the cost of Puerto Rico's Title III cases as exorbitant and tragic.

The Board has complete autonomy to exercise its power without any control, supervision, and oversight or review from the democratically-elected officials such as the governor of Puerto Rico or ourselves which has led to the decisions that have been detrimental to 3.1 million Americans in Puerto Rico. Yet, we remain without access to capital markets and ongoing debt restructuring process that is costing the government of Puerto Rico hundreds of millions of dollars.

PROMESA has failed and threatened the economic stability of the island. The bill before us today contains amendments seeking to correct many of the flaws that have become so obvious during promised PROMESA's implementation. However, the main reason for PROMESA's failure is simple, and not addressed by any of the amendments being considered today by this Committee. PROMESA

does not address the root cause of the problem on the island. It is colonial status, the same colonial status that allowed Congress to establish a fiscal control board that violates the principles of our democracy.

It is unbelievable that after 121 years living under the flag of the Star-Spangled Banner, and 102 years of American citizenship, Puerto Ricans remain living on an island that cannot vote for its national election, or elect a commander-in-chief, or have a full-fledged representation in Congress as a state of the Union. It is unbelievable that in the 21st century, the beacon of democracy for the rest of the world still has 3.1 million disenfranchised Americans and treats them as second-class citizens.

Rather than extending full democratic rights to all the citizens, the United States of America has now chosen to curtail them by enacting a law that has proven to be flawed and ineffective.

To blame our fiscal crisis solely on mismanagement on the local level is to turn a blind eye to the reality resulting from unequal and second-class treatment at the Federal level. It is to ignore that Puerto Ricans, by simply buying a one-way ticket to the Continental United States attain other rights, responsibilities, and privileges denied to them while on the island. It is to ignore that the 3.1 million proud U.S. citizens living in Puerto Rico deserve the same quality of life that their brothers and sisters in the states.

The only real permanent solution to the fiscal problem of Puerto Rico before this Committee, in my opinion, is statehood. It is time to extend to the American citizens of Puerto Rico the equal treatment, rights, and respect they deserve and have earned through their 102 years of faithful service to this Nation. And statehood is the only real option viable for the solutions of the Puerto Rico challenge today.

[The prepared statement of Mr. Ríos follows:]

PREPARED STATEMENT OF THE HON. CARMELO RÍOS SANTIAGO, MAJORITY LEADER
ON BEHALF OF
THE HON. THOMAS RIVERA SCHATZ, PRESIDENT OF THE SENATE OF PUERTO RICO

Chairman Grijalva and Ranking Member Bishop: On behalf of the president of the Senate of Puerto Rico, Hon. Thomas Rivera Schatz, I would like to thank you for this opportunity to share with the Committee our thoughts regarding the proposed amendments to PROMESA.

As recently as last month during the Chairman's visit to Puerto Rico, Senator Rivera Schatz made clear our position regarding the draft under consideration today. PROMESA does not need to be amended—it needs to be repealed. After 3 years and 4 months since its enactment, it has become clear that PROMESA—with its Financial Oversight Management Board (FOMB)—has failed in its main objective of bringing fiscal responsibility and access to capital markets to the territory of Puerto Rico. Instead, PROMESA has exacerbated the economic situation on the island, putting a magnifying glass over the 121 years of colonialism that are the real root of our problems. This Committee should use its jurisdictional power under Article IV Section 3 Clause 2 of the United States Constitution, not to amend a failed law, but to enact legislation that will do away with our second-class status as a colony and admit Puerto Rico as a state of the Union. Only then will Puerto Rico truly possess the tools and mechanis1ns necessary to solve the social and economic crisis rooted in hundreds of years of unequal treatment at the Federal level.

Nonetheless, I would like to thank the Chairman and the Ranking Member for recognizing that PROMESA is not working and for proposing a fix to what is, in our opinion, unfixable. With its total $214 million dollars in annual budgets from Fiscal Year 2017 through the current fiscal year (which include very lucrative salaries), PROMESA is an unfunded mandate that has proved to be very costly to the 3.1 million American citizens living in Puerto Rico. I would like to point out to

this Committee that the annual salary of the FOMB Executive Director is 32 times higher than the average annual salary in Puerto Rico. In addition, through January 2019 the Title III court has approved $300 million in fees and expenses. In a letter addressed to various U.S. Senators and dated October 7, 2019, the Chairman of the Board, Mr. José B. Carrión, referred to the cost of Puerto Rico's Title III cases as "exorbitant and tragic."

The broad powers granted to the FOMB under PROMESA are excessive and have effectively usurped the powers vested upon its elected officials by the Constitution of Puerto Rico. Section 108 of PROMESA grants the FOMB complete autonomy to exercise its powers without any control, supervision, and oversight or review from duly and democratically elected such as the Governor of Puerto Rico or ourselves. This unrestrained power is granted to seven individuals who do not necessarily have the well-being of all the people of Puerto Rico at heart, and has led to decisions that have been detrimental to the quality of life of the 3.1 million U.S. citizens residing in Puerto Rico. Yet, Puerto Rico remains without access to capital markets and the ongoing debt restructuring process is costing the government of Puerto Rico millions of dollars.

PROMESA has failed in its purpose and threatened the economic stability of everyone on the island. The bill before us today contains a series of amendments seeking to correct many of the flaws that have become so obvious during PROMESA's implementation. However, the main reason for PROMESA's failure is *simple* and not addressed by any of the amendments being considered today by this Committee. PROMESA does not address the root cause of the problems on the island: its colonial status. The same colonial status that allowed the U.S. Congress to establish a fiscal control board that violates the most basic principles of our democracy.

It is unbelievable that after 121 years living under the flag of the United States of America and 102 years of American citizenship, Puerto Ricans living on the island cannot vote on the national general elections to elect its Commander in Chief or have full-fledged representation in Congress as a state of the Union. It is unbelievable that in the 21st century, the beacon of democracy for the rest of the world still has 3.1 million American citizens disenfranchised and treats them as second-class citizens. It is unbelievable that in the 21st century, rather than expanding full democratic rights to all of its citizens, the United States of America has chosen to curtail them by enacting a law that has proven to be flawed and ineffective.

The territory status and subsequent unequal treatment of Puerto Rico is the root cause of the problem that led to the enactment of a law that is flawed and unable to resolve Puerto Rico's fiscal problems. To blame Puerto Rico's fiscal crisis solely on mismanagement at the local level is to turn a blind eye to the reality resulting from 121 years of unequal and second-class treatment at the Federal level. It is to ignore that Puerto Ricans, by simply buying a one-way ticket to the continental United States, can attain all the rights, responsibilities, and privileges denied to them while on the island. It is to ignore that the 3.1 million proud United States citizens living in Puerto Rico deserve the same quality of life as their brothers and sisters in the states.

The only real and permanent solution to the fiscal problems of Puerto Rico before this Committee today is statehood. Only statehood can bring to Puerto Rico the political and economic stability it needs to be able to sustain the quality of life its 3.1 million American citizens deserve. Any other alternative will keep us in the vicious cycle of borrowing to be able to sustain our economy.

It's time to extend to the American citizens of Puerto Rico the equal treatment, rights, and respect they deserve and have earned through its 102 years of faithful service to this Nation. Statehood is the only real and viable solution to the challenges Puerto Rico is facing today.

Thank you.

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Mr. GALLEGO. Thank you.

The Chair now recognizes the Honorable Eduardo Bhatia Gautier.

**STATEMENT OF THE HON. EDUARDO BHATIA GAUTIER, MINORITY LEADER, SENATE OF PUERTO RICO**

Mr. BHATIA GAUTIER. Thank you, Mr. Gallego, Chairman Gallego—sounds good. Ranking Member Bishop and other members of the Committee, thank you for having us here.

I represent the Popular Democratic Party as the Ranking Member or, I am sorry, the Minority Leader in the Senate of Puerto Rico, former President of the Senate.

While PROMESA succeeded in providing a fair and orderly, yet imperfect, debt restructuring process, the Oversight Board has effectively become a supra-political entity governing the people of Puerto Rico in a naked colonial mode, and that is wrong. Whatever happened to government of the people, by the people, and for the people?

So, any amendments that do not return the decision-making power to the people of Puerto Rico are nothing more than putting a Band-Aid on a bullet wound.

Congress must acknowledge that it cannot continue to govern Puerto Rico indefinitely, pursuant to the property clause of the Constitution. Property rights was a central legal underpinning during slavery. Slaves were property of their masters, who could dispose of them as they pleased. The territorial clause gives Congress property rights over Puerto Rico, which it can manage and dispose of as it pleases.

Really? As long as Congress uses and the Supreme Court interprets this clause unscrupulously, the people of Puerto Rico have become property by extension for all practical purposes. We are at the mercy of our masters, and that is wrong. Even the infamous racist insular cases recognize the fact that the territorial clause was not appropriate for Puerto Rico. It had too many people organizing a government with their own language and culture.

At first, they ensured cases were used to discriminate against us. Later, they were used to allow self-rule and economic development. Now, we are going back to where we started, eliminating self-government to advance powerful economic interests. And that is shameful.

In the 1900s, it was the sugar barons, and now it is Wall Street's hedge funds.

Only because many in Congress continue to view Puerto Rico through this proprietary lens was it even conceivable to submit us to the supra-political entity that is the Oversight Board.

The Oversight Board's authority must be limited to just prescribing achievable numerical targets for budgets and fiscal plans, period. Spending priorities and other public policy determinations would then be returned to us.

Regarding certain amendments proposed:

First, amending Section 201(b), the essential services and economic growth section, they identify a need for amendments defining essential services as spending priorities reiterates the Oversight Board's unrestrained power and displacement of the government of Puerto Rico's substantive policy-making functions.

Such amendments would not be necessary if the government of Puerto Rico had not been stripped of these. The Oversight Board has created a parallel government structure led by expensive third-

party consultants. A Supreme Court Justice, Sonia Sotomayor, recently noted the Oversight Board has effectively become an entity that no one can control.

If Congress takes seriously its responsibilities to support Puerto Rico's economic growth, then it is time for a broader program. Congress must enact a permanent fix to Puerto Rico's inequitable growth, healthcare financing structure, and pursue economic development policies tailored to Puerto Rico. Rethinking Federal tax policy to encourage private-sector investment-driven recovery is indispensable. Either Puerto Rico grows, or it will be perpetually subjected to bankruptcy.

Second, accountability, access to information, and ethical requirements. I welcome amendments promoting access to information incorporating disclosure provisions. But Congress must also address the absence of ethical legal requirements applicable to members of the Board.

Third, reconstruction and revitalization. I support the Reconstruction Coordinator, provided its role is limited to that of a facilitator. The proposed amendments do not do that. Aid is not being received by Puerto Rico. People are still suffering. This is unacceptable. Your citizens, my citizens, deserve better. The Revitalization Coordinator for PREPA is different. It would be granted power to control tantamount to a Federal receivership. And, as I previously testified, I am not in favor of that.

Finally, Puerto Rico public credit comprehensive audit. I fully support a comprehensive audit of the public debt. As President of the Senate of Puerto Rico, we passed Act 95–97–2015, which is almost identical to that now proposed. My position remains the same. All public debt must be audited, illegal debt rejected, and the rest restructured.

Thank you very much.

[The prepared statement of Mr. Bhatia Gautier follows:]

PREPARED STATEMENT OF THE HON. EDUARDO BHATIA GAUTIER, MINORITY LEADER, SENATE OF PUERTO RICO

Good morning, Chairman Grijalva, Ranking Member Bishop, and members of the Committee. Thank you for the invitation to participate in today's hearing to discuss potential amendments to the *Puerto Rico Oversight, Management and Economic Stability Act of 2016* ("PROMESA").[1] My name is Eduardo Bhatia Gautier. I am a former president of the Senate of Puerto Rico (2013–2016), and currently serve as the Minority leader for the Popular Democratic Party. On behalf of the people of Puerto Rico, we welcome the opportunity to have a constructive dialogue with you and your colleagues on PROMESA.

From the outset, it is important to underscore that I have always been opposed to the imposition by Congress of an undemocratic fiscal control board for the Government of Puerto Rico.[2] As the former president of the Senate of Puerto Rico, I advocated for a comprehensive framework that would give Puerto Rico the tools it needed to reach a resolution with creditors and adjust its debts to a sustainable level. Recognizing that debt restructuring alone would be an insufficient path to Puerto Rico's recovery from its long-standing fiscal and economic crisis, together with multiple experts, I also encouraged Congress to address Puerto Rico's inequitable health care financing structure and adopt legislative measures promoting sustained economic growth. Regrettably, Congress did not heed such advice. It opted

[1] Pub. L. No. 114–187, 130 Stat. 549 (2016), codified at 48 U.S.C. §§ 2101–2241.

[2] *See e.g., Bhatia: La imposición de una junta de control fiscal no electa*, Foro Noticioso, May 24, 2016, available at https://www.foronoticioso.com/fn/bhatia-la-imposicion-de-una-junta-de-control-fiscal-no-electa-con-enormes-poderes-administrativos-y-financieros-sobre-puerto-rico-atenta-contra-los-valores- democraticos-que-hemos-aspirado-desde-tiempo/.

for a colonial and paternalistic approach that focused exclusively on fiscal adjustment, and by doing so, effectively stripped the people of Puerto Rico from the limited autonomy recognized pursuant to Public Act 600 of 1950 and Public Act 447 of 1952.[3]

My testimony today will first provide you with a general overview of the principal mistakes of PROMESA and then proceed to demonstrate why they are at the root of your concerns in proposing these amendments. A key aspiration today is for me to show how these amendments fall short and fail to properly address these concerns and, in some cases, generate new issues. Lastly, I will provide you with some of my recommendations for fixing PROMESA consistent with the stated goals behind its adoption. To be crystal clear: any amendments that do not return home rule to the people of Puerto Rico would constitute nothing more than putting a band-aid in a bullet wound.

PROMESA'S PRINCIPAL MISTAKES

As you are aware, Congress enacted PROMESA after finding that a "comprehensive approach to fiscal, management, and structural problems and adjustments that exempts no part of the Government of Puerto Rico [was] necessary, involving independent oversight and a Federal statutory authority for the Government of Puerto Rico to restructure debts in a fair and orderly process."[4] While it generally succeeded in providing a fair and orderly—albeit imperfect—debt restructuring process, PROMESA transcended the stated objective of providing oversight of the Government of Puerto Rico. Rather than serving as a *mechanism* for fiscal oversight,[5] the Puerto Rico Financial Oversight and Management Board (the "Oversight Board") has effectively become a supra-political entity governing the people of Puerto Rico in a naked colonial mode.

Regrettably, Congress opted to treat disparately the people of Puerto Rico when it also exempted the Oversight Board from the customary Federal supervision provided to governmental officers acting with commensurate duties and responsibilities. Federal oversight of the Oversight Board is limited to removal of its members by the President only "for cause."[6] As Supreme Court Justice Sotomayor recently indicated, it has effectively become "an entity that no one can control."[7] Notably, if the United States assumes the cost of the Oversight Board as proposed in these amendments, there is a change of course regarding Federal oversight. Congress would not be providing the same blank check it deemed acceptable with respect to the financial resources of the Government of Puerto Rico.

The current powers of the Oversight Board are not only an affront to core democratic values, but also to their utilitarian benefits. Rather than overthrowing a democratic form of self-government, PROMESA should instead promote the consented adoption of local policies based on an understanding that they are achievable and are in Puerto Rico's own interest.[8] First, there is the failure of autocratic pronouncements in promoting policies arising from dialogue and participation.[9] As such, local ownership of fiscal, management, and structural adjustments is lacking,

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[3] Pub. L. No. 81–600, 64 Stat. 319 (1950) and Pub. L. No. 82–447, 66 Stat. 827 (1952), codified at 48 U.S.C. § 731 *et seq*.

[4] 48 U.S. Code § 2194(m)(4).

[5] 48 U.S. Code § 2121(a).

[6] *Id* at § 2121(e)(5)(B).

[7] Transcript at pg. 8 of oral argument held on October 15, 2019 before the U.S. Supreme Court in docket no. 18–1334, *Financial Oversight and Management Board for Puerto Rico v. Aurelius Investment, LLC, et al.*, available at https://www.supremecourt.gov/oral_arguments/argument_transcripts/2019/18-1334_dc8f.pdf.

[8] *See, e.g.*, S. Nuri Erbaş, IMF Working Paper, WP/03/98, *IMF Conditionality and Program Ownership: A Case for Streamlined Conditionality* (May 2003) ("A fundamental reason why such failures occur is the inability to engender explicit and implicit program ownership in a country").

[9] While it is true that each of Section 201 (as to fiscal plans) and Section 202 (as to budgets) seeks to encourage some formal dialogue between the Government of Puerto Rico and the Oversight Board, nothing in PROMESA actually requires that the Oversight Board seriously consider the fiscal plans and budgets submitted to it by the Government of Puerto Rico. The result is that there is little incentive for a productive exchange. As currently in effect, *any* uncorrected violation, as determined by the Oversight Board in its "sole discretion," serves as a pretext for the Oversight Board to adopt an entirely different fiscal plan or budget. This has arguably been the practice followed by it for the last couple of fiscal plans and budgets. PROMESA therefore needs to be amended to permit the Oversight Board to revise proposed fiscal plans and budgets *exclusively* to correct notified violations unaddressed by the Government of Puerto Rico. Only if no fiscal plan or budget has been timely submitted for its approval could the Oversight Board proceed to adopt its entirely own fiscal plan or budget.

making them less likely to be successful.[10] Second, autocratic actions also adversely affect execution levels. In assuming *de facto* control over the Government of Puerto Rico, the Oversight Board has created a parallel governmental structure led by expensive third-party consultants.[11] Rather than cultivating a new class of career public servants for the Government of Puerto Rico, the Oversight Board has spent hundreds of millions of dollars further developing the skills of state-side consultants that will move on to other matters after completing their work.[12] Institutional memory will be lost.

FULL CONTROL OVER PUERTO RICO'S AFFAIRS—ESSENTIAL SERVICES AS PRIORITIES

The identified need for amendments defining essential services as spending priorities reiterates the Oversight Board's displacement of the Government of Puerto Rico's substantive policy-making functions. Such amendments to Section 201(b) would not be necessary if the Government of Puerto Rico had not been stripped of these.

Democratic processes are the best safeguards to ensure that essential services are delivered. As economist Amartya Sen has argued, democracies do not suffer from famines: "If the government is vulnerable to public opinion, then famines are a dreadfully bad thing to have. You can't win many elections after a famine."[13] To substitute the Oversight Board for Congress fails to provide the local level democratic accountability essential services protection requires as a backdrop. Furthermore, and at a fundamental political level, the imposition of value judgments in such an egregious undemocratic manner is the very essence of colonialism and should be "intolerable in any country where freedom prevails."[14]

The imposition of further limitations on the Oversight Board is imperative. Rather than having Congress merely *suggest* essential services to the Oversight Board, PROMESA must be amended to limit its authority to the imposition of achievable *numerical targets* for budget and fiscal plans. Such an approach is practical and consistent with governmental practices. Balanced budget and debt limitation requirements are rules under which governments routinely operate, many of which are inscribed in constitutions. In the case of the Government of Puerto Rico, such limitations would also generally be consistent with its own Constitution.[15]

ECONOMIC GROWTH POLICIES

The absence of provisions promoting economic growth under PROMESA is also proposed to be addressed by amending Section 201(b). Setting aside the fact that vesting the Oversight Board with such responsibilities is no substitute for real congressional measures promoting economic growth, anything found in this Section is essentially dead letter because *only* the Oversight Board can determine whether a fiscal plan complies with such requirements. Specifically, not only does Section 201(c)(3) of PROMESA provides the Oversight Board with "sole discretion" to determine whether a proposed fiscal plan satisfies the requirements of its Section 201(b), but Section 106(e) further bars any claim that challenges such a decision itself and any implicit judicial challenges for violating these requirements.[16] Stated another way: irrespective of what Congress writes into Section 201(b), the Oversight Board has the last word. Adding requirements or specificity to the already 14 specific objectives and requirements that a fiscal plan must meet is, quite frankly, meaningless.

If Congress is to take seriously its responsibility to support Puerto Rico's fiscal and economic recovery, the time has come to adopt a broader program for Puerto Rico. The debt restructuring proposal recently submitted by the Oversight Board in Title III, if approved, may "not go far enough to reduce the island's debt burden"

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[10] *See, e.g.*, International Monetary Fund, Strengthening Country Ownership of Fund Supported Programs (July 17, 2001).

[11] Chutchian, Maria (2019), A Reasonable Proposal: How US Law Allows Puerto Rico's Legal Bills to Flourish, available at http://investigations.debtwire.com/a-reasonable-proposal-how-us-law-allows-puerto-ricos-legal-bills-to-flourish/.

[12] Balmaceda, Javier (2018), Puerto Rico Should Invest In Its Own, Not Just In Outsiders, available at https://www.forbes.com/sites/debtwire/2018/07/09/puerto-rico-should-invest-in-its-own-not-just-in-outsiders/#1e52ae064ab2.

[13] Ebersole, Phil (2015) & Amartya Sen, *On Democracy and Famine*. Phil Ebersole's Blog: *Thoughts about Politics and the Passing Scene*, at https://philebersole.wordpress.com/2015/06/02/amartya-sen-on-democracy-and-famine/ (last accessed Oct. 17, 2019).

[14] *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

[15] *See e.g.*, P.R. CONST art. IV, § 7 and art. VI, § 2.

[16] *See Ambac Assurance Corp. v. Commonwealth of P.R. (In re Fin. Oversight & Mgmt. Bd. for P.R.)*, 297 F. Supp. 3d 269, 284 (D.P.R. 2018).

and certainly "leaves no room for error."[17] Congress must therefore finally enact a permanent fix to Puerto Rico's inequitable healthcare financing structure and adopt the other recommendations by the Congressional Task Force on Economic Growth in Puerto Rico. These offer a sound starting point and have bipartisan support.[18] But more is necessary. The recommendations are primarily directed at eliminating certain aspects of Federal law and programs that hinder Puerto Rico's development. Congress must also pursue *affirmative* policies specifically *tailored to Puerto Rico*. Rethinking Federal tax policy regarding Puerto Rico to encourage a private-sector-investment driven recovery is indispensable. Without congressional action addressing these areas, Puerto Rico will not reach a sustainable forward path.

LACK OF ACCOUNTABILITY, ACCESS TO INFORMATION AND ETHICAL REQUIREMENTS

While I welcome the amendments' incorporation of the disclosure provisions for third-party professionals, designed to identify potential conflicts of interest, Congress must also address the absence of safeguards to ensure that the Oversight Board itself is not "influenced by the thought of later reaping a benefit from a private individual."[19] Specifically, pursuant to PROMESA, there are no ethical legal requirements that would be applicable to the current members of the Oversight Board upon ceasing to serve in such capacities.[20]

Because Congress deems the Oversight Board part of the Government of Puerto Rico, its members and officers should be subject to the same cooling-off periods required by the *Puerto Rico Government Ethics Act of 2011*.[21] Such ethical requirements (applicable for a period of 1 year after ceasing in their positions) would guarantee that they would generally not be permitted to accept employment, have an economic interest or enter into a contractual relationship, directly or indirectly, with any person over which they took any official action in the preceding year. Considering that one of their primary duties and responsibilities is the allocation of resources to private parties—whether it be to creditors or third-party consultants—such post-tenure limitations are reasonable.[22]

I also strongly support the amendments regarding access to information. In fact, lack of transparency regarding budget proposals by the Government of Puerto Rico to the Oversight Board forced me to successfully sue former Governor Ricardo Rosselló in 2017.[23] I would, however, be remiss not to mention that PROMESA does not establish a clear system of record keeping of documents for the Oversight Board, an essential element of transparency. Such an oversight is important given the inapplicability of both Federal and local regulation in this matter. As an entity purportedly part of the Government of Puerto Rico, the *Federal Records Act of 1950* is inapplicable; and because PROMESA also arguably preempts local document retention law, there are no legal requirements mandating policies and procedures for creating, maintaining, and disposing of its records. Congress should act to ensure that all these records are properly maintained, including those that while confidential today, will not necessarily be so in the future.

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[17] Lachman, Desmond, Brad W. Sester and Antonio Weiss (2019), *Puerto Rico's Debt Deal Leaves No Room for Error*, available at https://www.bloomberg.com/opinion/articles/2019-10-15/puerto-rico-s-debt-deal-leaves-no-room-for-error.

[18] Congressional Task Force on Economic Growth for Puerto Rico, "Report to House and Senate, 114th Congress," December 20, 2016; available at https://www.finance.senate.gov/imo/media/doc/Bipartisan%20Congressional%20Task%20Force%20on%20Economic%20Growth%20in%20Puerto%20Rico%20 Releases%20Final%20Report.pdf.

[19] *See cf., Brown v. District of Columbia Board of Zoning*, 423 A.2d 1276, 1282 (D.C. App. 1980); *General Motors Corporation v. City of New York*, 501 F.2d 639, 648–652 (2d Cir. 1974).

[20] To the extent the members are officers of the Government of Puerto Rico, they claim that federal preemption nevertheless exempts from the requirements found in the *Puerto Rico Government Ethics Act of 2011*. On the other hand, if they were to be deemed officers of the United States, given the language found in Section 109 of PROMESA, it would nevertheless be uncertain whether any restrictions would apply to them beyond those imposed by the federal conflict of interest requirements described in section 208 of title 18, United States Code.

[21] Puerto Rico Act. No. 1–2012.

[22] While federal law is generally more lenient (senior federal officers are perceived to address nationwide concerns, rather than case-specific matters, and unlike the members of the Oversight Board, are first required to satisfy any potential concerns to the satisfaction of U.S. Senate as part of their confirmation process), under certain appropriate circumstances, it imposes post-employment restrictions exceeding those found in Section 203 and 207 of title 18, United States Code. *See e.g.*, 41 U.S.C. § 423(d)(1) (procurement officers); 12 U.S.C. 1820(k)(2)(A) (senior bank examiners).

[23] *See e.g., Bhatia-Gautier v. Roselló-Nevares*, Civil No. SJ2017CV00271 (P.R. Super. Ct. Mar. 16, 2018) (relying on *Bhatia-Gautier v. Roselló-Nevares*, 2017 TSPR 173, 2017 WL 4975587 (P.R. 2017)).

OFFICE OF THE RECONSTRUCTION COORDINATOR

The proposed amendments would create the Office of the Reconstruction Coordinator to "collaborate with local agencies to ensure effective coordination among key stakeholders, public participation, and transparency in the recovery process." They seek to address the very real concern that the people of Puerto Rico are not receiving Federal reconstruction aid at a pace commensurate with their needs because of the deep—and mutual—distrust that currently exists between the Government of Puerto Rico and the Federal Government.

The current administration of Puerto Rico—now headed by its third governor in 3 years—has been characterized by both lack of transparency and corruption at its highest levels. By way of example, during the summer of 2019, each of the Secretary of the Department of Education and the Executive Director of Puerto Rico Health Insurance Administration were indicted on corruption charges involving the use of Federal funds. These two entities manage almost half of all Federal funds customarily received by the Government of Puerto Rico on an annual basis. On the other hand, the Trump administration has become the poster child for bureaucratic stalemate and it too has not escaped corruption charges. Recently, the former deputy regional administrator of Federal Emergency Management Agency (FEMA) was indicted for allegedly taking bribes from an energy company that landed $1.8 billion in Federal contracts to repair our electric grid. Apprehension from both sides is warranted.

Provided that strict mechanisms are also adopted to ensure that the role of the Office of the Reconstruction Coordinator is strictly **limited** to the role of a facilitator, I could support this concept but only if it can also be guaranteed that it will lead to the speedier receipt of Federal reconstruction aid by Puerto Rico. Nothing in the proposed amendments, however, provides this guaranty.

REVITALIZATION COORDINATOR FOR PREPA

For years this Committee has been discussing the bureaucracy, patronage, corruption, and political intervention that are primarily responsible for Puerto Rico having an antiquated, pollutive and expensive electric system. I have previously testified before your Committee to express my own similar concerns regarding the state-owned monopoly that is PREPA. But I have also maintained that a Federal takeover of PREPA is not the answer.[24] The Revitalization Coordinator proposed by the amendments is unacceptable because it is tantamount to placing PREPA under a Federal receivership.[25]

I have been a leader in the effort to carefully craft and promulgate the current energy policy for Puerto Rico. We recently enacted Act 17–2019, a bipartisan measure that builds on the changes introduced by me as president of the Senate of Puerto Rico pursuant to Act 57–2014, to reform the energy sector in Puerto Rico. Taken together, Puerto Rico is on a path—driven by free market forces—to achieve cheap, clean and reliable energy. Our independent energy regulator has also been strengthened to ensure that the public interest continues to be served.

We are for the first time seeing tangible results. As a result of this new energy policy, the transmission and distribution assets are scheduled to be transferred to a private operator pursuant to a public private partnership. All generation (100%) will eventually come from renewable sources. New opportunities are available to community organizations, electric coops, and the commercial and industrial sectors.[26]

The necessary transition to cheap, clean and reliable energy should nevertheless come faster. The primary obstacle has become the failure to receive Federal reconstruction aid appropriated by Congress to "build back better" the electric system post-hurricane. These funds are still not available for such use. The lack of a clear roadmap for their deployment prevents proper planning and causes uncertainty to private operators and investors interested in fully participating in the process. However, the proposed Office of Reconstruction—not a Revitalization Coordinator

[24] Please see my July 25, 2018, testimony before this Committee, "Management Crisis at the Puerto Rico Electric Power Authority and Implications for Recovery," available at https://naturalresources.house.gov/imo/media/doc/bhatia_testimony.pdf.

[25] Pursuant to the draft amendments, the Revitalization Coordinator would "exercise supervision, *control*, and oversight of the operations" of PREPA and to "*direct* the reconstruction of the electric grid of Puerto Rico that is necessary as a result of Hurricane Maria."

[26] In April, this Committee witnessed firsthand Puerto Rico's first community solar project in Toro Negro Ciales—28 families operating their own solar microgrids. This project has been certified in accordance with regulations adopted by the Energy Bureau for the development of microgrids—the first of its kind in the United States. Also, under Act 258–2018, which I cosponsored, electric coops are beginning to organize.

unique to PREPA—would be the proper vehicle to assuage any concerns regarding the use of Federal funds. Inserting a Revitalization Coordinator to the equation would only serve to disrupt the ongoing efforts. The transition will only be successful if there is local "ownership" of the process.

In lieu of a Federal takeover of PREPA, I would suggest the following measures: (a) continued congressional oversight regarding the reconstruction of the electrical system and its transition to cheap, clean and reliable energy; (b) the inclusion of amendments to PROMESA prohibiting any debt restructuring for PREPA that would be inconsistent with existing energy policy, including, without limitation, eliminating the existing restructuring supporting agreement's requirement of a securitization charge on energy produced by consumers behind-the-meter for their own consumption; and (c) that Congress adopts legislation requiring that nearly all of the CDBG-DR monies for community based energy projects ($436 million under the current Action Plan) be transferred to the new Green Energy Trust Fund created under Act 17–2019—a private trust which will operate separate from the government of Puerto Rico. Supporting this Green Energy Trust Fund is key to furthering the transition to renewable energy.

ALTERNATIVE DEBT RESTRUCTURING MECHANISM

The amendments currently under consideration also incorporate many of the provisions of the proposed *U.S. Territorial Relief Act* originally introduced by Senators Elizabeth Warren and Bernie Sanders.[27] They would grant Puerto Rico's governor and legislature the option to terminate its public, unsecured financial debt if two of these three criteria are satisfied: (1) population has decreased 5 percent over 10 years; (2) has received major Federal disaster assistance; and (3) per capita debt exceeds $15,000. To avoid constitutional concerns, provisions are included to provide protection for secured creditors and create a judicial process for them to contest the extent and perfection of their security interests. It does not exempt (other than to reiterate that its provisions are inapplicable to trade payables) any debt that has been restructured or is pending restructuring under Title III. Taken together, the primary objective of these amendments is to streamline and simplify a debt adjustment process during emergency periods for Puerto Rico.

While well-intentioned, any perceived benefits from these amendments may be outweighed by the resulting costs. The principal issues under Title III have been, and continue to be, determining the extent and perfection of creditor security interests. Such litigation would not be avoided by the proposed alternative mechanism. Moreover, creditors will likely demand higher returns for future debt issuances by Puerto Rico and other territories. While Title III is comparable to Chapter 9 of the Bankruptcy Code, the amendments result in less creditor rights than those afforded to the creditors of state municipal issuers. To compensate for lesser bankruptcy protections, creditors will also simply demand stronger security interests. The result may very well be that, rather than facilitating restructurings as intended, new issuances will be exempted debt from these provisions and harder to adjust in Title III.

PUERTO RICO PUBLIC CREDIT COMPREHENSIVE AUDIT COMMISSION

I fully support the proposed amendments establishing the Puerto Rico Public Credit Comprehensive Audit Commission and further requiring a comprehensive audit of the public debt of the Government of Puerto Rico. In 2015, when I was president of the Senate of Puerto Rico, we passed Act 97–2015, which is almost identical to that now proposed by the amendments under consideration. I provided funding for the operations of the commission from the Senate's own budget, and even hosted their meetings. Regrettably, the local commission to audit the public debt regrettably was eliminated early in 2017 by the now deposed governor of Puerto Rico.

My position remains the same as in 2015: the public debt must be audited, illegal debt rejected, and the rest restructured.

CONCLUSION

Finally, Congress must acknowledge that it cannot continue to govern Puerto Rico indefinitely pursuant to the Property Clause (Article IV, Section 3, Clause 2) of the Constitution. This is the same source of authority used to regulate grazing on the Federal public lands. Such treatment is the result of a series of decisions—now

[27] Joining them as co-sponsors were Senators Kirsten Gillibrand, Edward J. Markey, and Kamala Harris. Representative Nydia M. Velázquez also introduced companion legislation in the House of Representatives. The bill was reintroduced in 2019.

known as the *Insular Cases*—issued by a fractured Supreme Court in the early 1900s. Invigorated by the same racial animus found in *Plessy v. Ferguson* that led to the legal doctrine of "separate but equal," they sanctioned American colonialism under the guise of manifest destiny. Only because many in Congress continue to view Puerto Rico through this proprietary lens is that it was even conceivable to submit the people of Puerto Rico to the supra-political entity that is the Oversight Board.

Thank you once again for having invited me here today. It is my sincere hope that you will continue this discussion and move to promptly address these matters.

I am ready to answer your questions.

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Mr. GALLEGO. Thank you very much.

I now recognize the Honorable Antonio L. Soto Torres.

**STATEMENT OF THE HON. ANTONIO L. SOTO TORRES, MEMBER, PUERTO RICO HOUSE OF REPRESENTATIVES**

Mr. SOTO TORRES. Dear Chairman Gallego and members of the Committee, on behalf of the Puerto Rico House of Representatives, and, most importantly, our constituents, we thank you for the opportunity to express our comments regarding the amendments to the PROMESA Act of 2019.

We would like to express our appreciation to your continuous effort by the members of this Committee in the recovery process of Puerto Rico after Hurricanes Maria and Irma, especially our Congresswoman Jenniffer González, for her ongoing work for our beloved island.

Since 1898, Puerto Rico has been a territory of the United States. The creation of the Board and the imposed rules established by PROMESA can only be conceded and approved upon territories in accordance with the U.S. Constitution, not to any state of the Union.

We need to remind Congress that Puerto Rico not only has rejected the territorial status, but favored statehood in most recent plebiscites held in both 2012 and 2017. None of these electoral events were contested or challenged in any court of law. On the contrary, they represented the will and the voice of the U.S. citizens in Puerto Rico who participated freely and voluntarily, and demanded full integration of Puerto Rico with the United States.

Let us also not forget that Section 402 of PROMESA established that "nothing in this Act shall be interpreted to restrict Puerto Rico's right to determine its future political status, including by conducting the plebiscite as authorized by Public Law 113–76." We request Congress to act now.

Today, Congress could be acting on the incorporation of Puerto Rico as a state, instead of amending PROMESA imposed over the U.S. citizens of Puerto Rico.

In regards to the amendments to the PROMESA Act of 2019, we want to be clear that we will support any congressional bill that will benefit and contribute for the better quality of life of the U.S. citizens in Puerto Rico. We definitely support all actions like those in Sections 3, 4, and 5 of APA 2019 that can and will contribute to the well-being of the people of Puerto Rico.

We also agree that there needs to be total transparency in governmental transactions, like expressed in Section 6. This is the least our people deserve. We support disclosure of professional

persons employed in order to submit any information and contract through the Oversight Board.

We also believe it is necessary to provide trust to our constituency, so all documents relating to the public debt of the government of Puerto Rico should be classified as a public document, as established in Section 7.

We understand and believe that the government of Puerto Rico is headed on the right track to gain the trust of the market and investors. This administration, with the support of our local legislative leadership, hasn't hesitated to meet the financial obligations, and to comply with Federal and local laws.

The new Section 9, as proposed in APA 2019, establishes a mechanism that allows for unsecured financial obligations to be discharged. In order for any discharge of an unsecured financial obligation to be feasible, the trust of the government of Puerto Rico or its entities cannot be put in harm's way. It is necessary to have a balance of what the public interest needs in order to provide a stable and economic atmosphere for investment.

We have always supported a comprehensive audit of Puerto Rico public debt in order to provide a clean and transparent process, but decide it has to be done in accordance to and with the endorsement of the Federal Government.

After Hurricanes Irma and Maria, the government of Puerto Rico created the Central Office for Recovery, Reconstruction, and Resilience.

Also, we approved local Law 17–2019 that established the energy public policy of Puerto Rico. In the proposed bill, Section 11 and Section 12 will over-rule those two local laws. So, there will be a redundancy if it is approved in its state.

The best way to provide justice to the island is not by amending PROMESA, but by providing the necessary tools to fully incorporate Puerto Rico as a state of the Union.

Nevertheless, we respectfully submit and enclose documents suggesting several additional amendments to APA 2019. Our suggestions are based on 3 years' experience working with the Board.

There are issues in the preparation of the fiscal plans. There are issues in the budgeting process, as Congressman Gallego and San Nicolas mentioned, and also Darren Soto. So, those should be areas of consideration and/or amendment in the bill.

Thank you.

[The prepared statement of Mr. Soto Torres follows:]

PREPARED STATEMENT OF THE HON. ANTONIO L. SOTO-TORRES

ON BEHALF OF

JOHNNY MENDEZ, SPEAKER OF THE PUERTO RICO HOUSE OF REPRESENTATIVES

Dear Chairman Grijalva, Ranking Member Bishop and members of the Committee, on behalf of the Puerto Rico House of Representatives and most important our constituents, we thank you all for the opportunity given us today to express our comments and concerns regarding the Amendments to the PROMESA Act of 2019.

We would like to express our appreciation to the continuous efforts by the members of this Committee in the recovery process of Puerto Rico after Hurricanes Irma

and Maria. We would also like to thank our Congresswoman Jenniffer González for her ongoing work for our beloved Islands.[1]

In 2016 the U.S. Congress approved and President Barack Obama signed the Puerto Rico Oversight, Management, and Economic Stability Act also known as "PROMESA". Among many things, PROMESA created the Financial Oversight and Management Board (hereinafter "Board") with the intention to bring financial stability to Puerto Rico, which included restructuring the Island's debt and creating economic development.

We would like to point out and make clear that PROMESA was enacted under the plenary powers conferred to Congress under the Territorial Clause established in Article VI, Section 3, Clause 2 of the U.S. Constitution.

Since 1898, Puerto Rico has been a territory of the United States. The creation of the Board and the imposed rules established by PROMESA can only be conceded and approved upon territories in accordance with the U.S. Constitution, not to any state of the Union. We need to remind Congress that Puerto Rico, not only has rejected the territorial status, but favored statehood in the most recent plebiscites held in both 2012 and 2017. None of these electoral events were contested or challenged in any court of law. On the contrary, they represented the will and the voice of the U.S. citizens in Puerto Rico who participated freely and voluntarily and demanded full integration of Puerto Rico with the United States. Let us also not forget that Section 402 of PROMESA establishes that: "[n]othing in this Act shall be interpreted to restrict Puerto Rico's right to determine its future political status, including by conducting the plebiscite as authorized by Public Law 113–76." We request Congress to act now.

The importance of territorial status of Puerto Rico and the political hiatus in which 3.4 million U.S. citizens live on a daily basis in our Islands should be of concern and interest to our fellow Americans. Today Congress could be acting upon the full incorporation of Puerto Rico as a state instead of amendments to PROMESA and the Board imposed over the U.S. citizens in Puerto Rico. Statehood might not solve all problems at once, but definitely provides a better chance to obtain equal rights and a better life. Even our founding fathers expressed this sentiment and belief in the Declaration of Independence, and I quote: "[w]e hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator, with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness." It is our wish to obtain all these unalienable rights.

Regardless, the Puerto Rico House of Representatives has worked with the Board created under PROMESA. At the same time, we have expressed that we are not going to give up on our position that the Board cannot interfere in public policy matters which fall under the responsibility of the elected officials of Puerto Rico. We will work and contribute with the Board, but never resign to our duty, so it can fulfill its mandate and implement the recommendations made in the report of the Congressional Task Force created by PROMESA.[2] This report specified that the "U.S. citizens in Puerto Rico confront significant economic, financial, and social challenges. A review of Puerto Rico's history demonstrates that these challenges are enduring, not transitory." The main reason for this enduring challenge is the territorial status.

At the Puerto Rico House of Representatives our goals are clear. We need to provide to the U.S. citizens in our archipelago the opportunity to act and excel. It is our task as their elected officials to contribute to the economic growth and rebirth of the Islands. We have worked closely with the Governor of Puerto Rico, Hon. Wanda Vázquez and our colleagues in the Senate to make sure our constituents can have a brighter and better future. For the first time since 2004, the Planning Board declared that we will have an economic growth of 4.1 percent, which is the highest in the past 36 years, even after Hurricanes Irma and Maria. For the first time since the 1970s, the government's public debt was reduced by 10 percent. These are real accomplishments but we can't stop here.

On May 2019, we had 871,000 people employed according to a Department of Labor and Human Resources' survey. This represents an increase of 1.6 percent over the same month last year. Employment has been increasing and we expect to continue this path, but still we can do more. In regards to the budget for next fiscal year, revenues to the General Fund have been greater than those projected. Also, in a historical effort we have reduced public spending.

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[1] Puerto Rico consists of78 municipalities, which includes the Island-Municipalities of Culebra and Vieques.

[2] Which included passing federal legislation in favor of equal resources for Medicaid and improving Medicare Part A (hospital services), Part B (medical services), Part C (Advantage Programs) and Part D (drug coverage), among other.

Recently we have approved various laws in order to attack the economic recession which has endured for more than 10 years in Puerto Rico. We adopted a new Incentives Code (Law 60 of 2019) which allows to bring specialized and expertise staff. Also it incorporates tax credits for the film industry: a 40 percent credit for eligible domestic expenses and 20 percent for eligible non-resident expenses. In addition, digital distribution projects qualify, which is a big step in the creation of a new industry.

We have increased the assistance to special education students and programs along with better services and opportunities for our senior citizens. We are also working to offer an improved hospital to the island municipality of Vieques while also looking to provide for a better maritime transportation system between the Island of Puerto Rico, Culebra and Vieques. Even though we have done so much, we still have plenty to do. Imagine all the things we could attain if Congress granted Puerto Rico's request to be the next state of the Union.

In regards to the Amendments to the PROMESA Act of 2019 (hereinafter "APA 2019"), we want to be clear that we will support any congressional bill that will benefit and contribute for a better quality of life for the U.S. citizens in Puerto Rico. We definitely support all actions, like those in Sections 3, 4, and 5 of APA 2019, that can and will contribute for a better education, public safety, healthcare system, pensions, investment and the creation of jobs, reduce unemployment, expand the work force, reduce informal economy, increase medium household income, reduce poverty level, among others.

We also agree that there needs to be total transparency with governmental transactions, like expressed in Section 6 of APA 2019, this is the least our people deserve. So we support disclosure of professional persons employed in order to submit a verified statement setting forth the professional connections with debtors, creditors, third party with interest, attorneys, accountants, Oversight Board, and any person employed by the Oversight Board.

We also believe it is necessary to provide trust to our constituency, so all documents relating to the public debt of the Government of Puerto Rico should be classified as a public document. See Section 7 of APA 2019.

We understand and believe the Government of Puerto Rico is headed in the right track to gain the trust of the market and investors. This Administration, with the support of our local legislative leadership hasn't hesitated to meet the financial obligations and to comply with Federal and local laws. The new Section 9 as proposed by APA 2019 establishes a mechanism that allows for unsecured financial obligations to be discharged. In order for any discharge of an unsecured financial obligation to be feasible, the trust of the Government of Puerto Rico or its entities can't be put in harm's way. It is necessary to have a balance of what the public interest needs in order to provide a stable and economic atmosphere for investment.

We have always supported a comprehensive audit of Puerto Rico's public debt since 1972 until present, including its instrumentalities, in order to provide a clean and transparent process. But this audit has to be done in accordance to and with the endorsement of the Federal Government. We will support any bill or measure that can bring peace of mind to the people in Puerto Rico. According to the bill, the funding would be appropriated as necessary to carry out its duties. See Section 10 of APA 2019.

After Hurricanes Irma and Maria, the Government of Puerto Rico created the Central Office of Recovery, Reconstruction and Resiliency (known as "COR3"), in order to provide disaster planning and transparent procedures. Its Executive Director is the person in charge and liaison between the Puerto Rico Government, its municipalities, and FEMA. The creation of the Office of Reconstruction Coordinator for Puerto Rico according to Section 11 of APA 2019 would carry out most or the same duties the COR3 Director so far has carried out.

Local Law 17 of 2019 established the Energy Public Policy Law of Puerto Rico. This Law allows for the total transformation of energy, including generation, transmission and distribution. Section 12 of APA 2019 creates the position of Revitalization Coordinator which would be the person who would exercise supervision, control and oversight of the operations of the Puerto Rico Electric Power Authority and direct the reconstruction of the electric grid of our archipelago.

The best way to provide justice to the Islands is not by amending PROMESA, but by providing the necessary tools to fully incorporate Puerto Rico as a state of the Union. President William J. Clinton once said about Puerto Rico: "[s]ome people question the option of statehood because of the Hispanic culture of Puerto Rico. And with all respect, I disagree with them. After all, this is an issue for the 21st century for America." And in the words of our beloved President George H.W. Bush: "[t]here's another issue that I've decided to mention here tonight. I've long believed that the people of Puerto Rico should have the right to determine their own political

future. Personally, I strongly favor statehood. But I urge the Congress to take the necessary steps to allow the people to decide in a referendum." Two great American Presidents that didn't hide their support for Puerto Rico.

Nevertheless we respectfully submit an enclosed document suggesting several additional amendments, to APA 2019, Our suggestions are based in the 3 years of experience working with the Board.

We humbly appreciate once again the opportunity given to us. Should you require any additional information feel free to contact us at any time. Thank you for your time and consideration. May God bless the United States of America.

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## APPENDIX 1

SUGGESTED AMENDMENTS

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*1. Section 201—Approval of Fiscal Plans*

**Participation of the Legislature in the Fiscal Plan**

Certainly, a fiscal plan is a road map where the Government might establish substantive public and fiscal policy and requires an interactive process between the Governor and the Oversight Board. But PROMESA excludes the Legislature in the preparation of the Fiscal Plan. Since the Legislature does not have a say in the Fiscal Plan, many prerogatives of the elected officials are bypassed.

For example, the Fiscal Plans certified by the Oversight Board are very itemized with respect to line items budgets, stating a micro level of analysis. In other words, the Oversight Board, using the Fiscal Plan, is preparing a type of Budget in advance, instead of an estimate of expenditures for a period of 5 years, and when the Legislature entered to analyze the appropriations included in the Proposed Budget (sent by the Oversight Board), the Budget to be Adopted by the Legislature shall be almost identical to the Certified Fiscal Plan (initiated by the Governor and already certified by the Oversight Board). If not, the Oversight Board will determine, as it already did, that the Adopted Budget will be significantly inconsistent with the Fiscal Plan. Thus, the Fiscal Plan, far from being a road map to establish fiscal responsibility, it is in fact a straitjacket for the Legislature.

Based on the above, we have the following amendments:

**"SEC. 201. APPROVAL OF FISCAL PLANS.**

(a) IN GENERAL.—As soon as practicable after all of the members and the Chair have been appointed to the Oversight Board in accordance with section 101(e) in the fiscal year in which the Oversight Board is established, and in each fiscal year thereafter during which the Oversight Board is in operation, the Oversight Board shall deliver a notice to the Governor *and the Legislature* providing a schedule for the process of development, submission, approval, and certification of Fiscal Plans. The notice may also set forth a schedule for revisions to any Fiscal Plan that has already been certified, which revisions must be subject to subsequent approval and certification by the Oversight Board. The Oversight Board shall consult with the Governor *and the Legislature* in establishing a schedule, but the Oversight Board shall retain sole discretion to set or, by delivery of a subsequent notice to the Governor *and the Legislature*, change the dates of such schedule as it deems appropriate and reasonably feasible.

(b) REQUIREMENTS.——

(1) IN GENERAL.—A Fiscal Plan developed under this section shall, with respect to the territorial government or covered territorial instrumentality, provide a method to achieve fiscal responsibility and access to the capital markets, and——

(A) provide for estimates of revenues and expenditures, *that might be used as a guidance in developing the Territory Budget under section 202(c)*, in conformance with agreed accounting standards and be based on——

(i) applicable laws; or

(ii) specific bills that require enactment in order to reasonably achieve the projections of the Fiscal Plan;

. . .

(c) DEVELOPMENT, REVIEW, APPROVAL, AND CERTIFICATION OF FISCAL PLANS.——

(1) . . .

(2) FISCAL PLAN DEVELOPED BY GOVERNOR *AND THE LEGISLATURE.*—The Governor *and the Legislature* shall submit to the Oversight Board any proposed Fiscal Plan required by the Oversight Board by the time specified in the notice delivered under subsection (a).

(3) REVIEW BY THE OVERSIGHT BOARD.—The Oversight Board shall review any proposed Fiscal Plan to determine whether it satisfies the requirements set forth in subsection (b) and, if the Oversight Board determines in its sole discretion that the proposed Fiscal Plan——

(A) . . .

(B) does not satisfy such requirements, the Oversight Board shall provide to the Governor *and the Legislature*——

(i) . . .

(ii) . . .

(d) REVISED FISCAL PLAN.——

(1) IN GENERAL.—If the Governor *and the Legislature* receives a notice of violation under subsection (c)(3), the Governor *and the Legislature* shall submit to the Oversight Board a revised proposed Fiscal Plan in accordance with subsection (b) by the time specified in the notice delivered under subsection (a). The Governor *and the Legislature* may submit as many revised Fiscal Plans to the Oversight Board as the schedule established in the notice delivered under subsection (a) permits.

(2) DEVELOPMENT BY OVERSIGHT BOARD.—If the Governor *and the Legislature* fails to submit to the Oversight Board a Fiscal Plan that the Oversight Board determines in its sole discretion satisfies the requirements set forth in subsection (b) by the time specified in the notice delivered under subsection (a), the Oversight Board shall develop and submit to the Governor and the Legislature a Fiscal Plan that satisfies the requirements set forth in subsection (b).

(e) APPROVAL AND CERTIFICATION.——

(1) . . .

(2) DEEMED APPROVAL OF FISCAL PLAN DEVELOPED BY OVERSIGHT BOARD.—If the Oversight Board develops a Fiscal Plan under subsection (d)(2), such Fiscal Plan shall be deemed approved by the Governor *and the Legislature*, and the Oversight Board shall issue a compliance certification for such Fiscal Plan to the Governor and the Legislature.

(f) JOINT DEVELOPMENT OF FISCAL PLAN.—Notwithstanding any other provision of this section, if the Governor, *the Legislature* and the Oversight Board jointly develop a Fiscal Plan for the fiscal year that meets the requirements under this section, and that the Governor, *the Legislature* and the Oversight Board certify that the fiscal plan reflects a consensus between the Governor, *the Legislature* and the Oversight Board, then such Fiscal Plan shall serve as the Fiscal Plan for the territory or territorial instrumentality for that fiscal year."

Based on the above, we have the following amendments:

**"SEC. 202. APPROVAL OF BUDGETS.**

(a) . . .

(b) REVENUE FORECAST.—The Oversight Board shall submit to the Governor and Legislature a forecast of revenues for the period covered by the Budgets by the time specified in the notice delivered under subsection (a), for use by the Governor in developing the Budget under subsection (c). *The forecast of revenues shall include all the different types of income that the territorial government will generate for the period covered.*

. . ."

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*2. Section 204(c)—Restrictions on Budgetary Adjustments*

We need to start saying that the Oversight Board is not complying with this provision that states that when the Governor is reprogramming any amount of a certified Budget, the Oversight Board might provide the Legislature with an analysis that the proposed reprogramming is significantly inconsistent with the Budget and the Fiscal Plan. At this time, the Oversight Board has not complied with this process stated in PROMESA since the Legislature has not received any petition or any analysis with respect to a reprogramming of amounts of a certified Budget.

On the other hand, the Oversight Board understand that Joint Resolutions that appropriate on account of the Sales and Use Tax for capital expenditures, that belongs to prior fiscal years, are reprogramming amounts within the current certified budget. We vehemently disagree with the Oversight Board's interpretation. In fact, this kind of Joint Resolutions are consistent with a law enacted by the Government of Puerto Rico (Act No. 26–2017, known as the "Fiscal Plan Compliance Act"), and approved by the Oversight Board. For instance, Chapter 6, Section 7(h) of such law, explicitly states that funds allocated through Legislative Donations or appropriations on account of the Sales and Use Tax will be excluded from being deposited in the Puerto Rico Treasury and are, therefore, not subject to the Budget process.

Based on the above, we have the following amendments:

**"SEC. 204. REVIEW OF ACTIVITIES TO ENSURE COMPLIANCE WITH FISCAL PLAN.**

(a) . . .

(b) . . .

(c) RESTRICTIONS ON BUDGETARY ADJUSTMENTS.——

(1) SUBMISSIONS OF REQUESTS TO OVERSIGHT BOARD.—If the Governor submits a request to the Legislature for the reprogramming of any amounts provided in a certified Budget, the Governor shall submit such request to the Oversight Board, which shall analyze whether the proposed reprogramming is significantly inconsistent with the Budget, and submit its analysis to the Legislature as soon as practicable after receiving the request. *This provision shall not apply to previous fiscal year's appropriations for capital expenditures.*

. . ."

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*3. Section 204(a)—Submission of Legislative Acts to Oversight Board*

**Revision of Enacted Laws:**

Section 204(a) of PROMESA allows the Oversight Board to review any new legislation enacted by the Government of Puerto Rico. Specifically, this section prescribes the notification process required after the Oversight Board evaluates any law. In case that the Governor submits a certification that the law is significantly inconsistent with the Fiscal Plan, the Oversight Board shall direct the Governor and the Legislature to "[1] correct the law to eliminate the inconsistency; or [2] provide an explanation for the inconsistency that the Oversight Board finds reasonable and appropriate."

Please note that PROMESA does not address the situation when the Governor presented certifications of a law stating a lack of significantly inconsistent with the Fiscal Plan but the Oversight Board has a different conclusion. In several times, even after the Governor certificated that the law is not significantly inconsistent with the Fiscal Plan, the Oversight Board, after evaluated such laws enacted, has not express any substantive reason or provided sufficient grounds for their

conclusions that the laws are inconsistent with the Fiscal Plan. Certainly, the Oversight Board is acting as if the Congress granted it the power to declare legislative acts null and void unilaterally.

On the other hand, this section does not prescribe the time the Oversight Board has to review any legislative acts.

**Line Item Veto**

The Oversight Board pretends that has the power to exercise a *Line Item Veto* of laws enacted by the Government of Puerto Rico. For example, after three (3) months that the Government enacted Act 257–2018 (the "Tax Bill"), the Oversight Board sent a letter that the compliance certification was deficient as to many articles of the Tax Bill. In such communication, the Oversight Board stated that "it reserves the right to prevent the enforcement or application of such articles included in the Tax Bill."

This action of the Board, of reserving a right to prevent the application of a part of the Tax Bill, but not on the remaining parts of that Act, **is unconstitutional under federal law**. These actions are analogue of what the Line Item Veto Act of 1996 proposed under President Clinton in the 90s. In *Clinton v. City of New York*, 524 U.S. 417 (1998), the Supreme Court of the United States ruled that the *Line Item Veto* is not authorized by the Constitution of the United States because the Presentment Clause in Article 1, section 7 established three procedural steps to be taken to approve a bill: "a bill containing its exact text was approved by a majority of the Members of the House of Representatives; the Senate approve precisely the same text; and the text was signed into law by the President of the United States. The Constitution explicitly requires that each of those three steps be taken before a bill may become law." If the Executive branch could exercise the power of the *Line Item Veto*, it would be leading to create a distinct law without the prerogatives of the legislative branch and infringe the Separation of Powers. If these actions were taken by Oversight Board, with the provisions of PROMESA, a federal law, it would be a violation of the Presentment Clause and that determination will be unconstitutional.

Remembering the famous words that Montesquieu once told about if the legislative, executive and judiciary powers were not separated and distinct from each other: "There can be no liberty where the legislative and executive powers are united in the same person, or body of magistrates." [1] And, "[w]hen the legislative and executive powers are united in the same person or body, says he, there can be no liberty, because apprehensions may arise lest the same monarch or senate should enact tyrannical laws to execute them in a tyrannical manner". *Clinton v. City of New York, supra*, at 451. Thus, the pretension that the Oversight Board has manifested in the past is contrary to the U.S. legal system and, thus, not allowed by PROMESA.

Based on the above, we have the following amendments:

**"SEC. 204. REVIEW OF ACTIVITIES TO ENSURE COMPLIANCE WITH FISCAL PLAN.**

(a) SUBMISSION OF LEGISLATIVE ACTS TO OVERSIGHT BOARD.——

(1) SUBMISSION OF ACTS.—Except to the extent that the Oversight Board may provide otherwise in its bylaws, rules, and procedures, not later than 7 business days after a territorial government duly enacts any law during any fiscal year in which the Oversight Board is in operation, the Governor shall submit the law to the Oversight Board.

(2) COST ESTIMATE; CERTIFICATION OF COMPLIANCE OR NON-COMPLIANCE.—The Governor shall include with each law submitted to the Oversight Board under paragraph (1) the following:

(A) A formal estimate prepared by an appropriate entity of the territorial government with expertise in budgets and financial management of the impact, if any, that the law will have on expenditures and revenues.

(B) If the appropriate entity described in subparagraph (A) finds that the law is not significantly inconsistent with the Fiscal Plan for the fiscal year, it shall issue a certification of such finding.

[1] The Federalist Papers: No. 47. Please refer also to *Clinton v. City of New York, supra*, at 451.

(C) If the appropriate entity described in subparagraph (A) finds that the law is significantly inconsistent with the Fiscal Plan for the fiscal year, it shall issue a certification of such finding, together with the entity's reasons for such finding.

(3) NOTIFICATION.—The Oversight Board shall send, *not later than 30 days after the submission of the law by the Governor*, a notification to the Governor and the Legislature if——

(A) the Governor submits a law to the Oversight Board under this subsection that is not accompanied by the estimate required under paragraph (2)(A);

(B) the Governor submits a law to the Oversight Board under this subsection that is not accompanied by either a certification described in paragraph (2)(B) or (2)(C); or

(C) the Governor submits a law to the Oversight Board under this subsection that is accompanied by a certification described in paragraph (2)(C) that the law is significantly inconsistent with the Fiscal Plan.

*(D) The Oversight Board, after evaluation of the law, concludes that the law is significantly inconsistent with the Fiscal Plan.*

(4) OPPORTUNITY TO RESPOND TO NOTIFICATION.——

(A) FAILURE TO PROVIDE ESTIMATE OR CERTIFICATION.—After sending a notification to the Governor and the Legislature under paragraph (3)(A) or (3)(B) with respect to a law, the Oversight Board may direct the Governor to provide the missing estimate or certification (as the case may be), in accordance with such procedures as the Oversight Board may establish.

(B) SUBMISSION OF CERTIFICATION OF SIGNIFICANT INCONSISTENCY WITH FISCAL PLAN AND BUDGET.—In accordance with such procedures as the Oversight Board may establish, after sending a notification to the Governor and Legislature under paragraph (3)(C) *and (3)(D)* that a law is significantly inconsistent with the Fiscal Plan, the Oversight Board shall direct the territorial government to——

(i) correct the law to eliminate the inconsistency; or

(ii) provide *a substantive* explanation for the inconsistency that the Oversight Board finds reasonable and appropriate.

(5) FAILURE TO COMPLY.—If the territorial government fails to comply with a direction given by the Oversight Board under paragraph (4) with respect to a law, the Oversight Board may take such actions as it considers necessary, consistent with this Act, to ensure that the enactment or enforcement of the law will not adversely affect the territorial government's compliance with the Fiscal Plan, including preventing the enforcement or application of the law. *The Oversight Board shall not have any Line Item Veto Authority.*

. . ."

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*4. Section 205—Recommendations on Financial Stability and Management Responsibility*

Certainly, PROMESA allows the Oversight Board to submit recommendations to the Governor and/or the Legislature about policy actions to ensure compliance with the Fiscal Plan. But Congress did not give the Oversight Board the authority to repeal a current law in Puerto Rico.

For example, the Oversight Board, through the Fiscal Plan and the Certified Budget, is pretending to eliminate the Christmas Bonus that is mandatory based on Act Law No. 148 of June 30, 1969, as amended. Moreover, Act No. 26–2017, known as the "Fiscal Plan Compliance Act," was enacted by the Government of Puerto Rico and approved by the Oversight Board. In Act 26–2017, states in its section 2.08 (Bonus) states that ". . . the only financial bonus to be granted to government employees of the Central Government and the public corporations thereof shall be the Christmas Bonus. The employees shall be entitled to a bonus in the amount of six hundred dollars ($600) for every year said employee has rendered services in the Government of Puerto Rico for at least six (6) months."

The Oversight Board, however, in the certified budget for fiscal year 2019–2020 eliminated the Christmas Bonus *de facto*. The Budget, without any doubt, is a tool to achieve fiscal responsibility but it cannot supplant the fiscal and public policy stated by elected officials. We might recall that one of the draft of the PROMESA bill conferred the Oversight Board powers to review legislative acts enacted by the Puerto Rico Government and if the board concluded that the act was significantly inconsistent with the fiscal plan, the Oversight Board was granted with the authority to declare the act null and void. But Congress did not allow that, instead Congress allowed that the Oversight Board might submit recommendations to the Governor or the Legislature. If the recommendations are not adopted, PROMESA, prescribes the procedures to address the rejection of the recommendations. Thus, in our point of view, the Oversight Board do not have the authority to unilaterally repeal a law using a **Fiscal Plan or Certified Budget**. This is unlawful and exceed the Board's powers granted by Congress.

Based on the above, we have the following amendments:

**"SEC. 205. RECOMMENDATIONS ON FINANCIAL STABILITY AND MANAGEMENT RESPONSIBILITY.**

(a) . . .

(b) RESPONSE TO RECOMMENDATIONS BY THE TERRITORIAL

(1) . . .

(2) . . .

(3) EXPLANATIONS REQUIRED FOR RECOMMENDATIONS NOT ADOPTED.—If the Governor or the Legislature (whichever is applicable) notifies the Oversight Board under paragraph (1) that the territorial government will not adopt any recommendation submitted under subsection (a) that the territorial government has authority to adopt, the Governor or the Legislature shall include in the statement explanations for the rejection of the recommendations, and the Governor or the Legislature shall submit such statement of explanations to the President and Congress. *If a recommendation is rejected, the Oversight Board shall not have the power to adopt any new legislation or to rescind an existing law through a Fiscal Plan or Certified Budget.*

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Mr. GALLEGO. Thank you.

We now recognize the Honorable Rafael Hernández, the Minority Leader for the Puerto Rico House of Representatives.

## STATEMENT OF THE HON. RAFAEL HERNÁNDEZ MONTANEZ, MINORITY LEADER, PUERTO RICO HOUSE OF REPRESENTATIVES

Mr. HERNÁNDEZ. Good morning, Chairman Gallego, Ranking Member Bishop, and members of the Committee. Thank you for the opportunity to appear before you to discuss these amendments to PROMESA.

PROMESA is an imperfect solution to the frightening challenge Puerto Rico faced in 2016. No matter how many amendments we agree on today, we will never make it perfect. All of this could have been avoided if the Congress had adopted for Puerto Rico a Super Chapter 9 of the Bankruptcy Law.

Why is this important? If the government of Puerto Rico had represented itself 3 years ago in the Bankruptcy Court directly with its own lawyers, this costly and exhausting litigation would have ended by now, and we wouldn't be here today.

The Oversight Board is a distraction and has become a perfect political excuse for the local government to agree on something with the Board and then say something different to the public. The

result, the government hides behind the Board and it creates political, social, and economic instability in Puerto Rico.

But here we are. Congress will not eliminate the Board, which would be our preference, so we have to continue to work very hard to meet the conditions that you imposed on us to pave the way for the Board to get out. To this end, I am fully committed.

We applaud that the U.S. Government assumed the responsibility for payment of all expenses of the Board. Although it is implied that the Board will have to comply with all the regulations in the use of Federal funds required by the U.S. Treasury, the local administration has refused to define essential services for purely political reasons.

My suggestion is that we should strive to agree on a certain percentage of the total budget to be designated as a reasonable maximum amount that the government will set aside from its budget. We can look at the last 10 years and see how much we have spent on essential services as a percentage of the total expenditures and agree on a number.

The strongest criticism to PROMESA has been that it did not provide for economic development, when we all know that the solution to our fiscal problems is to grow our economy. The proposed amendment set specific economic objectives that the Board should strive for, but it lacks metrics. If we don't set measurable goals, little will be done.

Since fiscal plans for the next few years were drafted based on the flow of funds for the reconstruction of Puerto Rico, I suggest that PROMESA order the Board to draw plans based on a 5 percent GNP annual, sustained growth from 2023 on, and provide the specifics as to how this will be accomplished.

What will happen after the reconstruction funds end? The Board needs to sit down now with our government to identify the competitive advantages that Puerto Rico offers investors, and both lobby Congress to legislate those incentives that will attract the capital that is needed to grow the economy. Needless to say, Puerto Rico cannot plan ahead its economic future on uncertainties such as the Federal credits for foreign companies, the recently enacted tax reform in the United States, and total dependence on concessions from the Federal Government, none of which provide a permanent solution to our economic challenges.

In complete agreement with your amendment calling for total transparency in relation to contracting consultants, lawyers, and accountants by the Board. Requiring access to information and auditing the debt will also support this goal.

In complete agreement with the elimination of the position of Infrastructure Coordinator. To this date, the Board has not approved one single critical project, except a housing development that is embroiled in serious controversies. An investigation by the local House of Representatives revealed that the then-coordinator and his attorney exerted undue pressure on certain House members, as denounced by the Speaker of the House.

But the crucial need for infrastructure investment, particularly after Hurricane Maria, exists now, more than ever, and we are glad that you are addressing this issue with the creation of a Reconstruction Coordinator.

The real need right now is the oversight and effective coordination of the Federal agencies to accelerate the disbursement of millions of dollars already approved by Congress.

I cannot support the appointment of the Chief Executive Officer of PREPA with extraordinary powers that supersedes those of the existing management structure. We are handing over to the Committee specific language to improve those amendments. We urge you to consider it.

Thank you for the opportunity to address the Committee.

[The prepared statement of Mr. Hernández follows:]

PREPARED STATEMENT OF RAFAEL "TATITO" HERNÁNDEZ MONTANEZ, POPULAR DEMOCRATIC PARTY DELEGATION LEADER, DISTRICT 11 REPRESENTATIVE

PROMESA is an imperfect solution to a frightening challenge Puerto Rico faced in 2016. No matter how many amendments we agree on today, we will never make it perfect. All of this could have been avoided had the Congress adopted for Puerto Rico a Super Chapter 9 of the Bankruptcy Law.

Why is this important? Had the Government of Puerto Rico 3 years ago, represented itself in the Bankruptcy Court, directly with its own lawyers, this costly and exhausting litigation would have ended by now, and we wouldn't be here today.

The Oversight Board is a distraction and has become the perfect political excuse for the local government to agree something with the Board and then say something different to the public. The result—the Government hides behind the Board and creates political, social and economic instability in Puerto Rico.

But here we are. Congress will not eliminate the Board, which would be our preference, so we have to continue to work very hard to meet the conditions you imposed on us, to pave the way for the Board to get out. To this end, I am fully committed.

We applaud that the U.S. Government assume responsibility for the payment of all expenses of the Board. Although it is implied that the Board will then have to comply with all the regulations in the use of Federal funds required by the U.S. Treasury, something that has been absent heretofore, we urge the Committee to consider enacting restrictions to avoid conflicts of interest in the hiring of contractors by the Board to defend self-interests of its members.

Local administrations have refused to define essential services for purely political reasons, because of the incapacity of politicians to be straightforward with the people. My suggestion is that we should strive to agree on a certain percentage of the total budget to be designated as a reasonable maximum amount that the government will set aside from its budget to pay for these services. We can look at the last 10 years and see how much we spent on essential services as a percentage of total expenditures and agree on a number.

The strongest criticism to PROMESA has been that it did not provide for economic development, when we all know that the solution to our fiscal problems is to grow our economy. The proposed amendments set specific economic objectives that the Board should strive for, but it lacks metrics. If we don't set measurable goals, little will be done.

Since fiscal plans for the next few years were drafted based on the flow of funds for the reconstruction of Puerto Rico, both Federal and private, I suggest that PROMESA order the Board to draw plans based on a 5 percent GNP annual, sustained growth from 2023 on, and provide the specifics as to how this will be accomplished.

What will happen when reconstruction funds end? The Board needs to sit down now with our government to identify the competitive advantages that Puerto Rico offers investors, and both, the Board and the Government, lobby Congress to legislate those incentives that will attract the capital that is needed to grow the economy. Needless to say, Puerto Rico cannot plan ahead its economic future on uncertainties such as the Federal credit to foreign companies, the recently enacted tax reform in the United States, and total dependence on concessions from the Federal Government, none of which provide a permanent solution to our economic challenges.

In complete agreement with your amendment calling for total transparency in relation to contracting consultants, lawyers and accountants by the Board, as Congresswoman Velázquez has been pushing for some time now. Requiring access to information and auditing the debt will also support this goal.

In complete agreement with the elimination of the position of the Infrastructure Coordinator. PROMESA created this position to coordinate critical projects in infrastructure. To this date, the Board has not approved one single critical project, except a housing development that is embroiled in serious controversies. An investigation by the local House of Representatives revealed that the then Coordinator and his attorney exerted undue pressure on certain House members, as denounced by the Speaker of the House in a recent public hearing.

But the crucial need for infrastructure investment, particularly after Hurricane Maria, exists now more than ever, and we are glad that you are addressing this issue with the creation of a Reconstruction Coordinator. This is all very positive, but not enough.

The real need right now is the oversight and effective coordination of the Federal agencies to accelerate the disbursement of millions of dollars already approved by Congress, and his role should include these additional responsibilities as a priority.

We cannot support the appointment by the President of the United States of a Chief Executive Officer for PREPA with extraordinary powers that supersedes those of the existing management structure at PREPA. I, among others, have filed a motion in the Federal court alleging that already certain actions of the Board violate the basic principles of our republican form of government by taking away prerogatives of the Executive and Legislative branches. The duties and responsibilities of this new position, as described in your draft, takes away all authority from this entity, something we strongly opposed in our statement before the Court.

We are handing over to the Committee specific language to improve the proposed amendments, which we urge you to consider.

Thank you for this opportunity to address the Committee.

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**AMENDMENTS TO THE DISCUSSION DRAFT**

BY RAFAEL HERNÁNDEZ MONTANEZ

**Sec. 3, Page 2, IN BETWEEN Lines 17 and 18, ADD:**

*"(c) Rules and limitations.—In the use, expenditure and disbursement of the funds herein appropriated, the FOMB, and its members individually, will observe all federal laws applicable, as well as any and all regulations specifically provided by the Department of the Treasury relative to the use of these funds. More specifically, the use of these funds by the FOMB and its members for contracting professional services from lawyers and lobbyists to promote before the Congress, directly or indirectly, the nomination, renomination or appointment of any of its members is prohibited."*

**Sec. 4, Page 3, Line 9 AFTER "requirements" ADD:**

*"To establish that to the maximum extent possible the territorial government will provide the FOMB an empirical study analyzing, for the past 10 years, the expenditures, as herein described, for the purpose of establishing a percentage of the total budget for essential services to be included in the Fiscal Plans."*

**Sec. 5, Page 3, Line 17 AFTER "level" ADD:**

*"to create a New Economic Model of Economic Development that will result in an annual growth of 5%, based on local and federal incentives, as provided by existing and new legislation, with measurable goals and where Puerlo Rico will have clear competitive advantages over other jurisdictions outside the United States, to attract private capital thereby creating a stable business environment for investment and new jobs."*

**Sec. 10, Page 27, Lines 16 to 19 DELETE ALL AND REPLACE WITH:**

*"(2) One representative of each parliamentary majority, selected by the members of the caucus in the Legislature."*

*(3) One representative of each parliamentary minority, selected by the members of the caucus in the Legislature."*

**Sec. 11, Page 29, IN BETWEEN Lines 15 and 16 ADD:**

*"(a) DEFINITION OF FEDERAL AGENCIES.—The term "federal agency" means agencies of the federal government of the United States responsible for disbursing federal funds for which the Commonwealth of Puerto Rico qualifies or any territorial instrumentality, or funds that have been granted by the*

*Congress for the reconstruction efforts resulting from the devastation caused by Hurricane Maria."*

**Sec. 11, Page 31, Line 8 ADD after "with" the phrase "federal agencies and"**

**Sec. 11, Page 32, IN BETWEEN Lines 11 and 12 ADD:**

*"(F) Act as liaison between the federal agencies and the local government entities regarding the disbursement of funds, obtaining permits, authorizations or endorsements and any other similar function necessary for the expeditious realization of all reconstruction projects and oversight the realization of these projects."*

**Sec. 12, Page 34, Line 8 AFTER "(A)" DELETE "exercise supervision, control and"**

**Sec. 12, Page 34, Line 11 AFTER "(B)" DELETE "direct" and REPLACE WITH "oversight"**

**Sec.12, Page 34, Line 19 AFTER "(B)" DELETE "design and implement" AND REPLACE WITH "recommend"**

**Sec. 12, Page 35, IN BETWEEN Lines 10 and 11 ADD:**

*"(F) File a motion in the court with jurisdiction over the Title III process of PREPA if the public corporation is in violation or not managing adequately the funds destined for the reconstruction of the electric grid, in the sole discretion of the Revitalization Coordinator, as mandated in this Section."*

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The CHAIRMAN [presiding]. I would like to thank my colleagues and elected officials for their testimony today. Let me recognize Mr. Gallego first for his questions and comments.

Mr. GALLEGO. Thank you, Mr. Chairman. Thank you to the witnesses. Questions are first for Senator Ríos.

Section 8 of the discussion draft would repeal Title V of PROMESA, which was originally intended to designate and fast track "critical infrastructure projects." Can you expand on why you think repealing Title V of PROMESA is necessary? Are there better, more sustainable ways to encourage infrastructure improvement on the island?

Mr. RÍOS. Thank you for the question. As you know, if I was going to support something on the amendments to Section 5, which are titles that attempt to define the economic growth standards—I mean, so far what we have had in PROMESA and the Fiscal Oversight Board is a project that was worth $25 million, and the guy who was part of the Board had to leave the island—with a $325,000 salary, by the way—and only to show for in 2 years a $25 billion price where he had a conflict of interest.

So, to define economic growth, it is something that is needed because right now it is too broad. And coming back to an analogy that Congressman Bishop had about home plate and 17 inches, as you all know I have been a baseball player all my life, and I am part of the national team of Puerto Rico. I am a pitcher. And you can throw all the strikes you can, but if you don't have an umpire that can call strikes and balls, then you don't have a game.

We have been throwing strikes for the last 3 years, and the umpire, which is the Board, in my opinion, hasn't been calling them fairly. So, when it comes to economic growth, when it comes to defining what are essential businesses to Puerto Rico, and services, the Board has its own playbook and its own set of rules that doesn't benefit the people of Puerto Rico.

So, economic growth, Section 5 to amend Section 201, it is a good attempt to put us on the right track to actually make something happen. Because, after all, that is what I thought they were going to be doing when they visited and established themselves in the island.

I hope I answered your question.

Mr. GALLEGO. To go a little further, Section 3 of the discussion draft would authorize Federal funding for the operations of the Fiscal Board, money that currently comes from Puerto Rico's budget. Can you briefly explain the consequences of the way the Board is currently funded, and why you think this change is necessary?

Mr. RÍOS. Well, as you know, as a Member of Congress—and I know you voted against it, and we had this discussion before, and we had this discussion with Chairman Grijalva, actually, even before the elections down in Arizona—Senator Bhatia was present at the time, and we talked about why the people of Puerto Rico have to be funding something that is not mandated. I don't know what it is up to today. I mean, it is called a board, but it is something that doesn't act like a board. It acts like something else, and it should be federalized.

Natalie Jaresko shouldn't be earning $600,000—the people of Puerto Rico's money. She comes in and she is doing a lot of things for the police officers. What about the teachers, the retirees? What about medical? What about assisted services like health?

Those are a part of it. And I am pretty sure if the United States of America and the Treasury Department was overseeing the way that the Board operates, Natalie Jaresko wouldn't be making $600,000. They wouldn't have six bodyguards to go around, and they would be responsible for what they do, and they would be transparent, something they don't do today.

They ask the government of Puerto Rico to be transparent; when it comes to them they are foggy. So, it needs to be there, it needs to be funded by the Department of Treasury, and it needs to be Federal, in my opinion.

Mr. GALLEGO. And the last question—the discussion draft also includes several provisions aimed at improving the transparency of the Board—you just kind of talked about this. Can you expand on the need for transparency, beyond what you just spoke, in the implementation of PROMESA?

Mr. RÍOS. Well, when they ask the people of Puerto Rico and the governor of Puerto Rico to be transparent in all transactions. When we ask them to give us information, they don't have it. I mean, they change their fiscal plan, their very own fiscal plan. They changed it seven times. They do make mistakes. How many? We don't know, because they don't communicate the two ways that it should be with the government of Puerto Rico. They ask us and they ask Representative Soto all the time for information on the budget. When we come to ask them about budget, it is not there. So, it goes both ways.

You can't ask for cooperation one way. It has to be—the other way would be a dictatorship. And my point is, they are not transparent. And Congress needs to call them to action and needs to call them to order and say, "What are you guys doing? Three years and

one project of $25 million?" And they cost $214 million. Plus $200 million, $300 extra million dollars that are under Title III they were allowed to spend.

Mr. GALLEGO. Thank you, sir. I yield back my time, Mr. Chair.

The CHAIRMAN. Mr. McClintock, you are recognized, sir.

Mr. MCCLINTOCK. Thank you, Mr. Chairman.

As I said, I am very sympathetic to your opposition to PROMESA. I opposed it when it was adopted. And the reason was because I think it strikes at the very core of the accountability not only that elected officials owe to the voters, but that the voters owe to themselves to deal with the consequences of the votes they have cast and the elected officials that they put into office.

One thing is certain in a democracy: You are always guaranteed to get the government you vote for. And if it turns out it is a government that is not to your liking, that is just nature's way of warning you need to be a little more careful about the votes you cast. There is something to be said for going away sadder, but wiser.

The central premise of PROMESA implies that the people of Puerto Rico are not competent to govern themselves, and I reject that premise categorically. But there is no denying that Puerto Rico's fiscal mess is a direct result of the votes that Puerto Rican voters cast for the officials that they elected.

And that question, I think, is also central to statehood. Until the people of Puerto Rico take responsibility for their votes, for the officials they have elected, and then set things right, how can they make a case for statehood?

My question of each of the panelists, very simply, is this: What would Puerto Rico's legislature do differently than the PROMESA Board has done? And I will go right down the list.

Senator Ríos?

Mr. RÍOS. That is a great question. Coming back to the statehood issue, it is a civil rights issue. I am a U.S. citizen, just like you are. We elect to the Congress and I am an elected Senator of Puerto Rico, just like the states. So, calling me an equal and defend what they call insular cases, it will be a mistake, in my opinion.

Mr. MCCLINTOCK. What would you do differently?

Mr. RÍOS. Of course, now, coming back to what I will do differently——

Mr. MCCLINTOCK. If I can narrow this down, my time is limited.

Mr. RÍOS. Yes, sure. OK.

Mr. MCCLINTOCK. What is the most important thing that each of you would have seen the legislature do, the difference from what the PROMESA Board has done?

Mr. RÍOS. First of all, balance a budget. You have $10 billion, that is what it can spend. And we all know this on this table.

The second thing is we need to pay our debts. And my government said from the get-go, we need to pay. Now, how much can we pay? That is a whole different question.

I was listening to your point about the unsecured debt. I think we should pay them, as well, because it will send a wrong message, in my opinion, for the future market. And we need to get back in the market. That is point blank. We need to get in the market, and it can be at a high interest rate.

So, that being said, we are in a pickle. We owe people money. And we told them we want to pay them money. And we have COFINA and we had all these matters that really is a contract——

Mr. MCCLINTOCK. I agree with you completely, but I want to also extend the question to the other witnesses.

Mr. BHATIA GAUTIER. Sir, I thank you for your question. Let me just say this. Puerto Rico had a——

Mr. MCCLINTOCK. The most important thing that you would do that differs from——

Mr. BHATIA GAUTIER. Three things, quickly. Three things: (1) Puerto Rico has to get economic growth if we don't get jobs, if we don't get investment, we are screwed. And we need to move forward in that direction. Puerto Rico had a great investment mechanism through taxation codes, and they were stricken away by Congress for no reason, no reason whatsoever. (2)——

Mr. MCCLINTOCK. Pardon me, stricken in PROMESA, or stricken in——

Mr. BHATIA GAUTIER. No, stricken in the 1990s, Section 936 in the 1990s.

Mr. MCCLINTOCK. Oh, of course, right, OK.

Mr. BHATIA GAUTIER. (2) We approved the local bankruptcy law precisely because we could do it at home. We tried to do it at home, and it was stricken down by the U.S. Supreme Court. (3) I created, with the help of my colleagues——

Mr. MCCLINTOCK. But, again, you adopted a constitution that specifically pledged the full faith and credit and redemption of those bonds.

Mr. BHATIA GAUTIER. Yes, and we——

Mr. MCCLINTOCK. And what you want to do is renounce that.

Mr. BHATIA GAUTIER. No, we don't want to renounce that, not at all. We want to create a restructuring mechanism——

Mr. MCCLINTOCK. Representative, I am sorry, but I have very limited time.

Representative Soto Torres?

Mr. SOTO TORRES. Yes. Economic growth would be one of our priorities. Definitely. We just approved a new incentive code. We also approved local legislation for capitalizing an opportunities bill included in the Federal tax reform. So, those are two major changes——

Mr. MCCLINTOCK. Let me ask you one other question. What has Congress done that has impeded the economy of Puerto Rico? And I will direct that to you, Representative Soto Torres.

Mr. HERNÁNDEZ. Sir, the problem is certainty. How we can approve something in Puerto Rico, then you can change over here as a Federal law? We don't have any certainty. We don't have stability. That is why we have going into Puerto Rico we are changing the rules right now again.

How are we going to have economic growth if somebody can come here, lobby something to change the status quo, the stability, the rule of law of the Puerto Rico? They even can change our constitution——

Mr. MCCLINTOCK. Basically, you are saying PROMESA itself is an impediment to——

Mr. HERNÁNDEZ. PROMESA itself, and these amendments, too.

Mr. MCCLINTOCK. Thank you.

The CHAIRMAN. Mr. Soto.

Mr. SOTO. Thank you, Mr. Chairman. We talked a lot about the complex history and how the Federal Government has been complicit in a lot of this debt being accrued. I know a lot of you know that history well.

I did want to mention again the good work we are doing in health care. We have bipartisan support both here and on the island, which is to finally treat Puerto Rico and all of our territories equal with regard to Medicaid.

And then, just this last week, to help seniors in Puerto Rico with low-income senior assistance for prescription drugs. So, that area we are getting a lot of progress even beyond this.

And then we talk a little bit about the bankruptcy reform in 1983, knocking Puerto Rico out of the code. And now PROMESA, this contorted law that we are now faced with. We are here to get your input.

And that is why we put out a draft, rather than a bill, so far. So, first, how many of you support having the independent audit, just by show of hands, so we could get that one—raise your hand if you support an independent audit.

OK, so we have consensus on that. How many of you support the current definition of essential public services? Raise your hand if you support that. The current definition of essential public services.

Mr. SOTO TORRES. The ones included in the draft?

Mr. SOTO. Correct, the one included in the draft.

Mr. SOTO TORRES. We, in the House of Representatives, we support it, but we believe that it should be more ample. The not-for-profit organizations that provide services to the people should be included. There are other areas like correctional services and the help for the correctional facilities that should be included, as well as the Treasury Department.

Mr. SOTO. OK. I——

Mr. BHATIA GAUTIER. Can I just say one sentence about that?

Mr. SOTO. Sure.

Mr. BHATIA GAUTIER. Sir, with all due respect, it should be the people of Puerto Rico who decide what their essential services are, not Members of Congress from different states. I am not telling you what the essential services are in Orlando. You know what the essential services are. We know what our essential services are. Let us make that decision based on our budget. You tell us what the ceiling is, and we will make that decision. It is for the people of Puerto Rico to make that decision.

[Applause.]

Mr. RÍOS. And let me just interject 1 second, and I think that Senator Bhatia is right on the issue. It is a matter of a local government, elected officials, and we take the responsibility. I am a politician. I mean, I show my face every time I make a decision, and I am responsible for that decision. And the budget is our decision, as well. If it goes wrong, my fault. If it goes right, you were supposed to do it right, anyway.

So, at the end of the day, it is the only answer. Let the people of Puerto Rico decide what the benefits and the essential services

are, and then they have no issues on reporting, OK, you have to balance your budget, OK, we will do it, to get out of PROMESA.

Mr. SOTO. Sure. Thank you for that passionate response.

In addition, the issues of Revitalization and Reconstruction Coordinators, I understand a lot of you, as I, have a concern with that, because we already have this PROMESA Federal layer. Does everybody oppose or support having these two additional coordinators?

Let's start with you, Leader Hernández.

Mr. HERNÁNDEZ. We have——

Mr. SOTO. A simple yes or no would be helpful, because I have limited time.

Mr. HERNÁNDEZ. I support it, because we have cases of——

Mr. SOTO. OK.

Mr. HERNÁNDEZ. We need to push to have the resources on the island.

Mr. SOTO. Sure. Leader Soto Torres, do you all support or oppose the two coordinators?

Mr. SOTO TORRES. If it is like a liaison for Puerto Rico and the Federal agencies, a facilitator. But not if it is a person taking the decisions over, and another layer of taking decisions over the coordinators that we already have.

Mr. SOTO. Leader Bhatia?

Mr. BHATIA GAUTIER. I am against a PREPA Coordinator. I think that is wrong. Federalizing PREPA is wrong.

And No. 2, we need to liberate the funds. If that is what it takes for the U.S. Government to liberate the funds, we may have to take it. We don't like it, but we may have to take it. I am against, unless it is a facilitator.

Mr. SOTO. Sure.

Mr. BHATIA GAUTIER. I just want the funds to get to the poor people up in the mountains—50,000 people still with blue tarps makes no sense under the United States of America.

Mr. SOTO. Leader Ríos?

Mr. RÍOS. I am against the PREPA proposal. I thought the Federal Government was supposed to be fast, and we had a COR3 that we can actually manage the funds. But if it is not the Board, and it is someone that will care about the people of Puerto Rico and not a salary, yes.

Mr. SOTO. Thank you all for your input. And I agree, Leader Bhatia, the people of Puerto Rico should be deciding the public services. If I could change this bill in a second, it would be to release all the FEMA funds immediately and end PROMESA. Unfortunately, since we don't have the bipartisan support for that, we find ourselves here today. But I appreciate all your concerns and passion over this issue, and appreciate you testifying today.

Mr. BHATIA GAUTIER. Thank you.

The CHAIRMAN. Thank you. Senator Ríos, I agree. PROMESA was only a partial solution to the economic problems of Puerto Rico, and the imposition of the Oversight Board that has undemocratic power over decisions of the elected representatives of the people of Puerto Rico. I understand that. I understand that you and the President of the Senate think PROMESA should be repealed and be replaced by statehood.

But if the law can't be repealed, and we follow the train of thought of the Ranking Member, that this has to stabilize first before the discussion of status is even considered by Congress or an Administration, given that, are there any amendments you think should be made?

Are there any amendments that would help, in terms of dealing with the two issues that you brought up, the undemocratic power and the limiting of the role of elected officials in Puerto Rico?

Mr. RÍOS. Well, as you know, I have to state what is the basics, which is equality.

But to answer your question, if I was to amend what I think is a temporary case of diminished democracy for Puerto Ricans, first of all, who pays PROMESA? It should be the Federal Government, because it was imposed.

The CHAIRMAN. OK, so that amendment——

Mr. RÍOS. That is one.

The CHAIRMAN. OK.

Mr. RÍOS. When it comes to economic growth, it needs to be defined. So, that will be two.

The CHAIRMAN. OK.

Mr. RÍOS. When it comes to ethics, there should be ethics. So, that is three.

And when it comes to essential services, you should listen to the people of Puerto Rico, my opinion, and how the people of Puerto Rico—like we are doing today—define what are the essential services.

And last, OK, somebody has to call the Board to order. Their spending is unreasonable, and they think they are above the law. They think they are even above Congress.

The CHAIRMAN. All right——

Mr. RÍOS. So, you have to define the powers of the Board.

The CHAIRMAN. Thank you, Senator.

Mr. RÍOS. Thank you.

The CHAIRMAN. Senator Bhatia, the discussion draft includes a provision requiring disclosures by the consultants employed by the Oversight Board to avoid any conflict of interest. In your testimony, you mentioned the need for introducing legislation to avoid conflicts of interest with members of the Oversight Board. Talk about that provision, and also the position on the draft bill's provision to enable territorial governments to write off all unsecured debt, other than from vendors and service providers, once every 7 years. On those two issues.

Mr. BHATIA GAUTIER. Yes. No. 1, I am very concerned about the ethical issues involved with the Board. I think initially some of the Board members did not want to disclose any potential conflict of interest. And now, when Board members leave the Board, whenever that happens, we should have full disclosure. And I think it is an ethical issue. I think Congresswoman Velázquez has raised the issue, and I fully support her bill, and I fully support the disclosure which goes beyond the Board, the kind of disclosure that goes into all the consultants.

The CHAIRMAN. OK.

Mr. BHATIA GAUTIER. That is No. 1. No. 2, when it comes to just cleaning out the debt, of course, I would love that. But what are

the consequences? And I think that we should be careful when we decide that we are going to erase that. I am all for erasing the debt. Perhaps if it is down to zero it would be great.

The question, if it is federally mandated, what effect will it have on the future of Puerto Rico, I am concerned about that.

The CHAIRMAN. Thank you, sir. Representative Soto Torres and Representative Hernández, thank you for your feedback on the provisions of this discussion draft. In the testimony, you agree with amendments calling for protecting essential services. I think one of you gentlemen said it should be more ample, and the people of Puerto Rico should have a role in deciding what they are.

The other one was ensuring transparency, avoiding conflict of interest by consultants, and a comprehensive audit of the debt.

Are there any provisions that we did not include in the discussion draft, if this were to move forward, that you would recommend?

Either or both of you.

Mr. SOTO TORRES. We included and sent to the Committee a group of amendments in terms of the process for the preparation of the fiscal plan, in terms of the budgeting process, and establishing some parameters for the Board. I am going to give you a few examples.

In the budget process, PROMESA established that the legislators, once it approves a budget, it is sent to the Oversight Board, and they have to certify that it is in compliance with the fiscal plan, and that it should be significantly consistent with the fiscal plan. What is significantly consistent with the fiscal plan?

The CHAIRMAN. OK, if I may—Mr. Hernández, a quick comment on any provision that, if we are going in that direction of reforming, what recommendation?

Mr. HERNÁNDEZ. We included an amendment considering enactment restrictions to avoid conflict of interest in the hiring of contractors by the Board, to defend self interest—as a member in the process of lobbying, and the process of reappointed—they are using resources of the people of Puerto Rico to lobby for itself.

The CHAIRMAN. They are going to call votes in 40 minutes or so, so I want to thank all of you for your testimony. I appreciate it very much. It was very helpful.

At this point, there are other questions for you that we are going to submit in writing because we didn't get a second round. But I want to thank you again. Let me now call the next panel up, and thank you again.

[Pause.]

The CHAIRMAN. Let me now welcome the Honorable Carmen Yulín Cruz Soto, Mayor, City of San Juan.

Thank you. And thank you for your patience and for coming to visit us. I want to also, on a personal note, thank you very much for your insistence on a couple of points that are part of this, having to do with transparency issues within that audit, with the provisions, and if PROMESA is going to be reforming, defining the process for what essential services were. Our visit with you in San Juan, those were points that you made very, very clearly to us, so I appreciate that help.

Five minutes. The floor is yours, Madam Mayor.

**STATEMENT OF THE HON. CARMEN YULÍN CRUZ SOTO, MAYOR, CITY OF SAN JUAN**

Ms. CRUZ SOTO. Thank you, Mr. Grijalva.

The presence of a Board comprised of non-elected officials making decisions on behalf of Puerto Rico constitutes a de facto financial dictatorship. Thus, PROMESA must be repealed. The Board continues to mortgage our future, while acting on behalf of vulture funds.

Our debt must be canceled. However, since the political will for that seems distant, it must be fully audited. Reaching payment agreements without this audit is simply catering to the needs of bondholders. We are satisfied an audit commission has been included in the draft. We suggest the Committee revives the Commission [Speaking foreign language], as enacted by Puerto Rico's Law 97, approved in 2015. This would be a step toward restoring public trust and governmental accountability.

Define Section 201—La Junta neglected to craft their fiscal plan with sufficient funding for essential services. The Board has strangled our limited budget to favor debt payment, disregarding the severe impact this would have on our people. The fiscal plan cannot be oblivious to governmental obligations to provide basic, essential services.

Our position is simple: The people before the debt.

The draft before us is an opportunity to remedy this wrong by ensuring funding for essential services such as pension payments for governmental retirees, education services, health services, and law enforcement services.

We submit the draft should also include as essential services, municipal financing and transportation for the people of Vieques and Culebra. Financial recovery cannot come at the expense of neglecting to provide appropriate levels of essential services, for it is those who need the services the most who will bear the brunt of any austerity measures.

The latest fiscal plan, which has been endorsed by Governor Vázquez, includes additional cuts to our pensions. These reductions will simply make it unbearable for many of our retirees to survive.

Education is the strongest weapon against inequality, and the true path to achieving social justice and economic growth. The first step in guaranteeing a future for our young people must be safeguarding our most important higher education system, the University of Puerto Rico and its 11 campuses.

This Committee needs to understand more fully that municipalities are the level of government closest to the people responsible for providing its citizens with essential services. The Board has already reduced $350 million in municipal funding for all municipalities, thus limiting their ability to provide essential services for our citizens. We urge you to include a disposition in the law to create an advisory committee composed of representatives from municipal governments aiming to ensure this level of government is part of the solution.

The current draft includes two dispositions which we adamantly oppose. Sections 11 and 12 call for the creation of a Reconstruction Coordinator for Puerto Rico and a Revitalization Coordinator for the Puerto Rico Electric Power Authority. Legal figures such as

these would further undermine democratic structure of our local government.

In the case of PREPA, we are concerned the proposed structure would concede incalculable authority to one person, essentially making this coordinator into a super oversight board of one.

PROMESA is a clear manifestation of the burden of colonialism. I appreciate the positive steps taken by this Committee in trying to ease the pains caused by the enactment of PROMESA. But the truth remains this can only happen because we are a colony. Until that is addressed, we will only be facing part of the problem.

When thinking of PROMESA, this Committee must answer a fundamental question: [Speaking foreign language.] With the people, or with the Board? The answer must be clear and unequivocal. Puerto Ricans before the debt. The people of Puerto Rico must not be asked to sacrifice any more. God knows, we have sacrificed more than enough.

Thank you very much, Mr. Chairman.

[The prepared statement of Ms. Cruz Soto follows:]

PREPARED STATEMENT OF CARMEN YULÍN CRUZ SOTO

Chairman Grijalva, Vice Chair Haaland, Ranking Member Bishop, and members of the Committee: My name is Carmen Yulín Cruz Soto, and I am the Mayor of San Juan. First, I thank you for the opportunity to express our views and opinions before this honorable Committee regarding a Discussion Draft provided by Chairman Grijalva about a series of proposed amendments to the Puerto Rico Oversight, Management, and Economic Sustainability Act ("PROMESA").

We have been invited today to discuss said amendments and their potential impact on the debt restructuring process that the Commonwealth of Puerto Rico currently faces. PROMESA has provided the parameters of the restructuring process amid great objection and criticism from publicly elected officials, trade unions, and the general population for establishing policy measures that erode basic principles of democracy and self-determination. Nevertheless, the current political landscape has presented new opportunities for improvement and it is within this context that we express our views today.

From the outset, it is imperative to state that I firmly believe that PROMESA should be repealed. We must remember the road traveled in order to arrive at our current situation. A legislative gap prevented Puerto Rico from having access to the dispositions and protections set forth in Chapter 9, of the U.S. Bankruptcy Code. Because of the preemptive nature of Federal bankruptcy laws, the Commonwealth was precluded from enacting a statute of its own that would allow for public debt restructuring, whilst excluding Puerto Rico from the definition of "state" for purposes of Chapter 9.[1] These mutually conflicting realities put the Commonwealth in a very precarious position at a time where its fiscal and economic situation had reached a tipping point.

Yet, in the absence of congressional interest toward repealing PROMESA, there are definitive areas of improvement that have been addressed in the Discussion Draft.

A CLEAR DEFINITION OF ESSENTIAL PUBLIC SERVICES

At the core of every controversy surrounding the application of PROMESA, there has been an issue with the lack of a clear definition for Essential Public Services. In its conception, PROMESA did not include a definition that would serve the purpose of outlining government services which warranted protection during the debt restructuring process. Furthermore, it is our contention, that after the law became affective, the Financial Oversight and Management Board ("FOMB") has evaded the responsibility of defining such concept.

With the purpose of avoiding a capricious design or vague parameters, Section 201 of PROMESA establishes in detail the fundamental requirements that all fiscal plans should meet as it pertains to Covered Entities. Regarding this matter, the law states that all Fiscal Plans shall "provide a method to achieve fiscal responsibility

[1] See, *Puerto Rico v. Franklin Cal. Tax-Free Trust, et al.* 136 S. Ct. 1938 (2016).

and access to the capital markets, and [. . .] ensure the funding of essential public services."[2] This makes establishing a clear definition an inescapable duty for the FOMB, which has been avoided to the detriment of the people of Puerto Rico.

Moreover, in clear defiance of the legislative mandate set forth in PROMESA, the FOMB has jeopardized the already limited budget of the government of Puerto Rico for the payment of its public debt without much consideration of the severe impact that these policy measures have produced over areas that are universally considered essential for our people.

The conduct exhibited by the FOMB so far, has been in clear conflict with Section 201 of PROMESA. The intentions of the FOMB are clear; by avoiding a clear definition of Essential Public Services, the Board also avoids being hamstrung by strict parameters that require the allocation of funds for specific purposes not related to the repayment of debt. Instead, what we currently have in place, is a more esoteric or philosophical concept which can be easily neglected.

In short, the test to determine the viability of Fiscal Plans and policy measures cannot be oblivious to the obligations that the government of Puerto Rico has of providing essential services. Once the letter of the law provides a clear definition, we can make sure that services in the areas of Health, Education (especially the University of Puerto Rico), Law Enforcement, Government Pensions, and Municipal Financing can be safeguarded from excessive austerity measures. Puerto Rico's financial recovery cannot come at the expense of providing basic services for its people.

THE NEED FOR TRANSPARENCY AND ACCOUNTABILITY

The proposed amendments in the Discussion Draft bring significant changes in the area of transparency and access to information that are very important for promoting public trust. The unprecedented nature of the proceedings brought forth by PROMESA have placed the people of Puerto Rico in a very difficult position. The design of primary public policy objectives concerning debt restructuring, is being devised by individuals that were not elected by the people. The decisions made by the members of the FOMB will have repercussions for decades that will affect the lives of future generations. Naturally, this fact has particular relevance when it comes to the subject of transparency. The restructuring process must provide a minimum of confidence to the people of Puerto Rico. It is imperative that investigative journalists and public interest groups have access, not just to the information related to the restructuring process itself, but to each member of the Board and any subcontracted entity that renders professional services. Congressional oversight and public scrutiny are fundamental elements for a successful restructuring process.

In the same vein, the Discussion Draft establishes dispositions geared toward auditing Puerto Rico's public debt. Specifically, the creation of a comprehensive audit commission. Historically, public corporations have financed their deficits by relying on capital market financings or the central government, which in turn provided loans through the now defunct Government Development Bank or private sector banks.

This practice has placed a shroud of controversy surrounding the legality of the billions of dollars in debt issued by the Puerto Rican Government. Therefore, a specific disposition in PROMESA that regulates an audit of public debt would go a long way toward restoring public trust and promoting accountability.

THE FIGURES OF RECONSTRUCTION AND REVITALIZATION COORDINATOR

One critical component of achieving fiscal recovery is ensuring that Puerto Rico's governmental instrumentalities are sufficiently funded. As you already know, in Puerto Rico, public services including water, electric power, and transportation are provided by state-owned public corporations. Such is the case of the Puerto Rico Electric Power Authority ("PREPA"). PREPA essentially provides all the electric power directly to consumers which includes residents, businesses and government entities. PREPA is currently under the provisions.

In the Discussion Draft, there are two dispositions that we respectfully oppose. Specifically, Sections 11 and 12 call for the creation of a Reconstruction Coordinator for the Commonwealth and a Revitalization Coordinator for the Puerto Rico Electric Power Authority (PREPA).

[2] Puerto Rico Oversight, Management, and Economic Stability Act, 48 U.S.C. § 2141(b) (2016).

Legal figures such as these would further destabilize the democratic structure of our local government by taking more power from democratically elected officials and giving such powers to entities or individuals appointed by Congress or the FOMB. In the specific case of PREPA, we are concerned that the proposed structure would concede incalculable authority to a Revitalization Coordinator, essentially placing a single individual in an authoritative position similar to the entire FOMB.

PUERTO RICO'S MUNICIPALITIES AS COVERED ENTITIES

Finally, we wish to express our sincere discontent with the Financial Oversight Management Board's (FOMB) decision to declare Puerto Rico's 78 Municipalities as Covered Entities under the Puerto Rico Oversight, Management, and Economic Sustainability Act (PROMESA). On May 9, 2019, the FOMB held a meeting in which it voted unanimously in favor of establishing a Pilot Program for ten (10) municipalities,[3] that essentially requires them to operate under fiscal plans approved by the Board. Covered entities under PROMESA are subject to the development, implementation, oversight and evaluation of fiscal plans and budgets. As we stated before, each Fiscal Plan shall provide Puerto Rico with a "method to achieve fiscal responsibility and access to the capital markets."[4]

In the past, we have expressed our growing concern with the FOMB's austerity-based approach and have warned of its pernicious effects on the island's post-hurricane economy. In the same vein, we worry about the effects that this decision will have on both municipal governments, and the citizens of the island.

It is immensely important to understand the key role that municipalities play in the well-being of the island's citizens. In its organic law, municipalities are described as the sociopolitical entities closest, and with the most knowledge of the needs of the people. In essence, Municipalities are creatures of statute, tasked with the responsibility of providing essential services in the areas of health, waste management, education and law enforcement, among others. They also serve as the main source of aid for natural disasters, which becomes even more relevant as we face the dire consequences of climate change. Although Municipalities have the capability to generate independent revenue, much of the economic support came from periodic disbursements made by the central government. Naturally, Puerto Rico's financial crisis has weakened the central government's ability to transfer money from the general fund to Municipalities. This is evidenced by the Commonwealth's most recent certified fiscal plan, which reduces allocations to municipalities by 80 percent over a period of 4 years.

Coupled with the devastation caused by Hurricane Maria, Puerto Rico's stifled economy has caused lower wages, a reduction in fringe benefits for employees in the private and public sector, and an increase in prices for basic goods. It is therefore imperative that the citizens of Puerto Rico don't suffer another setback in the form of diminished essential services provided by municipalities. This would be an egregious result that would negatively affect the health, safety and overall well-being of the people of Puerto Rico.

We strongly urge you to adhere to the congressional mandate set forth in PROMESA, of devising strategies geared toward promoting economic growth and a sustainable debt burden. It is important to find recurring sources of revenue for municipalities, so that any interruption in the provision of essential services can be avoided.

In its bicameral letter dated December 6, 2018, a group of representatives expressed their concern with the FOMB's debt restructuring plans, which facilitate high recovery rates for creditors and significantly cuts funding for health care, education and public safety in Puerto Rico. It is our contention, that if the same policy approach that has been applied to covered entities is also applied to municipalities, the results can be disastrous.

Regarding this specific matter, we urge you to include a disposition in the law that creates an advisory committee composed of representatives from Puerto Rico's municipal governments. To that end, it is imperative that you establish a consulting body protected by PROMESA that can contribute with a very necessary perspective. Municipalities are tasked with the responsibility of providing essential services in the areas of health, education, law enforcement and waste management, among others. This unique perspective will help Congress and the FOMB understand the practical effects that the imposed austerity measures have had on our people.

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[3] The list of Municipalities includes Quebradillas, Camuy, Isabela, San Sebastián, Orocovis, Barranquitas, Villalba, Aibonito, Comerio, and Cidra.

[4] *Id.*

In conclusion, I believe that most of the proposed amendments contained in the Discussion Draft are a step in the right direction and we should focus our attention toward learning and correcting the mistakes that have been made so far. There is widespread consensus on the fact that certain critical changes must be implemented in the law in order to guarantee the long-term financial recovery of the commonwealth of Puerto Rico.

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The CHAIRMAN. Thank you very much. Let me recognize my colleague, Mr. Soto, for any questions he may have.

Mr. Soto.

Mr. SOTO. Thanks, Chairman. Thanks, Mayor, for coming today. I wanted to get some follow up. So, you support the audit and having the full commission of different groups to be part of that so you can get more community input into that audit, is that——

Ms. CRUZ SOTO. I support the audit fully, and I would just revive a committee that was already implemented by the past legislature. Eduardo Bhatia talked about it, [Speaking foreign language]. This had input from various agents in Puerto Rico, and it made it more transparent and more accountable to the people of Puerto Rico.

Mr. SOTO. More accountable than a PROMESA audit that didn't include a lot of those stakeholders, right?

Ms. CRUZ SOTO. Well, the problem with the members of a board is that some of the members of the boards were part of the problem. They were part of the process of ensuring that bondholders bought at prices that, frankly, were ridiculous, and now are getting repayments on prices that are strangling the people of Puerto Rico.

So, when you begin with seven people that are not mandated by the people of Puerto Rico, and on top of that some of them were part of the problem that you are trying to fix—which, again, should be a problem fixed by the people of Puerto Rico—it becomes an issue.

Mr. SOTO. As Mayor of San Juan, what kind of barriers did you face in drawing down Federal funds and working with the Trump administration?

Ms. CRUZ SOTO. Well, it is no secret that President Trump and I don't see eye to eye. There is one thing that he said after the storm that we agree on totally. He said he thought the entire debt of Puerto Rico should be repealed, should be eliminated, should be brought down to zero. That is the one thing, and one thing only, that I agree with President Trump. But we have not yet received, as none of the other municipalities, any monies from the CDBG-DR fund, No. 1.

No. 2, we are still waiting on FEMA to give us money from categories A, B, and Z. Some municipalities have not even been paid part of that. Mind you, for the people that are listening, those are the funds that we used in getting ready for the hurricane and in taking care of our citizens right after the hurricane.

It is important to note that municipalities were the first level of support that people received and saw right after the hurricane. So, taking $350 million away from municipalities for San Juan—that was $21 million less—in what is wrongfully called subsidies, it is not subsidies. It is something like municipalities earned $1, the central government took that dollar, gave $.25 back, and now calls

that a subsidy. It is merely retribution for earnings that the municipalities had in the past and no longer have.

Mr. SOTO. A lot of us, including you and I and others, are concerned about having these two coordinators when we already have the Federal fiscal board.

So, whether it is them or COR3—what do you think we should be doing to help speed up the funding, other than the obvious, which is we are holding these hearings to put pressure on the Administration?

Ms. CRUZ SOTO. Well, this is an issue of political will. It is an issue of President Trump, first of all, not understanding what the relationship of a colony is to the United States and, second, frankly, not paying attention.

He said to the people of Puerto Rico that the reason why help was not getting there—and this is a quote—was because we are an island surrounded by water, lots and lots of water, ocean water. That was his excuse for not getting the help that the people of Puerto Rico needed.

But the one thing is, No. 1, to put pressure. No. 2, it is just to make sure that the monies do not go directly only to the central government of Puerto Rico, that it goes directly to the 78 municipalities, because it is the municipalities that know exactly what the people of their cities need and would support.

In fact, all of the mayors in Puerto Rico were asked to put forth a plan for CDBG-DR money, and the central government passed under Rosselló—and Wanda Vázquez has not mentioned anything to the sort, she talks about helping municipalities, but nothing has come through to ensure that the power really goes in the distribution of the funds to the municipalities.

I have had conversations with the mayor of Houston, the mayor of New York, the mayor of Atlanta, and really, this is an issue with mayors all over, this extra layer of FEMA and Federal Government suppression of funding going through the central governments, rather than directly into the cities. It is a hindrance that makes it really difficult to come back from not one, but two terrible disasters like Irma and Maria.

Mr. SOTO. Thanks, Mayor, and I yield back.

The CHAIRMAN. Mr. McClintock, sir.

Mr. MCCLINTOCK. Thank you, Mr. Chairman. I think California and Puerto Rico share a lot in common. Ours are among the most beautiful and blessed parts of our country. Yet, every year, more people move out of our state, and more people move out of your commonwealth than move in. My God, Puerto Rico is an island paradise. It is a cruise ship destination, for heaven's sake. People ought to be flocking to it, rather than fleeing from it. These aren't acts of God, these are acts of government.

Lincoln once said that the voters are everything. If the voters get their backsides too close to the fire, they will just have to sit on the blisters a while. It is a painful experience, but it is a learning experience, and voters go away from that sadder, but wiser.

And I think the best thing that we could do for Puerto Rico is get rid of PROMESA, let the elected officials make these decisions, and allow the voters of Puerto Rico to live with those decisions, for better or for worse. I think before PROMESA voters were coming

to these decisions, they were voting to change the government until PROMESA relieved them of this responsibility.

What are your observations on that?

Ms. CRUZ SOTO. Well, first of all, let me tell you, I happened to go to California for the first time this year, and we share a lot of things, except California is a state of the United States. That is your country. Puerto Rico is my country. I am a citizen of the United States, but I am a Puerto Rican national. And that makes a difference in the way that we see things.

Mr. MCCLINTOCK. But if I could interrupt, it doesn't make a difference on your sovereign debt.

California and Puerto Rico both assumed the responsibility of sovereign debt, and both, in their constitutions, pledged their full faith and credit to that debt. Your philosophy is people before debt, but it is the credit worthiness of a government that is that government's lifeline. It is what makes it possible to respond to emergencies and to finance infrastructure over the life of that infrastructure.

The irresponsible issuance of debt to pay ongoing expenses or to pay for pension obligations is the fastest way to bankrupt a government and to destroy its credit worthiness. And that is not an argument for statehood, if that is what you are arguing, it is an argument for separation and independence.

Ms. CRUZ SOTO. I don't argue with statehood, sir. But let me tell you something. Governments make decisions. I agree with you. When the government of these United States decided to bail out Wall Street, that was a decision.

Mr. MCCLINTOCK. And, by the way, a bad one.

Ms. CRUZ SOTO. Well, you think it was a bad one.

So, it is time to bail out the people of Puerto Rico.

Mr. MCCLINTOCK. Well, again, that is not an argument for statehood. That is an argument against statehood.

Ms. CRUZ SOTO. I know you are against it.

Mr. MCCLINTOCK. But let me ask you the same question I posed to the legislators. What would you do differently from PROMESA, other than renouncing your sovereign debt and completely destroying the credit worthiness of the government, what would you do differently from PROMESA?

Ms. CRUZ SOTO. One thing would be economic growth. We cannot have economic growth if we cannot control our economic variables.

Mr. MCCLINTOCK. OK. For example?

Ms. CRUZ SOTO. For example, we have to have a conversation with our brothers and sisters from the longshoreman's union to begin repealing the Jones Act.

Mr. MCCLINTOCK. Amen to that.

Ms. CRUZ SOTO. Which makes it very difficult for Puerto Rico——

Mr. MCCLINTOCK. Sign me up for that.

Ms. CRUZ SOTO. That is No. 1.

Mr. MCCLINTOCK. What other Acts of Congress have acted as an impediment to your economic——

Ms. CRUZ SOTO. No. 2, Puerto Rico should be able to draw its own bankruptcy laws. It was in Chapter 9. In fact, I was in front of this Committee supporting a bill by the then-Resident Commissioner, Pedro Pierluisi, to enact that same legislation.

Mr. MCCLINTOCK. Well, if I could interrupt you right there——

Ms. CRUZ SOTO. Yes.

Mr. MCCLINTOCK. No state has renounced its sovereign debt. You would be suggesting that Puerto Rico should be admitted with a record of simply dishonoring its sovereign debt——

Ms. CRUZ SOTO. Sir, I do not favor statehood. I favor a process of a constitutional assembly for all the voices of Puerto Rico to be heard, similar to the one that you went through, and for Puerto Ricans to decide what their relationship with the United States would be. So, I do not—[Speaking foreign language.] It is an expression in Spanish. I am not in support of Puerto Rico becoming a state, which is why I mentioned to you before, I am a Puerto Rican national who holds U.S. citizenship.

Mr. MCCLINTOCK. OK, I get that. But anything else that you can tell Congress right now that it needs to do to get out of the way of Puerto Rico's ability to grow its economy?

Ms. CRUZ SOTO. One hundred percent Medicare and Medicaid parity. If we pay the same thing, we should get the same benefit.

Mr. MCCLINTOCK. You want bailouts. I get that part, but——

Ms. CRUZ SOTO. No, it is not a bailout. We pay the same thing. We should get the same thing. That is what the American Dream is predicated upon, right? You work hard, you pay what you owe. And we have paid for Medicare and Medicaid. Again, we don't control our economic variables, so we should not be responsible.

You invaded Puerto Rico. You put boots on the ground. You tried Agent Orange in our forest. You tried the pill with our women.

Mr. MCCLINTOCK. I get that.

Ms. CRUZ SOTO. It is retribution.

Mr. MCCLINTOCK. I get that. My time is up. But I do want to invite you and the legislators who testified before you, any thoughts you have on what Congress can do to remove the impediments, the obstacles that we have placed in the way of Puerto Rico's economic growth, like repealing the Jones Act, which I agree with you completely, I would like to hear.

Ms. CRUZ SOTO. Thank you, Mr. McClintock.

The CHAIRMAN. Mayor, in your testimony, both written and oral, you crystallized the dilemma, I think, for Congress, and certainly for myself. It is how do you thread the needle, in terms of providing the essential support that our fellow citizens in Puerto Rico have earned and merit, not only in the fiscal issue, but also in the recovery issue, and doing so with the instrument that is before us, which has been categorized, accurately, as undemocratic, PROMESA. How do you thread that needle?

So, the discussion in the draft is how do you reform it to make it less onerous, potentially more democratic, and expedite the resources. Because we have heard today from the Ranking Member that this is a process, in terms of status change, that is going to take a minimum of 5, 6, 7 years, given the timetable that was presented by the director of the Oversight Board, and by the elected representatives who spoke as well.

So, my point is—can that needle be threaded?

Ms. CRUZ SOTO. Yes, it can. One is by ensuring that full funding for essential services—and I agree with Senator Bhatia when he says the people of Puerto Rico should be the ones deciding what the

essential services are, but there is a general consensus that pension payments should not be reduced any more, No. 1.

No. 2, the University of Puerto Rico—and I know that the proposed bill suggests an $800 million allocation of resources to the University of Puerto Rico. But we must ensure that all the 11 campuses are kept open. They are not only a source of education, but they are a source of income for different municipalities.

No. 3, Section 936 of the IRS code should be reinstated. Why? Because it provides for Puerto Ricans to have economic growth.

No. 4, we should be allowed—and this goes to what Mr. McClintock was talking about—we should be allowed also to enter into international agreements with other countries, and the terms of that could be discussed with the United States.

No. 5, it is imperative and important that our people that pay the same for certain benefits receive the same benefits. In terms of Medicaid and Medicare, of course, I am a supporter of Medicare for All, and that would be something that would be important to pass, in terms of legislation.

But this is the truth. It is true that the Constitution of Puerto Rico states that the debt goes before the people. But as we all know, constitutions evolve. And our constitution, frankly, also we need to change it to ensure that that needle that you are talking about is finally threaded.

But 120,000 people still live with blue tarps, Eduardo was talking about 50,000 homes, 1.3 million Puerto Ricans need some type of help to put food on the table, 900,000 Puerto Ricans are either under-insured or not insured at all. So, if we do not take care of essential services and fund them, we are going to condemn the people of Puerto Rico to even more dire levels of poverty. That is simply unacceptable to us and, frankly, it is unacceptable to you, as well.

The CHAIRMAN. Yes, and the, I think, implicit threat—I will use the word "threat"—or observation on the part of, to some extent, the Governor and the Oversight Board, was that in defining a provision of essential services, that the unintended circumstances that other government services that are not enumerated or defined—and I agree with you, the idea of the concept of the people on the island should decide what those priorities are—that are deemed not essential, therefore, would receive the essential cuts. It is kind of an implicit threat if something is going to give.

And, obviously, there is some work ahead for us, if this is a provision that there is some support for, going forward. So, I appreciate that.

The other thing you mentioned, and members of this Committee, many have visited Puerto Rico and taken the time to meet with the elected officials and others. On the visits that I have had, it has been, to me, one of the most eye-opening, with meeting with the municipalities and their leadership, meeting with the community organizations that are there, eye opening, in terms of how they feel kind of left out of this process, that it is done at a central level in Puerto Rico government, and then it is done at a Federal level, and no transparency.

And some of the things about building confidence were directed at those municipal areas and those leadership or community

organizations, where the audit, the transparency, the known conflict was to provide those groups some assurances that what is intended is actually going to happen.

Ms. CRUZ SOTO. This is why we are suggesting to have an advisory committee at the municipal level, so that you can include NGOs also there, so that you could have that ear on the ground. Because, in fact, it is the municipal level that is closest to the people of Puerto Rico in providing those services.

One last thing. Mr. McClintock mentioned President Lincoln. Eleanor Roosevelt said no one can make you feel inferior without your consent. Well, we are not going to consent any more.

The CHAIRMAN. Thank you.

Ms. CRUZ SOTO. Thank you very much, sir.

The CHAIRMAN. Thank you very much. I appreciate all the witnesses, Madam Mayor, the Representatives, the Senators, and the representative of the Governor, and the representative of the Oversight Board.

Before I leave, just some observations, if I may. We heard today about repeal. Repeal PROMESA and, essentially, let the democratic institutions within Puerto Rico deal with the issue and begin to formulate the response, not only to the fiscal, but also what the Federal Government needs to do, because a repeal, as a gesture, without the substantive support that is merited financially and with resources from the Federal Government, is an exercise that will just create more pain. But I understand that that was one of the options.

The other option is the status quo. PROMESA is fine, leave it alone. Let it keep working its way, and eventually they will disappear because everything will be balanced and things will be fine.

And the other issue is the one dealing with the reform choices.

Mr. MCCLINTOCK. Mr. Chairman, are we going to another panel, another round of questions?

The CHAIRMAN. No, I am just finishing up, sir. You are welcome to leave.

Mr. MCCLINTOCK. I am quite sure I am. But I wonder on whose time is the Chairman speaking?

The CHAIRMAN. Assuming the prerogative, sir.

The choices that we placed in this were reform, upgrade, try to make more democratic the existing PROMESA legislation. That is the task that we have at hand, and it is a difficult task, to say the least, given today.

I want to thank you all. I appreciate it. And, going forward, we will be in consultation with all of you.

The meeting is adjourned.

[Whereupon, at 12:58 p.m., the Committee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

**Statement for the Record**

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

Chairman Grijalva and Ranking Member Bishop: thank you for the opportunity to testify before the Committee and share my thoughts regarding the proposed amendments to PROMESA.

As I have stated in the past, most recently during the Chairman's visit to Puerto Rico last month, PROMESA does not need to be amended, it needs to be repealed. After 3 years and 4 months since its enactment, it has become clear that PROMESA—with its Financial Oversight Management Board (FOMB)—has failed in its main objective of bringing fiscal responsibility and access to capital markets to the territory of Puerto Rico. Instead, PROMESA has exacerbated the economic situation on the island putting a magnifying glass over the 121 years of colonialism that are the real root of our problems. This Committee should use its jurisdictional power, under Article IV Section 3 Clause 2 of the United States Constitution, not to amend a failed law, but to enact legislation that will do away with our second-class status as a colony and admit Puerto Rico as a state of the Union. Only then, will Puerto Rico truly possess the tools and mechanisms to solve the social and economic crisis rooted in hundreds of years of unequal treatment at the Federal level.

Nonetheless, I would like to thank the Chairman and the Ranking Member for recognizing that PROMESA is not working and for proposing, a fix, to what in my opinion, is unfixable. PROMESA with its total $214 million in annual budgets from Fiscal Year 2017 through the current fiscal year, which include very lucrative salaries, is an unfunded mandate that has proved to be very costly to the 3.1 million American citizens living in Puerto Rico. I would like to point out to this Committee that the annual salary of the FOMB Executive Director is 32 times higher than the average annual salary in Puerto Rico. In addition, through January 2019 the Title III court has approved $300 million in fees and expenses. The own Chairman of the Board, Mr. Jose B. Carrion, in a letter dated October 7, 2019, addressed to various U.S. Senators referred to the cost of Puerto Rico's Title III cases as "exorbitant and tragic."

The broad powers granted to the FOMB under Title II of PROMESA are excessive and have effectively usurped the powers vested upon its elected officials by the Constitution of Puerto Rico. In fact, the United States Court of Appeals in *Aurelius Investment LLV v. Commonwealth of Puerto Rico* (1st Cir. 2019) held that the Board Members are "Officers of the United States" subject to the U.S. Constitution's Appointment Clause and declared the appointment of the Board Members as unconstitutional. As recently as last week, the U.S. Supreme Court heard the oral arguments on this case and we are eagerly, awaiting a decision that hopefully will offer some redress to the people of Puerto Rico who are suffering the consequences of the broad, undemocratic, and unconstitutional powers granted by this Congress to the FOMB.

Section 108 of PROMESA grants the FOMB complete autonomy to exercise its powers without any control, supervision, and oversight or review from the duly and democratically elected Governor of Puerto Rico or from us, its duly and democratically elected legislative officials. This unrestrained power granted to seven individuals, who do not necessarily have the well-being of all the people of Puerto Rico at heart, has led to decisions detrimental to the quality of life of the 3.1 million U.S. citizens residing in Puerto Rico. Among these decisions: cutting pensions; cutting the salaries of public servants already underpaid, like our police officers and our teachers; arbitrarily attempting to derogate laws that protect the rights of our employees, like Law 80; promoting the elimination of our municipalities, whose role as the first emergency responders proved essential during Hurricanes Irma and Maria; severely reducing the budget of the University of Puerto Rico limiting its capacity to produce well rounded professionals are just some of the decisions made by the FOMB that have had a negative effect in the lives of most Puerto Ricans. Yet, Puerto Rico remains without access to capital markets and the ongoing debt restructuring process is costing the government of Puerto Rico millions of dollars.

PROMESA has failed on its purpose and threatened the economic stability of everyone on the island. The bill before us today contains a series of amendments seeking to correct many of the flaws that have become so obvious during PROMESA's implementation. It seeks to amend Section 107 to provide a Federal funding source to carry out the operations and proceedings of the Oversight Board under Title III instead of depleting Puerto Rico's government coffers. Perhaps, once

the source of funding is authorized and appropriated by this Congress, Congress will become more vigilant over the FOMB's exorbitant salaries and expenses. In an attempt to somewhat limit the Board's power to continue cutting funds for essential services, the Discussion Draft before us seeks to provide a clearer definition of "public services" to include public education, public safety, health care, and pensions to ensure their funding. It tries to ensure that the University of Puerto Rico will have sufficient funds to be able to operate and comply with its accreditations requirements. It tries to establish new mechanisms that will improve transparency and accountability. It eliminates the position of the Revitalization Coordinator, which after 3 years failed to identify at least one critical project on the island.

I would like to thank Chairman Grijalva and Ranking Member Bishop and the distinguished members of this Committee for their genuine desire to help Puerto Rico stand on its feet again. However, the main reason for PROMESA's failure is simple and not addressed by any of the amendments been considered today by this Committee. PROMESA does not address the root cause of the problems on the island, its colonial status. The colonial status that allowed the U.S. Congress to establish a fiscal control board that violates the most basic principles of our democracy.

It is unbelievable that after 121 years living under the flag of the United States of America and 102 years of American citizenship, Puerto Ricans living on the island cannot vote on the national general elections to elect its Commander in Chief or have full-fledged representation in Congress as a state of the Union. It is unbelievable that in the 21st century the beacon of democracy for the rest of the world, still has 3.1 million American citizens disenfranchised and treats them as second-class citizens. It is unbelievable that in the 21st century the United States of America rather than expanding full democratic rights to all of its citizens has chosen to curtail them enacting a law that has proven to be flawed and ineffective.

The unequal treatment of Puerto Rico enabled by its territory status is the root cause of the problem that led to the enactment of a law that is flawed and unable to resolve Puerto Rico's fiscal problems. To blame Puerto Rico's fiscal crisis solely on mismanagement at the local level, is to turn a blind eye to the reality resulting from 121 years of unequal and second-class treatment at the Federal level. It is to ignore that Puerto Ricans, by simply buying a one-way ticket to the continental United States, can attain all the rights, responsibilities, and privileges denied to them while on the island. It is to ignore that the 3.1 million proud U.S. citizens living in Puerto Rico deserve the same quality of life as their brothers and sisters in the states.

It was this desire to provide to the residents of Puerto Rico a quality of life similar to that in the 50 states of the Union what in great part led to our current fiscal crisis. It is a mirage to believe that under the current political status, without equal access to all Federal programs and as second-class citizens, the government of Puerto Rico could provide the same quality of public services to its residents as Florida or Texas can do. The only way the government of Puerto Rico, under the current political status, could sustain a quality of life similar to that in the states is through borrowing and issuing debt. The origin of the current fiscal crisis stems back to 1961 when the government of Puerto Rico, under the leadership of the Popular Democratic Party, held a referendum to ease the controls on debt capacity. The constitutional amendment of 1961 authorized the government of Puerto Rico to borrow or issue debt up to 15 percent of the average of its annual income in the last 2 fiscal years and encouraged the issuance of triple-exempt municipal bonds.

The only real and permanent solution to the fiscal problems of Puerto Rico before this Committee today is **statehood**. Only statehood can bring to Puerto Rico the political and economic stability it needs to be able to sustain the quality of life its 3.1 million American citizens deserve. Any other alternative will keep us in the vicious cycle of borrowing to be able to sustain our economy. Only as a full-fledged state of the Union will Puerto Ricans on the island be able to enjoy the same quality of life as their counterparts in the continental United States.

It's time to extend to the American citizens of Puerto Rico the equal treatment, rights, and respect they deserve and have earned through its 102 years of faithful service to this Nation. Statehood is the only real and viable solution to the challenges Puerto Rico is facing today.

Thank you.

## Statement for the Record

**Hon. Wanda Vázquez Garced**
**Governor Of Puerto Rico**

Chairman Grijalva, Ranking Member Bishop, and members of the Committee, I am Wanda Vázquez Garced, Governor of Puerto Rico. Thank you for the opportunity to submit this written testimony on the proposed amendments to PROMESA.

### I. INTRODUCTION

Before addressing the specifics of the proposed amendments to PROMESA, I would like to take a few minutes to introduce myself. I was born in the Santurce neighborhood of San Juan and was educated at the University of Puerto Rico and Interamerican University of Puerto Rico School of Law. I have spent the last 32 years in public service—primarily as a prosecutor in the Puerto Rico Justice Department and then as Secretary of Justice for Puerto Rico. My experience as a prosecutor taught me the importance of integrity and transparency particularly in the public sphere.

I became Governor of Puerto Rico on August 7, 2019 through extraordinary circumstances in what are extraordinary times for Puerto Rico. I did not seek this office—but it is a position that I am honored to hold. I accepted the challenge of becoming Governor of Puerto Rico with a sincere belief that Puerto Rico must move forward. I am not a politician. I do not intend to run for any political office. I intend to use my time in this role to implement change and give the people what they need for a brighter future. I will stand for the interests of the people of Puerto Rico—just as I did throughout my career as an attorney—but I will not fight unnecessary battles that distract from the core mission of moving Puerto Rico forward.

I believe that Puerto Rico will benefit from cooperation between the Federal Government, both the legislative and executive branches, the Financial Oversight and Management Board for Puerto Rico, and the Government of Puerto Rico. I have approached my relationship with Ms. Jaresko and the Oversight Board in recognition of that reality. I look forward to bringing that same collaborative approach to my relationship with the members of the Committee. It is in that spirit that I address the proposed amendments to PROMESA today.

### II. GENERAL OBSERVATIONS ON PROPOSED AMENDMENTS

The proposed amendments are a good faith attempt to address certain specific issues that have arisen in the implementation of PROMESA and many of them are worthy of consideration. I am concerned, however, that certain of the proposed amendments do not address critical issues that have hindered the effectiveness of PROMESA and impose unnecessary bureaucracy in areas where we are already making progress. I address those issues here.

*Fiscal Plan and Budgeting Process*

The proposed amendments do not address the flawed fiscal plan and budgeting process. PROMESA created a power-sharing arrangement that contemplates the Oversight Board setting spending caps or limits within which the Government of Puerto Rico determines spending in line with its public policy. In certain instances, the Oversight Board has used its fiscal plan and budgetary power to impose detailed spending restrictions that have the effect of dictating public policy—an approach that undermines the Government's powers and turns the Oversight Board into something more akin to a control board. The lack of a forum for the Government of Puerto Rico to challenge the Oversight Board's decision to certify a fiscal plan or budget exacerbates this problem. While we are working diligently with the current Oversight Board to establish a more effective process, this concern with PROMESA is broader than our current relationship and will impact how future administrations and future oversight boards work together.

To address this issue, I submit that Sections 201 and 202 of PROMESA should be amended to make clear that the Oversight Board's fiscal plan and budgetary powers do not extend to determining day-to-day operating level expenditures. In addition, Section 106(e) of PROMESA should be amended to provide a mechanism for the Government of Puerto Rico (but not other third parties) to review and potentially challenge Oversight Board fiscal plan and budget certifications. This would (1) allow the Government of Puerto Rico to enforce the key provisions required in fiscal plan and budgets and (2) prevent abuses of power that strip the Government of Puerto Rico of its ability to make operational decisions.

*Additional Bureaucracy*

The proposed amendments would create additional bureaucracy in the form of a Puerto Rico Public Credit Comprehensive Audit Commission, an Office of Reconstruction Coordinator for Puerto Rico, and a Revitalization Coordinator for Puerto Rico Electric Power Authority. These functions are either unnecessary or are already being addressed by the Government of Puerto Rico and/or the Oversight Board.

**Puerto Rico Public Credit Comprehensive Audit Commission.** The Oversight Board has already completed and published a comprehensive audit of Puerto Rico's debt and commenced litigation to invalidate certain bond issues based on that audit. Repeating that exercise would only result in an unnecessary expense and create a strain on resources. Nor is such a Commission necessary to address future debt obligations as we are working with the Oversight Board to incorporate certain debt management policies into the Title III plan of adjustment that will limit Puerto Rico's ability to incur debt in the future to an appropriate level.

**Office of Reconstruction Coordinator for Puerto Rico.** Establishing another agency to manage Puerto Rico's use of recovery funds is likewise unnecessary. Puerto Rico established the COR3 to promote and implement reconstruction efforts with efficiency, effectiveness, and transparency. Among its many other functions, COR3 established a transparency portal (found at https://www.recovery.pr/home) that provides detailed information about the uses of Federal recovery funds provided to the island. COR3 has been very successful in its mission and has provided unprecedented transparency on the use of recovery funds.

The challenges with regard to Federal funding relate primarily to the difficulties in coordinating the various Federal agencies that provide funding. The requirements for receiving the appropriated funding are often opaque and seem to change regularly. I believe that Puerto Rico would benefit from the Federal Government providing a coordinator who could work with the various Federal agencies as a liaison to assist the Puerto Rico Government in accessing the Federal funding sources.

**Revitalization Coordinator for Puerto Rico Electric Power Authority.** The Government of Puerto Rico and the Oversight Board share a common goal of transforming the electric system in Puerto Rico. We are working to bring private management to the transmission and distribution system, encouraging private investment in and building of new generation, and creating a strong and predictable regulator. We have made substantial progress with well-known and qualified private parties toward a contract for management of the transmission and distribution system and hope to select a counterparty and begin implementation of that transaction early in 2020. We have also established the Puerto Rico Energy Bureau and begun the revamping of the generation assets. Our goal is to address PREPA's liabilities through a plan of adjustment in 2020 concurrently with the transition to a private operator of the transmission and distribution system. We expect the transition to the private operator to start in early 2020 and be completed by year-end. Appointing a Revitalization Coordinator for PREPA would disrupt the ongoing process and potentially damage Puerto Rico's overall recovery efforts.

III. SPECIFIC OBSERVATIONS ON THE PROPOSED AMENDMENTS7

In addition to the observations above, set forth below is a chart that summarizes our positions on the specific proposed amendments to PROMESA.

| Proposed Amendment Title | Government Position |
|---|---|
| Sec. 3. Federal Funding for Operation of Oversight Board and Title III Proceedings | I do not object to the Federal Government paying for the Oversight Board's operational and Title III costs.<br><br>The Committee should consider, however, the potential legal risk that doing so provides additional support for the argument that the Oversight Board's actions are actions of the Federal Government and that any debt restructuring could therefore give rise to takings claims against the Federal Government. |
| Sec 4. Definition of Essential Public Services | I oppose this amendment because a narrow definition of essential public services could limit Puerto Rico's flexibility to meet the needs of its citizens. If the amendment is going to be included, then we suggest that it be clear that the word ''including'' means ''including without limitation.'' |

| Proposed Amendment Title | Government Position |
|---|---|
| Sec 5. Definition of Economic Growth | I support this proposed amendment and suggest the Committee slightly modify the proposed definition of ''expenditures and investments necessary to promote economic growth'' to also include expenditures sufficient to cover funding for disaster recovery activities. |
| Sec 6. Disclosure By Professional Persons Employed by Court Order | I support these new disclosure standards because they facilitate transparency.<br><br>The Committee may wish to consider modifying the mechanics so that the process works more effectively with the standards already implemented in the Title III process and does not create additional cost or competing standards. |
| Sec 7. Access to Information | I oppose this proposed amendment for several reasons including, without limitation, the following:<br>• First, this amendment could infringe on privileges and immunities that are important to the government being able to function, such as the attorney-client privilege and the deliberative process privilege.<br>• Second, this amendment could result in bondholders having the ability to obtain information that bondholders would not otherwise be able to obtain under the guise of free exchange of information. That information could be used to disadvantage Puerto Rico and the Oversight Board in restructuring negotiations.<br>• Third, this amendment is unnecessary because the Puerto Rico Constitution provides sufficient protections for parties seeking information. |
| Sec. 8. Puerto Rico Infrastructure Revitalization Repealed | I do not have a position on this proposed amendment, but to the extent Title V of PROMESA is not repealed, I suggest the Committee amend Title V to include the Federal permitting process, especially with respect to recovery activities. |
| Sec. 9. Territorial Relief for Unsecured Public Debt | I oppose the proposed new Title VIII of PROMESA because we believe the provision would eliminate Puerto Rico's ability to access unsecured credit in the future resulting in Puerto Rico having to borrow only secured debt. |
| Sec. 10. Puerto Rico Public Credit Comprehensive Audit Commission | I oppose this proposed amendment for the reasons set forth above. |
| Sec. 11. Office of Reconstruction Coordinator for Puerto Rico | I oppose this proposed amendment for the reasons set forth above. |
| Sec. 12. Revitalization Coordinator for Puerto Rico Electric Power Authority | I oppose this proposed amendment for the reasons set forth above. |

## IV. CONCLUSION

I appreciate the efforts of the Committee to make PROMESA a more effective law that can better meet the needs of Puerto Rico. My comments are intended to be constructive in helping you assess the proposed amendments and focus on areas where change can be most effective. I look forward to working with you to achieve a brighter future for the people of Puerto Rico.

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# LEGISLATIVE HEARING ON DISCUSSION DRAFT OF H.R. ___, "TO AMEND THE PUERTO RICO OVERSIGHT, MANAGEMENT, AND ECONOMIC STABILITY ACT OR 'PROMESA,' AND FOR OTHER PURPOSES—PART 2

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**Wednesday, October 30, 2019**
**U.S. House of Representatives**
**Committee on Natural Resources**
**Washington, DC**

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The Committee met, pursuant to notice, at 2:04 p.m., in room 1324, Longworth House Office Building, Hon. Gregorio Kilili Camacho Sablan presiding.

Present: Representatives Sablan, Gallego, Cox, Van Drew, Cunningham, Velázquez, Soto, Cartwright; Bishop, Young, Gohmert, McClintock, and Webster.

Also present: Representative García.

Mr. SABLAN. The Committee on Natural Resources will come to order. The Committee is meeting today to hear testimony on the discussion draft bill and amendments to the PROMESA Act of 2019. Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman and the Ranking Minority Member or their designees. This will allow us to hear from our witnesses sooner and help Members keep to their schedules. Therefore, I ask unanimous consent that all other Members' opening statements be made a part of the hearing record if they are submitted to the Subcommittee Clerk by 5 p.m. today, or the close of the hearing, whichever comes first.

Hearing no objections, so ordered.

## STATEMENT OF THE HON. GREGORIO KILILI CAMACHO SABLAN, A DELEGATE IN CONGRESS FROM THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Mr. SABLAN. Good afternoon. Welcome. We are here today for a second day of hearings on Chairman Grijalva's draft legislation to consider amending PROMESA, the Puerto Rico Oversight, Management, and Economic Stability Act. The purpose of this hearing is to receive feedback from certain stakeholders on the draft's provisions, which include defining essential public services, assigning Federal funding for the operation of the Oversight Board, reducing conflicts of interest, and auditing the debt. It must be a large amount if we need to audit. The draft also includes provision to address Puerto Rico's disaster recovery challenges.

Last week, we heard from officials representing the government and legislature of Puerto Rico, as well as the mayor of San Juan.

Today, we will hear from witnesses representing academia, nonprofit organizations, and the labor and business sectors. I encourage anyone who is not able to be a witness to please submit statements for the record. We welcome those.

We have already received reactions both in favor and in opposition to some of the provisions of the Chairman's discussion draft. You will hear many of those comments from our witnesses today. However, I want to ask everyone not to simply object to provisions, but to also offer alternatives needed to accomplish the desired goals.

In closing, I want to again welcome our witnesses and thank them for traveling from Puerto Rico with us today. You guys leave a beautiful island to come to Washington, DC. So, welcome. We look forward to receiving your testimony and working with each of you in improving the lives of the residents of Puerto Rico.

At this time, I yield to the distinguished gentleman, the Ranking Member of the Committee, Mr. Bishop, for his 5 minutes.

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

Mr. BISHOP. Mr. Sablan, thank you. To the staff here, once again, I talk a great deal about procedure around this place, but there was a reason why in 2010 we changed the House Rules so that the House Floor would not start before 12 p.m., the sole purpose of which is to allow committees to have uninterrupted time in the morning to get these kinds of hearings done. We find ourselves now, because of very poor planning, having three bills on the Floor which Mr. Grijalva, I am watching him now, he is on the Floor which he should be here for, and I should be on the Floor at the same time, but I am here as well, simply because we did a lousy job in the planning process. The procedures make a difference, and I would hope staff would understand, especially when you have our Committee bills on the Floor and you have a Committee hearing now, you can't be in two places at one time. And the efforts in 2010 to try to alleviate that situation have been ignored. Don't ignore them in the future as we go forward.

Now, to our good friends who are here. I appreciate you coming all the way for what I think is a sad hearing. The proposed amendments that have been floated around here are not going anywhere. If they are passed in the House, which is pretty iffy, could be, they will never be discussed in the Senate and they will never be signed by the President. What we really should be talking about are ways in which we can actually make the system that you have possible for the three goals that I still have for the island.

First is what we do to actually produce economic progress. An island that doesn't have a whole lot of natural resources but they have a lot of human resources and a lot of potential, that could be a very productive area if we do things the right way.

The second is what we can do to provide political stability on the island. You have a new governor, a governor who is taking great strides to try to make sure that they bring about the political stability that is there, and I wish you the best of luck with that and I want to be as supportive of her as we possibly can be.

And the third is how do you make sure we have a pathway to statehood, which means if this Committee really wanted to be doing something that would be positive, we should be taking Mr.—the gentleman from North Carolina—never become my age because nouns and names go first—no, not North Carolina, New Jersey, who just introduced his bill that would require the mandatory vote for statehood in Florida. That's what this Committee should be talking about.

This bill, spending 2 days on this bill that is going nowhere is sad. I apologize to you. I appreciate you coming up here. We're going to be interested in listening to your testimony, but this bill is going nowhere.

I yield back.

Mr. SABLAN. Thank you. I am not going to respond to this wisdom of the Ranking Member, but I will now introduce our witnesses. Mr. Heriberto Martínez Otero, President of the Puerto Rico Economists Association; Mr. Alvin Velázquez, Associate General Counsel of SEIU. Any relation to the distinguished lady from New York?

Mr. VELÁZQUEZ. No, but I think our families are from the same part of the island. I live near Juncal.

Ms. SABLAN. OK. Ms. Liliana Cubano, President of the Puerto Rico Products Association; Mr. Lyvan A. Butín-Rivera, Student Representative of the University of Puerto Rico; and Mr. James Spiotto, Managing Director, Chapman Strategic Advisors. Let me remind the witnesses that under Committee Rules, they must limit their oral statements to 5 minutes, but that their entire statement will appear in the hearing record.

When you begin, the lights on the witness table will turn green; after 4 minutes the yellow light will come on. Your time will have expired when the red light comes on and I ask you to please complete your statement at that time. I will also allow the entire panel to testify before questioning the witnesses. Let's start with Mr. Otero, please. Five minutes, sir.

## STATEMENT OF HERIBERTO MARTÍNEZ OTERO, PRESIDENT, PUERTO RICO ECONOMISTS ASSOCIATION

Mr. MARTÍNEZ OTERO. Good afternoon Representative Sablan and members of the Committee. My name is Heriberto Martínez Otero. I am the president of the Association of Economists of Puerto Rico. I appreciate the opportunity this Committee has offered me to express my opinion on possible amendments to the PROMESA Act.

At the end of the 1970s up to 2006, the development model of Puerto Rico's economy was based on the pharmaceutical industry, which was implemented in our country as a result of the approval of Section 936 of the Federal Internal Revenue Code. As a consequence of Section 936 and our local talented human capital, the pharmaceutical industry in Puerto Rico reported billions of dollars in earnings per year, which we deposited within the domestic financial system creating a liquidity surplus.

During this period, the economy grew consistently at rates that range from 3 percent to 5 percent of the Gross National Product. But in 2006, the construction bubble collapsed, then phasing out of Section 936 ended and since then the economy began to decrease

and unemployment increased. In 2009, massive layoff in the public sector and cuts in government spending began under the ideology of "expansive austerity."

In 2016, the PROMESA Act was approved, which allowed the deepening of the cuts under the austerity logic. Hurricane Maria caused more damage than anticipated because our institutions were dismantled due to austerity policies.

Now, I want to comment on some of the proposed amendments.

First, Section 3. Having the Federal Government fund the Board is a favorable idea. This proposal should release about $80 million annually. What you have to keep an eye on is how the money will be distributed. If the Board determines that the monies saved will go to a fund for the payment of the debt of Puerto Rico or any of its municipalities, then it will have no positive impact on the local economy.

The way the PROMESA Act is designed allows the Board to put a cap on the budget. If that ceiling contemplates the reduction of the Federal money that previously went to the Board, we will not be able to count on it for essential services in its other areas of social investment.

Section 4. The definition of essential services has been a constant grievance by the citizens of Puerto Rico. The Association of Economists of Puerto Rico approved a resolution to request that the government of Puerto Rico and the Board establish a list of essential services: education, health, safety, retirement, and the preservation of the only public higher education institution that we have, the University of Puerto Rico.

We must all be clear that the most important consequences of the cuts to essential services are poverty and migration to the mainland. Therefore, it seems to me that this amendment is adequate, emphasizing the need to finance the University of Puerto Rico as an engine for economic growth and development.

Section 318. The issue about disclosure by professional persons is extremely important in Puerto Rico because hundreds of millions of dollars have been spent on consulting without any assessment to ensure transparency. We have learned from the media that the FBI investigates local government agencies, including arresting public officials, for hiring fraud and corruption. While we support this amendment, we would like to see that the hiring money is concentrated in local companies so that the multiplier effect on the economy could be more significant.

In conclusion, the economy of Puerto Rico is going through its worst moment in decades. At this time, it remains afloat thanks to the positive shock caused by Federal funds for reconstruction. The main reason for the economy to go through such a prolonged period of economic depression is the application of austerity policies which have caused migration, loss of wealth, and the deterioration of industrial infrastructure. Puerto Rico is a colony of the United States. The power to make structural changes to my country's economy rests on the Congress and the Federal Government. The amendments to the PROMESA Act are an excellent start to soften economic conditions on the island, but insufficient to achieve sustained long-term growth. However, the indispensable decision that should come out of this process is the definition of essential

services, to ensure financing for retirement systems, and to save the University of Puerto Rico.

Thank you for your time.

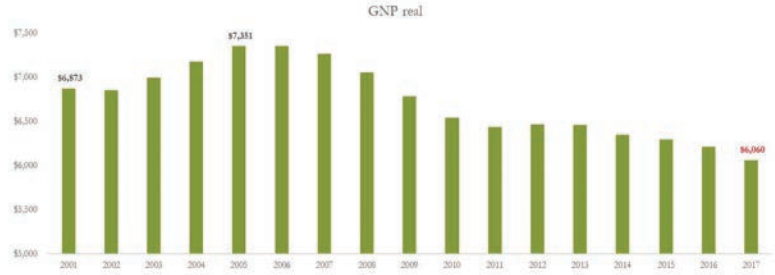
[The prepared statement of Mr. Martínez Otero follows:]

PREPARED STATEMENT OF HERIBERTO MARTÍNEZ-OTERO, PRESIDENT, ASSOCIATION OF ECONOMISTS OF PUERTO RICO

Good afternoon, Chairman Grijalva, members of the Committee. My name is Heriberto Martínez-Otero, I am the president of the Association of Economists of Puerto Rico. I appreciate the opportunity this Committee has offered me to express my opinion on possible amendments to the PROMESA Act. However, before going into the subject, I would like to identify some ideas shared by a large group of economists in Puerto Rico to understand the tremendous economic depression caused by government bankruptcy, a fundamental reason why Congress approved the PROMESA Act.

At the end of the 1970s up to 2006, the development model of Puerto Rico's economy was based on the pharmaceutical industry, which was implemented in our country as a result of the approval of Section 936 of the Federal Internal Revenue Code.[1] As a consequence of Section 936 and a local talented human capital, the pharmaceutical industry in Puerto Rico reported billions of dollars in earnings per year, which were deposited within the domestic financial system, creating a liquidity surplus. The liquidity surplus was used for credit for consumers and firms, generating a robust macroeconomic performance during the 1980s and 1990s in four major sectors: construction, manufacturing, finance, and insurance.

During this period, the economy grew consistently at rates that ranged from 3 percent to 5 percent of the Gross National Product.[2] The repeal of Section 936 in 1996 (phased out in a period of 10 years) brought adverse consequences for the economy of Puerto Rico. In 2006, the construction bubble collapsed, the phasing out of Section 936 ended, there was a government shutdown, and since then, the economy began to decrease, and unemployment increased. In 2009, massive layoffs in the public sector and cuts in government spending began under the ideology of "expansive austerity."[3]




Source: Planning Board of Puerto Rico

In 2016, the Promise Law was approved, which allowed the deepening of the cuts under the austerity logic. Hurricane Maria caused more damage than anticipated because our institutions were dismantled due to austerity policies.

That is the main reason why I am here before you on behalf of the Association of Economists of Puerto Rico, and I tell you: if austerity policies are not stopped, the proposed changes to the PROMESA Act will be insufficient because my country's economy will collapse. Now, I want to comment some of the proposed amendments.

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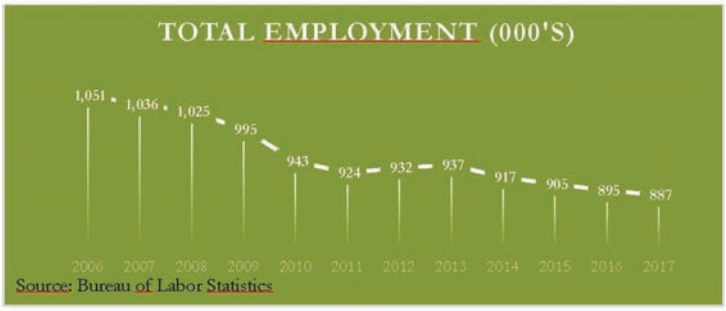
[1] Dietz, James. "Economic History of Puerto Rico: Institutional Change and Capitalist Development." (1987).

[2] Dietz, James. "Economy of Puerto Rico: Negotiating Development and Change." (May 1, 2013).

[3] Martinez-Otero, Heriberto; Seda-Irizarry, Ian. "The Origins of the Puerto Rico debt crisis." Jacobin Magazine.




**SEC. 3. FEDERAL FUNDING FOR OPERATION OF OVERSIGHT BOARD AND TITLE III PROCEEDINGS**

Having the Federal Government fund the Board is a favorable idea. This proposal should release about $80 million annually. What you have to keep an eye on is how the money will be distributed. If the Board determines that the money saved will go to a fund for the payment of the debt of Puerto Rico or any of its municipalities, then it will have no positive impact on the local economy. The way PROMESA Act is designed allows the Board to put a cap on the budget. If that ceiling contemplates the reduction of the Federal money that previously went to the Board, we will not be able to count on it for essential services in its other areas of social investment.

**SEC. 4. DEFINITION OF ESSENTIAL PUBLIC SERVICES**

The definition of essential services has been a constant grievance by the citizens of Puerto Rico. The Association of Economists of Puerto Rico approved a resolution to request that the government of Puerto Rico and the Board establish a list of essential services: education, health, safety, retirement, and the preservation of the only public higher education institution that we have, the University of Puerto Rico. We must all be clear that the most important consequences of the cuts to essential services are poverty and migration. Therefore, it seems to me that this amendment is adequate, emphasizing the need to finance the UPR as an engine for economic growth and development.

**SEC. 318. DISCLOSURE BY PROFESSIONAL PERSONS EMPLOYED BY COURT ORDER**

This issue is critical because, in Puerto Rico, hundreds of millions of dollars have been spent on consulting without any assessments to ensure transparency. We have learned from the media that the FBI investigates local government agencies, including arresting public officials, for hiring fraud and corruption. While we support this amendment, we would like to see that the hiring money is concentrated in local companies so that the multiplier effect on the economy could be more significant.

The economy of Puerto Rico is going through its worst moment in decades. At this time, it remains afloat thanks to the positive shock caused by Federal funds for reconstruction. The main reason for the economy to go through such a prolonged period of economic depression is the application of austerity policies, which have caused migration, loss of wealth, and deterioration of industrial infrastructure. Puerto Rico is a colony of the United States; the power to make structural changes to the country's economy rests on Congress and the Federal Government. The amendments to the PROMESA Law are an excellent start to soften economic conditions on the island, but insufficient to achieve sustained long-term growth. However, the indispensable decision that should come out of this process is the definition of essential services and to ensure financing for retirement systems and to save the University of Puerto Rico.

Thank you very much for your time.

QUESTIONS SUBMITTED FOR THE RECORD BY REP. GRIJALVA TO MR. HERIBERTO MARTÍNEZ OTERO, PRESIDENT, PUERTO RICO ECONOMISTS ASSOCIATION

**Mr. Martínez Otero did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.**

*Question 1. In your testimony, you express support for Section 6—Disclosure by Professional Persons Employed by Court Order to avoid conflicts of interest by consultants providing services to the Oversight Board. Several organizations have expressed there is also an urgent need to include language in PROMESA to avoid conflicts of interest by members of the Oversight Board.*

*Should this be a priority for the Committee? Why?*

*Question 2. Mr. Martinez, I am sure you have heard the critique regarding our language defining essential services; that it would have the unintended effect of leaving other government services, which are not defined as essential, open to massive cuts.*

*Is this analysis correct? Can we define "essential services" to protect the UPR for example, without negatively impacting other services?*

*Question 3. In your testimony, you state that if the Board determines that the money saved will go to a fund for the payment of the debt or its municipalities, then it will have no positive impact on the local economy.*

*Could you share more information about why investing in municipalities would not have a positive impact on the local economy?*

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Mr. SABLAN. Thank you very much, Mr. Martínez.

We now have Mr. Velázquez. You have 5 minutes, sir. Thank you.

## STATEMENT OF ALVIN VELÁZQUEZ, ASSOCIATE GENERAL COUNSEL, SERVICE EMPLOYEES INTERNATIONAL UNION

Mr. VELÁZQUEZ. Mr. Sablan, Ranking Member Bishop, and members of the Committee, thank you for the opportunity to address you. I am addressing this Committee on SEIU's behalf and not on behalf of the Unsecured Creditors Committee, to be clear.

This summer, the people of Puerto Rico came together to make their voices heard. SEIU's 23,000 members in Puerto Rico, healthcare workers, janitors, and other public servants were among the hundreds of thousands of Puerto Ricans who took to the streets demanding the departure of ex-Governor Ricky Rosselló. The people chanted, "Ricky, renuncia y llevate la Junta!" The English translation of that statement is "Ricky, resign and take the Oversight Board with you." The people also chanted, "Para sacar la porquera hay que hacer la auditoria," which means "To clean out the filth you have to do an audit."

The people got what they wanted with respect to Ricardo Rosselló, but so far their other demands have been ignored. But now, people are shouting a different chant. They're shouting "PROMESA is pobreza" or "PROMESA is poverty." The people's chants should alert you to a grizzly economic truth. If the Oversight Board continues on its current course, Title III of PROMESA will ensure "pobresa" and a need to restructure Puerto Rico's debt yet again in 5 to 10 years.

Indeed, all of the sovereign debt restructuring since 1970, 49.7 percent of them have been followed by another default or restricting within 3 years. That percentage increases to 60 percent over 7 years.

When Dr. Guzman testified before this Committee in May, he told you that the COFINA deal poses a serious risk of a failed debt restructuring. He said, and I quote, "The deal makes sense only if other groups of Puerto Rico's bondholders get a very large haircut. The arithmetic is simple: the generosity with the COFINA bondholders can only be sustained if the reduction on the rest of the public debt lies between roughly 85 and 95 percent."

Yet, what has happened? Instead of an 85 to 95 percent cut of the remaining debt, the Board's plan of adjustment proposes giving hedge funds who hold pre-2012 General Obligation bonds a possibility of up to 89.4 percent recovery. This is the exact opposite of what simple arithmetic demands. And the Board wants to give PREPA bondholders a similar favorable treatment.

So, who does that leave out in the cold? That leaves out people like Ramon Ortiz Carro. Mr. Ortiz Carro once owned a business that built affordable housing. Eleven years ago, he built housing for the government of Puerto Rico. He is still owed $11 million for that more than decade-old work. Mr. Ortiz was a proud employer but now has had to let go of all 125 of his staff. For Mr. Ortiz, the Oversight Board proposes a recovery of less than 2 cents on the dollar.

Or consider Carmen Castro, a retired worker living on social security. She regularly skips meals and doesn't turn on her lights or air conditioning even during the summer so she can pay her electrical bill. In order to give PREPA bondholders a generous recovery, the Board intends to hike her electrical rate by 47 percent over the next 5 years. No one is talking about a scenario where there is going to be sufficient economic growth to cover that increased cost in utilities.

It seems like the crowd was right. PROMESA is equaling pobreza. Just not for the pre-2012 GO bondholders and the COFINA bondholders.

How can Congress fix this? First, the people of Puerto Rico want a truly independent audit of debts. To be clear, the recent lawsuits after publication of the Kobre & Kim reports seeking to invalidate that, were a step in the right direction, but those actions were not an audit. Most governmental audits are done to the standards of the U.S. GAO office. Those standards require professionals to swear to independence and objectivity.

When the law firm Kobre & Kim investigated Puerto Rico's debt for the Oversight Board, they were not acting independently. Quite the opposite. Legal ethics bound Kobre & Kim to zealously represent their client's interest, meaning the interest of the Oversight Board. What the people of Puerto Rico demanded is an independent audit for the people of Puerto Rico by the people of Puerto Rico.

Second, Congress needs to pass a Marshall Plan for Puerto Rico that needs to have many parts. That plan has to have many components such as Medicaid parity and substantial debt relief. That would be a minimally acceptable start.

Measures like the Territorial Relief Act are a step in the right direction although not sufficient. At least that Act creates a sort of fail-safe mechanism in case the Board fails to cut the debt to a sustainable level and action is required. The Act requires local officials

to make the decision about debt relief, officials the people of Puerto Rico can actually hold accountable.

SEIU was against PROMESA from the beginning. First, because it is yet another colonialist incursion into Puerto Rico, the latest in a long and shameful history. But second, SEIU opposed PROMESA because we feared the outcome we now face: a Puerto Rico unable to prosper and grow again because its people would be saddled with an unsustainable debt load. At a bare minimum, Congress must confront that reality head on and begin taking steps to fix this failed policy.

Thank you.

[The prepared statement of Mr. Velázquez follows:]

PREPARED STATEMENT OF ALVIN VELÁZQUEZ, ASSOCIATE GENERAL COUNSEL OF THE SERVICE EMPLOYEES INTERNATIONAL UNION

Chairman Grijalva, Ranking Member Bishop, and members of the Committee, I am Alvin Velázquez, Associate General Counsel for the Service Employees International Union ("SEIU"), which represents 1.8 million workers in the United States, Canada, and Puerto Rico.[1]

Thank you for the opportunity to address the Committee. In doing so, I hope to bring to light the concerns of SEIU's 23,000 members living in Puerto Rico, as well as the thousands of members in SEIU's locals in the United States who are part of the Puerto Rican diaspora.

Our members in Puerto Rico are united in two local unions: Local 1996 SPT, the Sindicato Puertorriqueño de Trabajadores y Trabajadoras, and Local 1199 UGT, the Union General de Trabajadores. The SEIU members in these two unions provide custodial services in Puerto Rico's schools, protect children as security guards in the schools, and serve patients at Puerto Rico's public hospitals.

SEIU's members were among the hundreds of thousands of Puerto Ricans who took to the streets in San Juan earlier this year demanding the departure of ex-Governor Ricky Rossello. They lifted their voices with those on the street who were chanting "Ricky, renuncia y llevate la Junta!" The English translation of that statement is "Ricky, Resign and Take the Oversight Board with You!" The first demand was met when the Governor resigned, but, as I will discuss, it is now time to focus on the second equally important demand and on the circumstances of the Island's crippling debt.

PERSONAL BACKGROUND

First, let me tell you a bit about myself. I have been advising SEIU with respect to Puerto Rico's finances since 2009, when then-Governor Fortuño laid off 20,000 public workers under Law 7. I had the privilege of serving as Executive Director of Puerto Rico's Commission for the Comprehensive Audit of the Public Debt. Before joining SEIU, I worked as an attorney on commercial disputes in the private sector.

My mother moved from Puerto Rico to the United States and worked as a teacher's assistant. She was a proud union member. My father also moved from Puerto Rico. He retired as a public school janitor and a member of SEIU in Chicago. With their love and support, I was ultimately able to graduate from Harvard Law School. My father is still with us, but we lost my mother after a long battle with Lou Gehrig's disease when I was a junior in high school. My father and I buried my mother in Gurabo, Puerto Rico, near where she grew up. Today, I have many family members on the Island who are struggling to make ends meet due to the high electrical bills they have to pay, the highest sales tax in the United States, and the other challenges of living on a fixed income. Even though I reside in the DC metropolitan area, my heart is very much in Puerto Rico.

[1] SEIU presents this testimony on its own behalf, and not on behalf of any Committee on which SEIU may be a member in the Title III PROMESA proceedings. Any opinions contained in this testimony should be attributed only to SEIU, not any other party or Committee. THIS TESTIMONY IS NOT AND SHOULD NOT BE CONSTRUED AS A SOLICITATION OF VOTES FOR OR AGAINST ANY PLAN OF ADJUSTMENT IN THE TITLE III PROMESA PROCEEDINGS.

I. HOW PUERTO RICO GOT HERE

Now, let me turn to how Puerto Rico got here.

Puerto Rico is in bankruptcy because of mistakes made by this Congress, the greed of Wall Street hedge funds, mistakes made by politicians on the Island, and the pain inflicted by hurricanes. As noted by the Tax Foundation, the U.S. Government began a process in 1996 to phase out Section 936 of the tax code over a period of 10 years. Section 936 had promoted manufacturing and finance on the island. The tax break's expiration in 2006 eroded the manufacturing sector and the Government's tax base, and led to what has become a secular macroeconomic crisis.[2] The Government then began to issue more and more debt to offset its revenue loss, soon issuing more debt than the Puerto Rico economy could sustain.

In 2008, Wall Street greed led to the meltdown of the U.S. economy, with which we are all familiar. That meltdown compounded Puerto Rico's woes: It sent the cost of Puerto Rico's debt sky high, which in turn forced Puerto Rico to take out high risk financial instruments such as interest rate swaps, and led to massive foreclosures.

In 2009, the Government of Puerto Rico responded by laying off 20,000 public servants and raising taxes and authorizing the issuance of more sales taxed backed debt—the layoffs and borrowing made things worse rather than better. According to some economists, the layoffs actually caused the Puerto Rican economy to shed more than 120,000 jobs once the loss of secondary spending by those who formerly had public-sector positions is taken into account.[3] By 2012, the surge in government debt, decline in economic activity, and growing exodus of the Puerto Rican population put the Island into virtual bankruptcy, causing its bond prices to collapse. As has happened in many other places, like Peru and Argentina, hedge funds swooped in to purchase Puerto Rican bonds at bargain basement prices.

More recently, Hurricane Maria devastated Puerto Rico and exposed its fundamental infrastructure problems. Today, more than 250,000 families in Puerto Rico still face foreclosure,[4] and 30,000 families still have tarps on their homes.[5]

Given this series of calamities, it should come as no surprise that Puerto Rico needed major change and a fresh start.

PROMESA led to a bankruptcy proceeding that was supposed to be that fresh start. But the law has failed to achieve its goals and will continue to fail. Indeed, the seeds of its failure were planted at the very beginning, when Wall Street interests wrote the PROMESA law to benefit themselves rather than Puerto Ricans.

In general, PROMESA's authors had a choice between two very different financial paths for Puerto Rico and U.S. territories. One was a path marked by immediate and extreme fiscal austerity for the purpose of squeezing every possible penny out of the Island now in order to repay Wall Street as much as possible as quickly as possible. The other was a path focused on improving the Island and growing its economy to achieve prosperity and long-term economic health, which would include the repayment of a *sustainable* level of debt over a reasonable period of time.

The first path would sacrifice the Island, its people, and any chance of long-term growth on the altar of quick hedge fund payouts. It is the path that would be chosen by someone with little interest in the Puerto Rican people or the Island's continued viability. The second path would take the Island and its people into account. It is the path that would be chosen by anyone who cares more about Puerto Ricans than about hedge funds for the already rich.

As you can likely guess, the hedge funds and their lawyers who wrote PROMESA chose the first path. Thus, despite the best efforts of some on this Committee, PROMESA passed with a mandate for austerity and failed to include important economic stimulus measures such as Medicaid parity or tax credits for workers. PROMESA's elaborate legal framework tilts inexorably toward austerity while ignoring the long-term health of Puerto Rico's economy and the ability of workers on the Island to find jobs that pay a living wage and can support a family.

The reality of such policies is that they mean the end of Puerto Rico as we know it. These policies are not and were never intended to help Puerto Rico thrive.

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[2] Scott Greenberg and Gavin Eakins, *Tax Policy Helped Create Puerto Rico's Fiscal Crisis*, https://taxfoundation.org/tax-policy-helped-create-puerto-rico-s-fiscal-crisis/, June 30, 2015.

[3] https://www.primerahora.com/noticias/gobierno-politica/nota/ley7fueadversaparalaeconomia-496760/, April 19, 2011.

[4] https://www.elnuevodia.com/negocios/finanzas/nota/alertansobreunacrisisdeejecucionesdehipotecasenlaisla-2494020/, May 15, 2019.

[5] Ricardo Cortes Chico, 30,000 homes still have tarps from FEMA, https://www.elnuevodia.com/noticias/locales/nota/todavia30000casastienencomotechostoldosdefema-2493167/, May 10, 2019.

But of course when PROMESA passed, this reality was obscured by a fictional narrative that could easily have led someone to believe exactly the opposite. Somehow Wall Street spun a story of austerity and " discipline" that could not only repay the hedge funds at remarkable rates but also benefit the Island and its people. A "win win," so to speak, is the story that was told.

That self-interested story, like many similar stories we heard before 2008, turns out to have been a lie. There is no "win win" that gives Wall Street huge, immediate payouts and also benefits Puerto Ricans. And what we see now is that lie, that fiction on which PROMESA was based, crashing headlong into the economic reality that Puerto Rican workers do not make enough money to pay off a substantial amount of Puerto Rico's debt and certainly do not make enough money to do so while leaving anything meaningful for the Island, its economy, and its people.

The PROMESA reforms we are here to discuss today do not go far enough, in SEIU's view or in the view of the thousands of Puerto Ricans who took to the streets earlier this year. And part of this testimony will address major additional changes SEIU would like to see.

Nonetheless, the proposed amendments are without a doubt an improvement on what we have now. The reforms begin to shed the fiction that austerity will somehow lead to growth. These reforms begin to add the Puerto Rican people and their interests back into the discussion. They begin moving toward what we need: A plan, based in reality, for long-term economic growth that will repay Puerto Rico's debt to the extent possible without destroying the Island in the process.

## II. THE FICTION UNDERLYING PROMESA

Before I turn to the discussion draft of reforms, however, let me provide a bit more detail about the fiction on which PROMESA is based and that ex-Governor Rossello happily espoused in his campaign: The notion that the people of Puerto Rico can pay enormous amounts to Wall Street and survive.

According to Census Data, the average Puerto Rican household makes $19,775 per year, https://www.census.gov/quickfacts/PR. For the sake of comparison, that same data shows that households in Mississippi, our poorest state, make more than twice as much, or $42,009 per year.[6]

Given this reality of income on the Island, the Oversight Board's May 9th Fiscal Plan was already a stretch when it claimed that Puerto Rico could repay about $400 million per year in servicing its debt.[7] Now, however, in its recently filed Plan of Adjustment, the Oversight Board suddenly claims that Puerto Rico should pay $1.5 billion every year for the next 30 years.[8]

Why? Even imagining for a moment that such money exists, who is the Board proposing that it be paid to?

Well, the Board's recently filed Plan of Adjustment provides one of the largest bondholder groups, the pre-2012 General Obligation Bondholders ("GO Bondholders"), with a baseline recovery of 64 percent that could go as high as 89.4 percent.[9] That would be a nearly 90 percent recovery for a group of primarily off-Island hedge funds unlikely ever to contribute to Puerto Rico's future. And on top of that 90 percent, the Board proposes to reward the GO Bondholders with $300 million extra if they support the Board's plan! Meanwhile, the Oversight Board has also agreed to provide bondholders of its electric utility ("PREPA Bondholders") a recovery of up to 89 percent.

Contrast this with the Board's treatment of on-Island workers and businesses, who will have to pay for this extraordinarily generous recovery.

In order to fund an 89 percent recovery for PREPA bondholders, Puerto Ricans will see their electricity rates, which are already amongst the highest in the United

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[6] https://www.census.gov/quickfacts/MS.

[7] See Exhibit 28, 2019 *Fiscal Plan for Puerto Rico: Restoring Growth and Prosperity*, May 9, 2019, at https://drive.google.com/file/d/13wuVn04-JKMEPKu-u-djZJHgTK-55aV/view, and attached herein as Exhibit A. The Oversight Board's Board debt sustainability analysis indicates radically different payments of debt. SEIU uses the debt to personal income metric on this proposal, as it is the financial metric tied to the median household income in Puerto Rico, and most accurately demonstrates the ability of the tax base to pay back legacy debt.

[8] Plan Support Agreement Announcement dated June 17, 2019 located at https://drive.google.com/file/d/13RFAuRJX6Tkya66DTPz3V2uEUiTjwqvQ/view, page 2.

[9] See page 24 of Disclosure Statement, attached herein as Exhibit B. The pre-2012 bondholders are denoted as "vintage bondholders" and designated as classes 6–12).

States, rise 47 percent over the next 5 years, according to a study by noted economist Ramon Cao.[10]

Meanwhile, the Oversight Board has chosen to pay "Unsecured Creditors" only 1.8¢ on the dollar, a far cry from the GO bondholders' potential 89.4 cents on the dollar.[11] Who are these Unsecured Creditors? They are people like Ramon Ortiz Carro, the founder of Unitech Engineering Group. He and his partners built public housing for the Department of Housing over 10 years ago. There are now dozens of families living in the housing Mr. Ortiz built. He employed between 125 and 150 people but has now had to let them all go because the Government of Puerto Rico refuses to pay him the more than $11 million it owes for his work. Mr. Ortiz has lost his business, and, under the Board's Plan, he will get back at most 1.8 percent of what he is owed, which is not enough to re-start his company or hire back his workers.[12]

For workers themselves, things are even worse. Many will lose their jobs altogether. By way of example, HIMA, the second largest hospital system in Puerto Rico, has laid off more than 750 nurses and support staff since 2015 as it struggles to stave off its own bankruptcy and retain patients in the face of a massive population exodus.[13] Puerto Rico has lost over 14 percent of its population in the last decade, and 4 percent of the population since Hurricane María made landfall.[14]

Those Puerto Rican employees who manage to keep their jobs are facing the prospect of dramatic cuts to their medical plans. Their living costs and electrical bills are going up, but they have received only one nominal raise in 10 years and, under the Board's Plan, will not see another anytime in the foreseeable future.

For those already retired, the Oversight Board proposes cuts of up to 8.5 percent of retirement benefits for all those who earn anything more than $1,200 a month.[15] These are retirees who will have to continue to pay the United States' highest sales tax and find the money for 47 percent increase in their electricity bills, which are already the second highest in the United States. The retirees will have to do all of this while living on income that is below the poverty line for a family of two.[16]

Consider Carmen Castro's experience. Ms. Castro is a retired worker living in a small home. She keeps her lights and air-conditioning off, even during the summer, because she struggles to pay her electrical bill. Ms. Castro tends to eat one full meal a day, a few crackers and coffee, to keep costs down. She lives on social security alone. How will PREPA's 47 percent rate increase to pay legacy debt help her buy groceries or eat a real second meal? It will not. How does it provide a future and incentivize the current crop of University of Puerto Rico students to stay in Puerto Rico after graduation? It does not.

As is probably clear now, none of this makes sense. Puerto Ricans are not superhuman. They cannot pay money to Wall Street that they do not earn, and they cannot survive on nothing.

So why has the Oversight Board filed a plan that provides for $1.5 billion in annual debt payments that are completely unrealistic even according to its own estimates of what Puerto Ricans can afford on their incomes?

In large part, the Board has done so because, as discussed earlier, PROMESA is structured to promote austerity-structured, that is, to give Wall Street quick payouts with no regard for the Island's future. PROMESA does not and never has given the Board the macroeconomic tools it would need to choose the alternative path I mentioned earlier, a path that would reinvigorate the economy and lead to sustained growth. PROMESA has never allowed the Board to take that path because doing so would require it to take an important initial step the hedge funds oppose: reducing Puerto Rico's bond debt to a level that bears some reasonable relationship to what Puerto Ricans actually earn, so that the Island can pay back its debt at a sustainable rate. This is a necessary pre-condition for other economically stimulative measures to have their intended effect.

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[10] Joanisabel Gonzalez, *A Move to Avoid a Trusteeship in PREPA*, In El Nuevo Dia, dated September 10, 2019 at https://www.elnuevodia.com/english/english/nota/amovetoavoidatrusteeinprepa-2516926/.

[11] See Exhibit 8. Unsecured creditors are designated as Class 27.

[12] Joanisabel Gonzalez, *Government Contractors and Suppliers Hit*, in El Nuevo Dia, dated October 19, 2019 at page 6 of the Business Section.

[13] BDC reporter, https://bdcreporter.com/company/grupo-hima-san-pablo/.

[14] https://www.noticel.com/economia/en-una-decada-puerto-rico-perdio-14-de-su-poblacion/941201401.

[15] Karen Pierog, *Puerto Rico Oversight Boord reaches deal over retirees pensions*, Reuters, dated June 12, 2019, at https://www.reuters.com/article/us-usa-puertorico/puerto-rico-oversight-board-reaches-deal-over-retiree-pensions-idUSKCN1TD2RZ.

[16] Federal Poverty Guidelines for 2019, at https://aspe.hhs.gov/poverty-guidelines.

Speaking frankly, if the Oversight Board were actually to take that step and do what it should, the Board would have to cut 85–95 percent the bond debt that was left after the COFINA deal. As support for this figure, I refer the Committee back to the testimony it received from Dr. Martin Guzman, who is the Director of the Columbia University Initiative for Policy Dialogue's Program on Debt Restructuring. Dr. Guzman, who earned his Ph.D. in economics from Brown University and who teaches at both Columbia University and the University of Buenos Aires, testified as follows on May 2, 2019, and I quote:

> " . . . 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." [17]

In other words, experts and reality dictate an 85–95 percent cut in remaining bond debt. But remember, the Oversight Board's Plan provides not for a 95 percent haircut but for an up-to-89.4 percent recovery for GO bondholders and a similarly high recovery for PREPA bondholders.

These are the imaginary economics that PROMESA's short-term Wall Street focus and drive to austerity lead to, and they cannot continue. SEIU members and the people of Puerto Rico have been saying this for a long time, and I am happy to be here now to speak for them in support of the discussion draft of reforms. While SEIU would prefer not to have PROMESA at all, we believe that this draft takes a number of steps in the right direction—away from fiction and towards reality.

### III. SEIU SUPPORTS SECTION 4 OF THE DISCUSSION DRAFT BECAUSE PUERTO RICO NEEDS ESSENTIAL SERVICES TO GROW

SEIU supports Section 4 of the discussion draft, which would define a category of essential public services and ensure that those services are funded. Essential services will include education, the University of Puerto Rico, public safety, health care, and pensions.

These services must be adequately funded because they are necessary pillars for Puerto Rico's future growth. Right now, the Island is experiencing a "brain drain" of unprecedented proportions. An education at the University of Puerto Rico is one of the most effective mechanisms for enticing the Island's young people to stay. Without it, and without the other essential services identified in Section 4, the young will continue to abandon the Island. As they do so, they cripple Puerto Rico's economy and increase the burden of debt repayment on those who remain, in a downward spiral that is simply not sustainable.

The first step toward ensuring Puerto Rico's future, and its future economic growth, is to make staying on the Island a viable alternative for Puerto Rico's young people. Section 4 will help achieve that.

### IV. SEIU SUPPORTS SECTION 5 OF THE DISCUSSION DRAFT BECAUSE IT WILL IMPROVE GROWTH AND KEEP MONEY ON THE ISLAND

PROMESA claims that its intent is to support economic growth on the Island, but, not surprisingly given the Wall Street hedge fund interests that were behind the law, PROMESA in its current form encourages a view that equates "economic growth" with repaying off-Island hedge funds and funneling additional money to those on the Island who already have it. SEIU supports Section 5 of the Discussion Draft because it is a step toward correcting this fatal flaw.

In recent years, economists the world over have come to recognize a basic truth: Extreme income inequality and lackluster wage growth are incompatible with sustained economic improvement.[18] At the most basic level, a hollowed-out middle class leaves no consumers who can afford to purchase the goods and services a healthy economy might provide. And ultimately, a hollow core will collapse the entire structure, as those at the top—who can no longer sell their goods and services at home—

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[17] Testimony of Mr. Martin Guzman before the House Committee on Natural Resources, dated May 2, 2019, at https://naturalresources.house.gov/imo/media/doc/Mr.%20Guzman%20-%20Written%20Testimony%20-%20FC%20Ov%20Hrg%205.2.19%20PROMESA.pdf.

[18] See e.g. Joseph Stiglitz, *The Price of Inequality* (2012), see also Thomas Piketty, Capital in the 21st Century (2013).

either face declining profits or, using the freedom their wealth provides, take their money elsewhere.

Puerto Rico is an object lesson in these realities.

Take, for example, income inequality: The GINI coefficient is a well-used measure of income inequality. A GINI co-efficient of 0 means that everyone has the same income. As incomes become more unequal, the GINI coefficient inches closer to 1. In 2018, Puerto Rico had the most unequal economy in the United States. Its GINI coefficient was .54.[19] If Puerto Rico were a country, it would be seventh most unequal country in the world. Puerto Rico's GINI coefficient is roughly equivalent to that of Botswana (.533), Mozambique (.54), and Belize (.533), the latter of which has defaulted and restructured its debt multiple times.[20]

As extreme inequality cripples the on-Island economy, money flows off it at an ever-accelerating pace. Money leaves with migrants; it is invested elsewhere by the rich; it travels to Wall Street for debt repayment. In fact, Puerto Rico has the second largest spread in the world between what its economy produces and what its residents keep at home—second only to Iraq.

Think about that: At a time when Puerto Rico is in bankruptcy, and its residents are being asked to shoulder the burden of billions of dollars in debt, money is rushing off the island. Imagine something like the "giant sucking sound" that Ross Perot talked about in the 1980s and you will have a sense of what is happening to Puerto Rico.

Until now, however, nothing in PROMESA has directed the Oversight Board's attention to either of these problems, income inequality or the flow of money off-Island. Section 5 begins to correct that by forcing the Board to consider job creation and increased household income when assessing appropriate capital investments. But SEIU urges the Committee to go further, by amending PROMESA Sec. 201(b)(1)(J) to explicitly include reducing income inequality and increasing Gross Domestic Product and Gross National Product among the Board's goals for its fiscal plan.

More specifically, SEIU requests that the Committee amend the language of Section 201(b)(1)(J) by inserting before the semicolon the following language: "including investments and expenditures to increase the creation of new jobs, reduce income inequality. increase Gross National Product ('GNP') and Gross Domestic Product ('GDP'), reduce the unemployment rate, expand workforce development programs, reduce the informal economy, increase the median household income, and reduce the number of residents living under the poverty level."

Making these changes will appropriately focus the Board on reducing the inequality and off-Island money flow that is currently hobbling the Puerto Rico's growth.

V. SEIU SUPPORTS SECTION 7 OF THE DISCUSSION DRAFT BECAUSE IT WILL INCREASE TRANSPARENCY, BUT SEIU BELIEVES AN ENFORCEMENT MECHANISM MUST BE ADDED

Section 7 of the Discussion Draft is intended to increase transparency and public access to records, and SEIU strongly supports those goals.

Puerto Rico does not have its own freedom of information law, and although the Island's Supreme Court has found a right of public access in Puerto Rico's First Amendment, there is no statutory framework for the release of public information.[21] Instead, parties ask the Government for information; the Government typically refuses the request; and the parties seeking information must then go to court for a writ of mandamus. This is a time-consuming, expensive, inefficient, and ultimately ineffective process.

SEIU has first-hand experience with the lack of transparency that results. Over the years, we have asked for data about our own members' pensions and have had those requests denied. We have also sought information about the Government's dealings with the financial sector and been similarly denied.

The Oversight Board has continued this pattern. Although it spent $16 million on an investigative report about potential legal claims it might bring, the Board has not made any of the underlying investigative documents public. The Board has also fought with parties in interest, creditors, and the public over the release of documents related to the underwriting of Puerto Rico's bond debts.

Section 7 of the Discussion Draft goes a long way toward improving this situation, but it will effectively be a dead letter unless there is a strong enforcement mechanism that provides the public with a cause of action in court and the right

[19] https://www.statista.com/statistics/227249/greatest-gap-between-rich-and-poor-by-us-state/.
[20] https://data.worldbank.org/indicator/si.pov.gini?most_recent_value_desc=true.
[21] *Soto v. Srio. de Justicia*, 112 DPR 477 (TSPR 1982).

to recover attorneys' fees. Thus, SEIU recommends that the following be added to Section 7:

> (c) ENFORCEMENT: On complaint, the District Court of the United States in the District of Puerto Rico shall have jurisdiction to enjoin the Oversight Board or any local agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and may examine the contents of such agency records in camera to determine whether the records or any part thereof should be withheld under any of the exemptions set forth in subsection (b) of the Federal Freedom of Information Act. The agency shall bear the burden of proving that an exemption applies. The district court's jurisdiction over these matters shall be non-exclusive and without prejudice to any remedies provided under local law.
>
> (d) The court may assess against the Oversight Board or relevant agency reasonable attorney fees and other costs reasonably incurred in any case under this section in which the complainant has substantially prevailed. For purposes of this subparagraph, a complainant has substantially prevailed if the complainant has obtained at least some relief through either——
>
> (I) a judicial order or an enforceable written agreement or consent decree; or
>
> (II) a voluntary or unilateral change in position by the agency, if the complainant's claim is not insubstantial.

This proposed addition to Section 7 of the Discussion Draft is substantially similar to language in the Federal FOIA law.[22] It provides a neutral forum to hear disputes and provides incentives for disclosure. It also allows for the plaintiff to decide whether they wish to proceed in Federal court, or in local court.

### VI. SEIU ENDORSES THE TERRITORIAL RELIEF ACT

SEIU endorses Section 8 of the discussion draft, known as the Territorial Relief Act. SEIU supports the Territorial Relief Act because, if passed, it would provide an insurance mechanism should the Oversight Board fail to restructure Puerto Rico's debt to an economically sustainable level. It would also return some power to the people of Puerto Rico.

The Territorial Relief Act addresses the fundamental problem of PROMESA, namely the absence of powerful restructuring tools. The Act will ensure that Puerto Rico can cut its debt to an economically viable level; the current fiscal plans do not cut bonded debt enough. Indeed, SEIU is not aware of a single published economic analysis that supports the Board's apparent belief about how much debt the Island can continue to carry. As Professor Guzman recently explained, "(t)here is seldom so much consensus amongst economists about the main premises of a fiscal and debt policy path that needs to be followed in order to give an economy a chance for recovery."[23] Yet the Board has ignored that expert consensus.

The debt cuts made possible by the Territorial Relief Act would also give Puerto Rico important bargaining leverage at this moment. The Act would create a very real incentive for bondholders to negotiate a settlement that is payable over the long term, rather than over the short term.

SEIU also supports the Territorial Relief Act because it provides a mechanism for dealing with the very likely failure of the Oversight Board's restructuring plan. Among other things, the Board's Plan of Adjustment is flawed because it contains a 10-year no-call provision, which means that the Island cannot refinance its debt at lower rates for a period of 10 years. The Plan also proposes higher debt payments up front, apparently based on the very suspect assumption that Puerto Rico will experience significant economic growth in the short term because of hurricane relief funds and reconstruction.[24]

There is already reason to doubt the Board's assumption about significant short-term growth. For one thing, the Trump Administration has threatened to challenge the deductibility of Law 154 excise payments against Federal income taxes.[25] Currently, Law 154 excise tax payments account for 18 percent of Puerto Rico's General Fund. The Board had already assumed that it will lose about 50 percent

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[22] See 5 U.S.C. 552(a)(4)(B) + (E).

[23] Martin Guzman and Pablo Gluzman, The Puerto Rico Debt Dilemma, May 2019, at 21.

[24] Schedule of Cash Flow Bonds, Exhibit M to the Plan of Adjustment at M–1, attached herein as Exhibit C.

[25] Joanisabel Gonzalez, *A Risk to the Adjustment Plan*, in El Nuevo Dia at https://www.elnuevodia.com/english/english/nota/arisktotheadjustmentplan-2520083/, dated Sept. 26, 2019.

of that income over the next year, but if the deductibility of those payments is eliminated, many more businesses may move away from the Island in an attempt to exploit tax loopholes elsewhere.

In addition, Puerto Rico is unlikely to receive the amount of hurricane relief that the Board assumed it would receive. The Oversight Board itself announced on October 21, 2019 that it is now expecting only $39 billion in Federal funds, rather than the $69 billion it originally assumed.[26] As the Oversight Board noted in a September 17, 2019 presentation that it released to the market: "We are already seeing delays in disaster relief funding and have reason to question the duration of the 'boost' these funds are bringing to the economy."[27] For this reason, the Board has indicated that it now anticipates a "boost" that will last only 3 years, rather than 5. Strangely enough, this change does not appear to be reflected in the Board's proposed amortization schedule in the Plan of Adjustment that it filed 10 days later, on September 27, 2019.[28]

These uncertainties highlight the need for the Territorial Relief Act because they help show what a high risk of future default Puerto Rico faces. In fact, subsequent defaults often follow sovereign restructurings. According to Guzman and Lombardi's 2018 study, of all the sovereign restructurings since 1970 that have involved private creditors, 49.7 percent have been followed by another default or restructuring within 3 years. That percentage increases to 60 percent over 7 years.[29]

Even though SEIU has been against PROMESA since the outset, we acknowledge that these proposed amendments would have some salutary effect: They would return some measure of control to the people of Puerto Rico by requiring elected leaders to pass a resolution in order to begin the process of canceling bonded debt. Those same leaders will have to face the public for re-election, meaning that the people will have some say. The proceedings so far, by contrast, have taken place in court, behind closed doors, and in rooms dominated almost entirely by a small cadre of elite lawyers from the United States. The people of Puerto Rico made very clear this summer that they want a say in their future, and the Territorial Relief Act takes a step in that direction by at least making leaders answerable to the Puerto Rican people for any decisions to forgive debt.

Finally, let me address some concerns raised by creditors about the Discussion Draft. Creditors purport to be concerned about the Island's ability to take general obligation bonds to market in the future, assuming these changes are made. But as noted by the head of BlackRock, two-thirds of the municipal bond market is already revenue bonds rather than GO bonds.[30]

Moreover, available data does not support the creditors' view: Argentina successfully issued $2.7 billion of 100-year bonds in June 2017 at a yield of 8 percent. Their offering was almost four times oversubscribed. And Detroit, too, has begun to issue bonds after having cut its debt substantially. There is no reason to believe Puerto Rico cannot do the same.

## VII. SEIU SUPPORTS SECTION 9 OF THE DISCUSSION DRAFT BUT BELIEVES IT MUST BE STRENGTHENED

SEIU has been calling for a comprehensive audit of Puerto Rico's debt since well before Law 97 was passed in 2015. Initially our demand, like our union's demand for a $15 minimum hourly wage, was ridiculed. Jose Carrion, the Chairman of Puerto Rico's Oversight Board, even called the idea a "waste of time."[31] Yet this summer hundreds of thousands of Puerto Ricans took to the streets calling not only for the Governor's resignation *but also for a comprehensive audit of the debt*. It seems times have changed.

Before providing testimony regarding how the audit could be strengthened, let me dispel some myths about what has already happened with respect to a debt audit.

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[26] Release to market, Commonwealth Fiscal Plan Risks, dated September 17, 2019 at p. 8. https://media.noticel.com/o2com-noti-media-us-east-1/document_dev/2019/10/20/Informe%20de%20Riesgos%20del%20Plan%20Fiscal%20septiembre%202019_1571626158096_39533768_ver1.0.pdf.

[27] Id.

[28] See exhibit M–1 to plan of adjustment.

[29] Martin Guzman, *Institute for New Thinking: Ending the Wild West of Sovereign Debt Restructuring*, https://www.ineteconomics.org/perspectives/blog/ending-the-wild-west-of-sovereign-debt-restructuring, dated July 23, 2018.

[30] Peter Hayes, *The Case for Favoring Revenue Bonds Over General Obligation Bonds*, at https://www.investmentnews.com/article/20160613/FREE/160619980/the-case-for-favoring-revenue-bonds-over-general-obligation-bonds, dated July 13, 2016.

[31] Noticel, Carrión sobre la auditoría: "es una pérdida de tiempo" at https://www.noticel.com/ahora/carrin-sobre-la-auditora-quotes-una-prdida-de-tiempoquot-video/609379956.

**Myth No. 1:** The Oversight Board, through its Special Claims Committee, has conducted an audit of the debt.

**Reality:** The Oversight Board commissioned an investigation that did not comply with any recognized auditing standards, such as the U.S. General Accounting Office's Government Auditing Standards (better known as the "Yellow Book") or the International Organization of Supreme Audit Institutions' (INTOSAIs') Auditing Standards. Essentially, the Board spent $16 million on what auditors would call a pre-audit survey, without the procedures needed to complete an actual independent and certified audit.

**Myth No. 2:** The Oversight Board does not need to conduct an audit because it has filed several legal challenges to Puerto Rico's debt and has sued several underwriters.

**Reality:** This myth confuses the bringing of a lawsuit with an audit of the debt. The Oversight Board, along with the Unsecured Creditors Committee, brought forth several claims seeking to challenge the validity of Puerto Rico's debt. These lawsuits are all well and good but until we have a complete audit of the debt that actually complies with best practices we will never know the full extent of what happened. We need a real audit to know.

A few details about auditing best practices will highlight the flaws in what the Oversight Board has done. When any company or governmental entity hires an independent auditor, best practice is that the entity be involved only at the beginning, when deciding what the scope of the audit will be. After that, the auditor must have free reign to review relevant papers and make independent determinations and to do so objectively.[32] The company or government entity will typically get a chance to review a draft of the auditor's report before it is final to clarify matters, but the auditors at all times maintain their independence.

The Oversight Board did not, however, hire a truly independent auditor. The Board hired a law firm, which owed an ethical duty to its client—the Oversight Board—rather than fidelity to an independent standard of review. By proceeding this way, the Board kept control over the ultimate work product. This is not standard audit operating procedure.

Furthermore, independent government auditors typically review documents and issue reports before referring potential claims to legal authorities. This approach makes sense because the auditing function requires a measure of independence, whereas the legal and prosecutorial function is one of advocacy rather than neutral independence. Also, in most instances, the public will be able to see the audit report and compare it to prosecutors' subsequent actions.

The Oversight Board did none of this. Why? Perhaps because they do not want to lose control over the results or have an outside party tell it what to do. Whatever the Board's rationale, the practical effect is a lack of transparency or trust. The people of Puerto Rico have no way to know whether the Board brought forth all the claims it could or should have, or whether other claims could be pursued that would result in larger financial recoveries. An independent audit commission will bring closure and ensure that all money that should be recovered is actually recovered.

In sum, SEIU strongly supports the Discussion Draft's audit proposal but believes it should be strengthened as follows:

- The following language should be added at the end of Sec. 901(b): "The Commission shall conduct its audit in conformance with the U.S. Government Accounting Office Government Auditing Standards ("Yellow Book"). It shall start its examination of the debt from the most recently issued bonds and review issuances in reverse chronological order."
- In addition, the following should be added to Section 901(b): "The Commission shall be created as an independent entity within the territorial government of Puerto Rico and shall not be considered to be a department, agency, establishment, or instrumentality of the Federal Government."
- The "Governor of Puerto Rico shall" should be deleted from Section 901(b) and replaced with "the Commission shall dissolve." Sections 901(f)(1)–(3) should also be deleted so as to remove government from membership on the Audit Commission.

[32] See General Accountability Office, *Government Auditing Standards* 3.01 *et seq*. (setting out standards for maintaining independence and objectivity in the course of an audit). https://www.gao.gov/assets/700/693136.pdf.

- The following language should be added to the end of Sections 901(f)(4), (5), (6), (7), (8), and (9): "as chosen by the membership of the relevant professional association recognized under the laws of Puerto Rico."

These changes will ensure that the Commission operates without political interference and is controlled primarily by the Puerto Rican people, not by politicians who may have interests in protecting themselves or their allies. These changes will also ensure that the audit is conducted by professionals free from conflicts, even if some members of the Commission have an interest in a certain outcome.

VIII. THE PEOPLE SHOULD HAVE A SAY IN THE ISSUANCE OF ANY FUTURE DEBT

Last but certainly not least, SEIU urges consideration of legislative reform to give the Puerto Rican people a voice in the issuance of future debt. The current Plan of Adjustment limits debt backed by taxes and changes the use of bond proceeds to align with best practices.[33] These are steps in the right direction but they are not enough.

As the Kobre & Kim firm noted in their report to the Board, Puerto Rico lacks a clear mechanism for validating a bond before it issues.[34] Twenty-seven states require voters, by special elections or other mechanisms, to authorize issuance of a bond.[35] Several other states and territories authorize taxpayers to bring bond validation proceedings to determine whether a proposed bond issuance is authorized or legal.[36] Kobre & Kim recommended the adoption of a similar mechanism in Puerto Rico,[37] but as of the date of this writing, the Puerto Rican legislature has not introduced such a bill and the Oversight Board has not made such a recommendation pursuant to Sec. 205(a) of PROMESA.

At this point, Congress should step in to create a mechanism that the people of Puerto Rico can use to challenge debt issues. Doing so will make the Board and the Island's politicians more accountable to the people and give the people some voice in these key decisions that affect their future. This is especially true for when the Oversight Board leaves Puerto Rico (which SEIU would prefer happen immediately).

Congress should also consider giving the Citizens Audit Commission proposed in the Discussion Draft the ability to enforce the debt policy that the Oversight Board adopts in its Plan of adjustment. In doing so, it should give the Commission the ability to sue in Federal court to enforce that policy. This will allow the people of Puerto Rico to have a say in the economic decisions that will govern their lives for years to come.

CONCLUSION

SEIU urges this Committee to listen to the people. The hundreds of thousands of Puerto Ricans who took to the streets are tired of politics as usual, tired of the unaccountable Junta, and tired of not knowing the truth about the debt that mortgaged their future.

SEIU was against PROMESA from the beginning, not only because it is a colonialist incursion into Puerto Rico but also because SEIU feared the outcome we now confront. At a minimum, the time has certainly come to reform PROMESA to give more power to Puerto Ricans and to arm them with the tools needed to achieve a sustainable, long-term plan. An audit commission, the Territorial Relief Act, consideration of income inequality . . . these steps are not true de-colonization. They are a beginning, not the end. But in 2019, Puerto Rico at least deserves a new beginning.

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[33] See 44.2 and 44.3 of Plan of Adjustment, filed on September 27, 2019.

[34] See Kobre and Kim report at 446. https://media.noticel.com/o2com-noti-media-us-east-1/document_dev/2018/08/20/Informe%20de%20Kobre%20Kim%20sobre%20la%20deuda%20de%20PR_1534811503036_12865995_ver1.O.pdf.

[35] https://ballotpedla.org/Bond_issue.

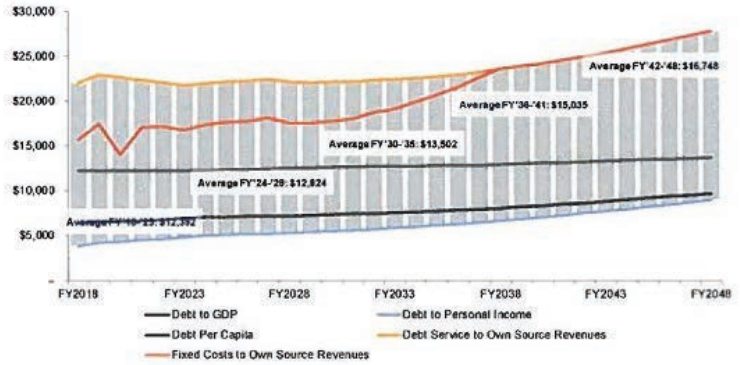
[36] See, e.g., Ala. Code § 11–81–220, et seq. (2018); Cal. Civ. Proc. Code §§ 860–871 (2018}; Fla. Stat. Ann. § 75.01, et seq. (2018}; Ga. Code § 50–17–25 (2018); Ky. Rev. Stat. § 66.191 (2018); La. Rev. Stat. § 13:5121, et seq. (2018); Miss. Code § 31–15–5, et seq. (2018); Ohio Rev. Code § 133.07, et seq. (2018); Wash. Rev. Code § 7.25.020, et seq. (2018); W. Va. Code § 13–1–25, et seq. (2018).

[37] Kobre and Kim report at 448.

**EXHIBIT A**

EXHIBIT 28: IMPLIED NET TAX-SUPPORTED DEBT CAPACITY RANGE BASED ON TOP-10 HIGHEST INDEBTED U.S. STATE DEBT METRICS ($M)

Implied debt capacity range based on top-10 highest indebted US state debt metrics, $M




For illustration purposes, values in ($000's)
The Own Source Revenues metric used for the Debt Service and Fixed Costs metrics excludes the 53.65% Pledged Sales Tax Base Amount used to pay the restructured COFINA bonds and also excludes Federal Transfers. In all cases, Moody implied debt capacity range is limited to the Debt Service to Own Source Revenues Metric

The illustrative implied levels of the Government's restructured debt in the previous chart are calculated by applying the Net Tax Supported Debt ratios of the "top ten" U.S. states (in terms of debt load) to Puerto Rico's future projected GDP, population and Own-Source Revenues. Debt Service to Own Source Revenue and Fixed Costs to Own Source Revenues figures are derived assuming debt service of a long-term level debt service structure, with a 5% average coupon.

**Maximum annual debt service cap on restructured fixed payment debt.** The implied debt capacity and expected growth in debt capacity must be sufficient to cover both the payments due on the restructured debt and all payments due on future new money borrowings. Accordingly, the aggregate debt service due on all fixed payment debt issued in the restructuring of the Government's existing tax-supported debt should be capped at a maximum annual debt service ("MADs") level. The cap would be derived from the U.S. state rating metrics, and specifically from what Moody's calls the "Debt Service Ratio." The Debt Service Ratio is the ratio of total payments due in a year on all existing net tax-supported debt over that state government's own-source revenues (i.e., excluding federal transfer payments) in that year.

The Moody's report indicates that the average Debt Service Ratio for the all U.S. states is 4.5%. The Moody's report indicates that the average Debt Service Ratio for the top 10 most indebted states is 9.2%. To the extent either of these Debt Service Ratios is used to set a MADs cap on the restructured debt and the Primary Surplus is below the MADs level, then the debt service due on fixed payment debt would need to be set at the lower of the amount available for debt service or the MADs limit.

With respect to the Moody's Fixed Costs Ratio, the August 2018 Moody's report indicates that the average Fixed Costs Ratio for all U.S. States is 10.3%. The same report indicates that the average Fixed Costs Ratio for the 10 States with the highest Fixed Costs Ratios is 20.9%.

**EXHIBIT B**



| Claim[35] | Class | Estimated Claim Amount | Approx. Recovery (%) | Form of Consideration |
|---|---|---|---|---|
| PBA Bond Claims[36] | Class 1 | $4,235,144,182 | 23.1% | Cash |
| PBA Bond Claims (Insured) | Class 2 | 403,171,975 | 23.1% | Cash |
| PBA/DRA Secured Claim | Class 3 | 66,222,028 | 0% | - |
| PBA General Unsecured Claims | Class 4 | [__] | 100% | Cash |
| PBA/DRA Unsecured Claims | Class 5 | 134,357,497 | 0% | - |
| Vintage CW Bond Claims | Class 6 | 4,954,291,497 | 64.1%† | New Bonds / Cash |
| Vintage CW Bond Claims (Insured) | Class 7 | 1,963,103,447 | 64.1%† | New Bonds / Cash |
| Vintage CW Bond Claims (Taxable Election) | Class 8 | * | 64.1% | New Bonds / Cash |
| Vintage CW Guarantee Bond Claims[37] | Class 9 | 2,744,443,277 | 64.1%† | New Bonds / Cash |
| Vintage CW Guarantee Bond Claims (Insured) | Class 10 | 309,964,115 | 64.1%† | New Bonds / Cash |
| Vintage CW Guarantee Bond Claims (Taxable Election) | Class 11 | * | 64.1% | New Bonds / Cash |
| 2012 CW Bond Claims | Class 12 | 2,478,303,639 | 0 - 64.1%† | New Bonds / Cash |
| 2012 CW Bond Claims (Insured) | Class 13 | 393,049,392 | 0 - 64.1%† | New Bonds / Cash |
| 2012 Settling CW Bond Claims | Class 14 | * | 45.0% | New Bonds / Cash |
| 2012 CW Bond Claims (Taxable Election) | Class 15 | * | 45.0% | New Bonds / Cash |
| 2012 CW Guarantee Bond Claims[38] | Class 16 | 544,733,482 | 0 - 64.1%† | New Bonds / Cash |
| 2012 Settling CW Guarantee Bond Claims | Class 17 | * | 45.0% | New Bonds / Cash |

[35] **Preliminary and subject to revision.**

* Amount depends upon how many holders of Allowed Claims are eligible and elect to be treated under such class.

† Represents base recovery. Recoveries may increase up to a maximum of 89.4%.

[36] A holder of an Allowed PBA Bond Claim cannot recover more in the aggregate than 89.4% on account of such holder's Allowed PBA Bond Claim and Allowed Vintage CW Guarantee Bond Claim, Allowed 2012 CW Guarantee Bond Claim, and Allowed 2014 CW Guarantee Bond Claim, as applicable.

[37] A holder of an Allowed Vintage CW Guarantee Bond Claim cannot recover more in the aggregate than 89.4% on account of such holder's Allowed Vintage CW Guarantee Bond Claim and Allowed PBA Bond Claim.

[38] A holder of an Allowed 2012 CW Guarantee Bond Claim cannot recover more in the aggregate than 89.4% on account of such holder's Allowed 2012 CW Guarantee Bond Claim and Allowed PBA Bond Claim.

| Claim[35] | Class | Estimated Claim Amount | Approx. Recovery (%) | Form of Consideration |
|---|---|---|---|---|
| 2012 CW Guarantee Bond Claims (Taxable Election) | Class 18 | * | 45.0% | New Bonds / Cash |
| 2014 CW Bond Claims | Class 19 | 3,606,171,111 | 0 - 64.1%† | New Bonds / Cash |
| 2014 Settling CW Bond Claims | Class 20 | * | 35.0% | New Bonds / Cash |
| 2014 CW Bond Claims (Taxable Election) | Class 21 | * | 35.0% | New Bonds / Cash |
| 2014 CW Guarantee Bond Claims[39] | Class 22 | 345,380,886 | 0 - 64.1%† | New Bonds / Cash |
| 2014 Settling CW Guarantee Bond Claims | Class 23 | * | 35.0% | New Bonds / Cash |
| 2014 CW Guarantee Bond Claims (Taxable Election) | Class 24 | * | 35.0% | New Bonds / Cash |
| Retiree Claims | Class 25A | [ ] | [ ] | |
| Active ERS Participant Claims | Class 25B | [ ] | [ ] | |
| Active JRS Participant Claims | Class 25C | [ ] | [ ] | |
| Active TRS Participant Claims | Class 25D | [ ] | [ ] | |
| System 2000 Participant Claims | Class 25E | [ ] | [ ] | |
| AFSCME Employees Claims | Class 26 | [ ] | [ ] | |
| CW General Unsecured Claims | Class 27 | 5,500,000,000 | up to 1.8% | New Bonds |
| CW/HTA Constitutional Claims | Class 28 | 4,242,121,134 | If Class accepts, 3.1% | New Bonds |
| CW/Convention Constitutional Claims | Class 29 | 414,393,096 | If Class accepts, 0.4% | New Bonds |
| CW/PRIFA Rum Tax Constitutional Claims | Class 30 | 1,892,926,265 | If Class accepts, 3.4% | New Bonds |
| CW/MBA Constitutional Claims | Class 31 | [28,903,666][40] | If Class accepts, [13.5%] | New Bonds |
| CW Appropriations Claims | Class 32 | | 0% | - |
| CW 510(B) Subordinated Claims | Class 33 | | 0% | - |
| ERS Bond Claims | Class 34 | 3,168,698,777 | [ ] | Cash |
| Settling ERS Bond Claims | Class 35 | * | 12.7% | [ ] |
| ERS Bond Claims (Taxable Election) | Class 36 | * | [ ] | [ ] |
| ERS General Unsecured Claims | Class 37 | [ ] | [ ] | New Bonds |
| Gracia-Gracia Claims | Class 38 | | 100% | Cash |

[39] A holder of an Allowed 2014 CW Guarantee Bond Claim cannot recover more in the aggregate than the Bond Recovery Cap on account of such holder's Allowed 2014 CW Guarantee Bond Claim and Allowed PBA Bond Claim.

[40] Claim amount reflects principal only.

**EXHIBIT C**



**EXHIBIT M**

SCHEDULE OF CASH FLOWS OF NEW BONDS



| | Tax-Exempt Annual Debt Service Cash Flows | | | Taxable Annual Debt Service Cash Flows | | | Aggregate Annual Debt Service Cash Flows | | |
|---|---|---|---|---|---|---|---|---|---|
| Fiscal Year (7/1) | Principal | Interest | Total Debt Service | Principal | Interest | Total Debt Service | Principal | Interest | Total Debt Service |
| Total | $10,329,850,000 | $7,625,866,848 | $17,955,716,848 | $1,447,460,000 | $1,843,007,417 | $3,290,467,417 | $11,777,310,000 | $9,468,874,266 | $21,246,184,266 |
| 2020 | $820,060,000 | $180,527,761 | $1,000,587,761 | | $34,055,517 | $34,055,517 | $820,060,000 | $214,583,278 | $1,034,643,278 |
| 2021 | 415,645,000 | 500,204,688 | 915,849,688 | | 101,322,200 | 101,322,200 | 415,645,000 | 601,526,888 | 1,017,171,888 |
| 2022 | 416,160,000 | 481,500,663 | 897,660,663 | | 101,322,200 | 101,322,200 | 416,160,000 | 582,822,863 | 998,982,863 |
| 2023 | 416,510,000 | 462,253,263 | 878,763,263 | | 101,322,200 | 101,322,200 | 416,510,000 | 563,575,463 | 980,085,463 |
| 2024 | 416,110,000 | 442,989,675 | 859,099,675 | | 101,322,200 | 101,322,200 | 416,110,000 | 544,311,875 | 960,421,875 |
| 2025 | 415,425,000 | 423,224,450 | 838,649,450 | | 101,322,200 | 101,322,200 | 415,425,000 | 524,546,650 | 939,971,650 |
| 2026 | 413,890,000 | 403,491,763 | 817,381,763 | | 101,322,200 | 101,322,200 | 413,890,000 | 504,813,963 | 918,703,963 |
| 2027 | 411,955,000 | 383,314,625 | 795,269,625 | | 101,322,200 | 101,322,200 | 411,955,000 | 484,636,825 | 896,591,825 |
| 2028 | 409,030,000 | 363,231,819 | 772,261,819 | | 101,322,200 | 101,322,200 | 409,030,000 | 464,554,019 | 873,584,019 |
| 2029 | 405,560,000 | 342,780,319 | 748,340,319 | | 101,322,200 | 101,322,200 | 405,560,000 | 444,102,519 | 849,662,519 |
| 2030 | 400,965,000 | 322,502,319 | 723,467,319 | | 101,322,200 | 101,322,200 | 400,965,000 | 423,824,519 | 824,789,519 |
| 2031 | 395,630,000 | 301,952,863 | 697,582,863 | | 101,322,200 | 101,322,200 | 395,630,000 | 403,275,063 | 798,905,063 |
| 2032 | 389,000,000 | 281,676,825 | 670,676,825 | | 101,322,200 | 101,322,200 | 389,000,000 | 382,999,025 | 771,999,025 |
| 2033 | 381,445,000 | 261,254,325 | 642,699,325 | | 101,322,200 | 101,322,200 | 381,445,000 | 362,576,525 | 744,021,525 |
| 2034 | 231,280,000 | 241,228,463 | 472,508,463 | $141,080,000 | 101,322,200 | 242,402,200 | 372,360,000 | 342,550,663 | 714,910,663 |
| 2035 | 213,735,000 | 228,508,063 | 442,243,063 | 150,955,000 | 91,446,600 | 242,401,600 | 364,690,000 | 319,954,663 | 684,644,663 |
| 2036 | 194,000,000 | 216,752,638 | 410,752,638 | 161,525,000 | 80,879,750 | 242,404,750 | 355,525,000 | 297,632,388 | 653,157,388 |
| 2037 | 171,935,000 | 206,082,638 | 378,017,638 | 172,830,000 | 69,573,000 | 242,403,000 | 344,765,000 | 275,655,638 | 620,420,638 |
| 2038 | 147,345,000 | 196,626,213 | 343,971,213 | 184,930,000 | 57,474,900 | 242,404,900 | 332,275,000 | 254,101,113 | 586,376,113 |
| 2039 | 120,040,000 | 188,522,238 | 308,562,238 | 197,870,000 | 44,529,800 | 242,399,800 | 317,910,000 | 233,052,038 | 550,962,038 |
| 2040 | 89,810,000 | 181,920,038 | 271,730,038 | 211,725,000 | 30,678,900 | 242,403,900 | 301,535,000 | 212,598,938 | 514,133,938 |
| 2041 | 59,850,000 | 176,868,225 | 236,718,225 | 226,545,000 | 15,858,150 | 242,403,150 | 286,395,000 | 192,726,375 | 479,121,375 |
| 2042 | 305,610,000 | 173,501,663 | 479,111,663 | | - | - | 305,610,000 | 173,501,663 | 479,111,663 |
| 2043 | 322,805,000 | 156,311,100 | 479,116,100 | | - | - | 322,805,000 | 156,311,100 | 479,116,100 |
| 2044 | 340,965,000 | 138,153,319 | 479,118,319 | | - | - | 340,965,000 | 138,153,319 | 479,118,319 |
| 2045 | 360,140,000 | 118,974,038 | 479,114,038 | | - | - | 360,140,000 | 118,974,038 | 479,114,038 |
| 2046 | 381,305,000 | 97,815,813 | 479,120,813 | | - | - | 381,305,000 | 97,815,813 | 479,120,813 |
| 2047 | 403,700,000 | 75,414,144 | 479,114,144 | | - | - | 403,700,000 | 75,414,144 | 479,114,144 |
| 2048 | 427,415,000 | 51,696,769 | 479,111,769 | | - | - | 427,415,000 | 51,696,769 | 479,111,769 |
| 2049 | 452,530,000 | 26,586,138 | 479,116,138 | | - | - | 452,530,000 | 26,586,138 | 479,116,138 |

*Assumes Expected Effective Date of 2/29/20



| | Detailed Summary of Taxable Term Bonds | | | | | | Taxable Annual Debt Service Cash Flows | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Fiscal Year (7/1) | Maturity | Term Maturity | Mandatory Sinking Fund Amortization | Term Principal | Coupon | Call Date @ 100 | Fiscal Year (7/1) | Principal | Interest | Total Debt Service |
| Total | | | $1,447,460,000 | $1,447,460,000 | | | | $1,447,460,000 | $1,843,007,417 | $3,290,467,417 |
| 2020 | 7/1/20 | | | | | | 2020 | | $34,055,517 | $34,055,517 |
| 2021 | 7/1/21 | | | | | | 2021 | | 101,322,200 | 101,322,200 |
| 2022 | 7/1/22 | | | | | | 2022 | | 101,322,200 | 101,322,200 |
| 2023 | 7/1/23 | | | | | | 2023 | | 101,322,200 | 101,322,200 |
| 2024 | 7/1/24 | | | | | | 2024 | | 101,322,200 | 101,322,200 |
| 2025 | 7/1/25 | | | | | | 2025 | | 101,322,200 | 101,322,200 |
| 2026 | 7/1/26 | | | | | | 2026 | | 101,322,200 | 101,322,200 |
| 2027 | 7/1/27 | | | | | | 2027 | | 101,322,200 | 101,322,200 |
| 2028 | 7/1/28 | | | | | | 2028 | | 101,322,200 | 101,322,200 |
| 2029 | 7/1/29 | | | | | | 2029 | | 101,322,200 | 101,322,200 |
| 2030 | 7/1/30 | | | | | | 2030 | | 101,322,200 | 101,322,200 |
| 2031 | 7/1/31 | | | | | | 2031 | | 101,322,200 | 101,322,200 |
| 2032 | 7/1/32 | | | | | | 2032 | | 101,322,200 | 101,322,200 |
| 2033 | 7/1/33 | | | | | | 2033 | | 101,322,200 | 101,322,200 |
| 2034 | 7/1/34 | 2041 | $141,080,000 | | 7.000% | 7/1/29 | 2034 | $141,080,000 | 101,322,200 | 242,402,200 |
| 2035 | 7/1/35 | 2041 | 150,955,000 | | 7.000% | 7/1/29 | 2035 | 150,955,000 | 91,446,600 | 242,401,600 |
| 2036 | 7/1/36 | 2041 | 161,525,000 | | 7.000% | 7/1/29 | 2036 | 161,525,000 | 80,879,750 | 242,404,750 |
| 2037 | 7/1/37 | 2041 | 172,830,000 | | 7.000% | 7/1/29 | 2037 | 172,830,000 | 69,573,000 | 242,403,000 |
| 2038 | 7/1/38 | 2041 | 184,930,000 | | 7.000% | 7/1/29 | 2038 | 184,930,000 | 57,474,900 | 242,404,900 |
| 2039 | 7/1/39 | 2041 | 197,870,000 | | 7.000% | 7/1/29 | 2039 | 197,870,000 | 44,529,800 | 242,399,800 |
| 2040 | 7/1/40 | 2041 | 211,725,000 | | 7.000% | 7/1/29 | 2040 | 211,725,000 | 30,678,900 | 242,403,900 |
| 2041 | 7/1/41 | 2041 | 226,545,000 | $1,447,460,000 | 7.000% | 7/1/29 | 2041 | 226,545,000 | 15,858,150 | 242,403,150 |
| 2042 | 7/1/42 | | | | | | 2042 | | - | - |
| 2043 | 7/1/43 | | | | | | 2043 | | - | - |
| 2044 | 7/1/44 | | | | | | 2044 | | - | - |
| 2045 | 7/1/45 | | | | | | 2045 | | - | - |
| 2046 | 7/1/46 | | | | | | 2046 | | - | - |
| 2047 | 7/1/47 | | | | | | 2047 | | - | - |
| 2048 | 7/1/48 | | | | | | 2048 | | - | - |
| 2049 | 7/1/49 | | | | | | 2049 | | - | - |

*Assumes Expected Effective Date of 2/29/20

Case:17-03283-LTS Doc#:8765-13 Filed:09/27/19 Entered:09/27/19 07:25:25 Desc:
Exhibit M - Schedule of Cash Flows of New Bonds Page 4 of 4

| Total Service | Fiscal Year (7/1) | Maturity | Detailed Summary of Tax-Exempt Term Bonds: Term Maturity | Mandatory Sinking Fund Amortization | Term Principal | Coupon | Call Date @ 100 | Tax-Exempt Annual Debt Service Cash Flows: Fiscal Year (7/1) | Principal | Interest | Debt S- |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 6,848 | Total | | | $10,329,850,000 | $10,329,850,000 | | | | $10,329,850,000 | $7,625,866,848 | $17,955,71 |
| 7,761 | 2020 | 7/1/20 | 2024 | $820,060,000 | | 4.500% | | 2020 | $820,060,000 | $180,527,761 | $1,000,58 |
| 9,688 | 2021 | 7/1/21 | 2024 | 415,645,000 | $1,235,705,000 | 4.500% | | 2021 | 415,645,000 | 500,204,688 | 915,84 |
| 0,663 | 2022 | 7/1/22 | 2024 | 416,160,000 | | 4.625% | | 2022 | 416,160,000 | 481,500,663 | 897,66 |
| 3,263 | 2023 | 7/1/23 | 2024 | 416,510,000 | $832,670,000 | 4.625% | | 2023 | 416,510,000 | 462,253,263 | 878,76 |
| 9,675 | 2024 | 7/1/24 | 2024 | 416,110,000 | | 4.750% | | 2024 | 416,110,000 | 442,989,675 | 859,05 |
| 9,450 | 2025 | 7/1/25 | 2029 | 415,425,000 | $831,535,000 | 4.750% | | 2025 | 415,425,000 | 423,224,450 | 838,64 |
| 1,763 | 2026 | 7/1/26 | 2029 | 413,890,000 | | 4.875% | | 2026 | 413,890,000 | 403,491,763 | 817,38 |
| 9,625 | 2027 | 7/1/27 | 2029 | 411,955,000 | $825,845,000 | 4.875% | | 2027 | 411,955,000 | 383,314,625 | 795,26 |
| 1,819 | 2028 | 7/1/28 | 2029 | 409,030,000 | | 5.000% | | 2028 | 409,030,000 | 363,231,819 | 772,26 |
| 0,319 | 2029 | 7/1/29 | 2029 | 405,560,000 | $814,590,000 | 5.000% | | 2029 | 405,560,000 | 342,780,319 | 748,34 |
| 7,319 | 2030 | 7/1/30 | 2034 | 400,965,000 | | 5.125% | 7/1/29 | 2030 | 400,965,000 | 322,502,319 | 723,46 |
| 2,863 | 2031 | 7/1/31 | 2034 | 395,630,000 | $796,595,000 | 5.125% | 7/1/29 | 2031 | 395,630,000 | 301,952,863 | 697,58 |
| 6,825 | 2032 | 7/1/32 | 2034 | 389,000,000 | | 5.250% | 7/1/29 | 2032 | 389,000,000 | 281,676,825 | 670,67 |
| 9,325 | 2033 | 7/1/33 | 2034 | 381,445,000 | $770,445,000 | 5.250% | 7/1/29 | 2033 | 381,445,000 | 261,254,325 | 642,69 |
| 8,463 | 2034 | 7/1/34 | 2034 | 231,280,000 | | 5.500% | 7/1/29 | 2034 | 231,280,000 | 241,228,463 | 472,50 |
| 3,063 | 2035 | 7/1/35 | 2039 | 213,735,000 | | 5.500% | 7/1/29 | 2035 | 213,735,000 | 228,508,063 | 442,24 |
| 2,638 | 2036 | 7/1/36 | 2039 | 194,000,000 | | 5.500% | 7/1/29 | 2036 | 194,000,000 | 216,752,638 | 410,75 |
| 7,638 | 2037 | 7/1/37 | 2039 | 171,935,000 | | 5.500% | 7/1/29 | 2037 | 171,935,000 | 206,082,638 | 378,0 |
| 1,213 | 2038 | 7/1/38 | 2039 | 147,345,000 | | 5.500% | 7/1/29 | 2038 | 147,345,000 | 196,626,213 | 343,97 |
| 2,238 | 2039 | 7/1/39 | 2039 | 120,040,000 | $1,078,335,000 | 5.500% | 7/1/29 | 2039 | 120,040,000 | 188,522,238 | 308,56 |
| 0,038 | 2040 | 7/1/40 | 2044 | 89,810,000 | | 5.625% | 7/1/29 | 2040 | 89,810,000 | 181,920,038 | 271,7 |
| 8,225 | 2041 | 7/1/41 | 2044 | 59,850,000 | | 5.625% | 7/1/29 | 2041 | 59,850,000 | 176,868,225 | 236,7 |
| 1,663 | 2042 | 7/1/42 | 2044 | 305,610,000 | | 5.625% | 7/1/29 | 2042 | 305,610,000 | 173,501,663 | 479,1 |
| 6,100 | 2043 | 7/1/43 | 2044 | 322,805,000 | | 5.625% | 7/1/29 | 2043 | 322,805,000 | 156,311,100 | 479,1 |
| 8,319 | 2044 | 7/1/44 | 2044 | 340,965,000 | $1,119,040,000 | 5.625% | 7/1/29 | 2044 | 340,965,000 | 138,153,319 | 479,1 |
| 4,038 | 2045 | 7/1/45 | 2049 | 360,140,000 | | 5.875% | 7/1/29 | 2045 | 360,140,000 | 118,974,038 | 479,1 |
| 0,813 | 2046 | 7/1/46 | 2049 | 381,305,000 | | 5.875% | 7/1/29 | 2046 | 381,305,000 | 97,815,813 | 479,1 |
| 4,144 | 2047 | 7/1/47 | 2049 | 403,700,000 | | 5.875% | 7/1/29 | 2047 | 403,700,000 | 75,414,144 | 479,1 |
| 1,769 | 2048 | 7/1/48 | 2049 | 427,415,000 | | 5.875% | 7/1/29 | 2048 | 427,415,000 | 51,696,769 | 479,1 |
| 6,138 | 2049 | 7/1/49 | 2049 | 452,530,000 | $2,025,090,000 | 5.875% | 7/1/29 | 2049 | 452,530,000 | 26,586,138 | 479,1 |

*Assumes Expected Effective Date of 2/29/20

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QUESTIONS SUBMITTED FOR THE RECORD BY REP. GRIJALVA TO MR. ALVIN VELÁZQUEZ, ASSOCIATE GENERAL COUNSEL, SERVICE EMPLOYEES INTERNATIONAL UNION [1]

*Question 1. If PROMESA has been the extraordinarily generous boon for bondholders as you say, why is Aurelius Investment LLC asking the Supreme Court to overturn it and throw out its debt agreements?*

Answer. During oral argument at the Supreme Court, Justice Alita asked counsel for Aurelius whether the matter was about correcting a constitutional wrong, or something else. While Aurelius' counsel raised concerns about the constitutionality of the Board, the Oversight Board argued that Aurelius wants a different board so that such a new could work out the debt problem differently.[2] In many ways the question is academic—whether Aurelius wins or the Oversight Board wins, the result is the same for the people of Puerto Rico. They will be saddled with an unsustainable debt load as a result of a legal fiction that does not align with the economic realities of Puerto Ricans living there.

*Question 2. Mr. Velazquez, you mention that Section 8—Territorial Relief for Unsecured Public Debt would provide an insurance mechanism should the Oversight Board fail to restructure Puerto Rico's debt to an economically sustainable level.*

*If the restructuring plan fails, how do you envision the existing provisions in Title III would interact with Section 8? What process would the government of Puerto Rico follow?*

Answer. As currently drafted, the government of Puerto Rico could activate Section 8 at any time, and could reactivate it every 7 years. Giving Puerto Rico the ability to discharge its debt now could provide Puerto Rico with a credible tool to ensure that bondholders agree to terms that are economically sustainable. The

[1] SEIU is responding to these questions on its own behalf, and not on behalf of any Committee on which SEIU may be a member in the Title III PROMESA proceedings. Any opinions contained in the testimony, or these answers to the questions presented post hearing by members of the Natural Resources Committee, should be attributable only to SEIU, and not any other party or Committee. THIS TESTIMONY, AND THIS RESPONSE TO QUESTIONS BY MEMBERS OF THE HOUSE NATURAL RESOURCES COMMITTEE, SHOULD NOT BE CONSTRUED AS A SOLICITATION OF VOTES FOR OR AGAINST ANY PLAN OF ADJUSTMENT IN THE TITLE III PROMESA PROCEEDINGS.

[2] Tr. At 58:9–61:21, 93:1–9.

Oversight Board has consistently stated that it wants to have "a one and done" restructuring process. Having this tool now would help it reach its goal.

If the Natural Resources Committee does not want to take this approach, SEIU would support the use of Section 8 as an insurance mechanism if the Oversight Board fails in its current mission. Under current law, if Puerto Rico becomes insolvent after the current plan of adjustment is confirmed, the Oversight Board would have to file another Title III to restructure Puerto Rico's debt. Section 8 could be used at that time, or just before the filing of another Title III petition, to discharge unsecured debt if one or more of the Section 8 criteria were satisfied. Were there to be a discharge of unsecured debt under Section 8, another Title III proceeding might be rendered unnecessary, or at least much simpler, since there would be much less debt to restructure. In order to ensure that the mechanism is not abused, the ability to use this mechanism could be tied to a court finding of insolvency (as defined under current bankruptcy law in Chapter 9 cases) and be limited to use for a period that is longer than the 7 years currently outlined in the discussion draft.

*Question 3. Mr. Velazquez, in your testimony you challenge the government of Puerto Rico's and the Oversight Board's position that an audit of the public debt has already taken place. You indicate that the Oversight Board has not performed an audit of the public debt recognized by the U.S. General Accounting Office's Government Auditing Standards and that the bringing of a lawsuit is not necessarily a complete audit of the debt. You also point out that the Oversight Board has not hired a truly independent auditor, which is standard audit operating procedure.*

*At this point in the debt restructuring proceedings, would the residents of Puerto Rico benefit from an actual certified audit? If so, how?*

Answer. Yes. The residents of Puerto Rico would benefit from the information that an actual audit of the debt would provide. Just having that information would satisfy a hunger among Puerto Rico's residents to understand the debt that is crushing their economy and imposing so much hardship. They want an understanding of how the debt crisis came to be and the extent to which the debt is legitimate or not. Such information would also help Puerto Rico's residents choose leaders in the future who will avoid such a disaster. The information that an audit would yield could also lead the Puerto Rican government to take appropriate legal action against those whose misconduct may have caused or aggravated Puerto Rico's debt crisis, causes of actions which in some cases do not have a statute of limitations attached to them.

The audit would also help with facilitating conclusion of the Title III proceedings. Creditors have complained about a lack of information as well and the lack of audited financials. The now extinct debt audit commission proposed to conduct financial audits needed in order to facilitate the compliance and performance audit work that the Commission was to undergo. That work would facilitate completion of this current Title III proceeding, and ensure that Puerto Rico's debt has been examined going into a subsequent Title III proceeding, a likelihood that appears more and more likely to occur unless somehow the debt of Puerto Rico is cut to a level that is commensurate with the economic output of its workers. The following link leads to the Request for Qualifications that the Debt Audit Commission issued shortly before being eliminated. It explains the methodology of its work and all of the different functions that a debt audit would entail. http://www.oslpr.org/auditoriadeladeudapr/assets/REQUEST-FOR-QUOTATIONS-AND-QUALIFICATIONS.pdf.

*Question 4. It is evident from your statement that you don't agree with the Oversight Board's statement that the debt restructuring plan they proposed last month will ultimately reduce the amount the government of Puerto Rico will spend on debt service to an amount it can sustainably afford over the next 30 years—"from $4.2 billion a year to $1.5 billion a year."*

Answer. That is correct: I don't agree with the Oversight Board's statement, for the reasons explained in my testimony on page 6. According to Prof. Guzman's study, the Board was exceedingly generous with the COFINA agreement. It would have had to cut Puerto Rico's remaining debt between 85–95 percent to reach a sustainable result. The Board did not do that. Assuming, for the sake of argument, that the Oversight Board's estimate of its math is correct and it is cutting the debt of Puerto Rico by 60 percent, it still does not reach the 85–95 percent debt restructuring that Prof. Guzman says is needed.

However, it is important to note that the Board's methodology for announcing that it is cutting the debt by 60 percent also contains an important flaw. The Board counts in that number "unsecured creditors," and not only bonded debt. Many of those "unsecured creditors" are on-island businesses and government suppliers. The

Board are cutting their claims by 98 percent while cutting the claims of certain bondholders groups by only 11 percent!

Puerto Rico's people cannot spend $1.5 billion a year in debt right now until the median income begins to trend upwards, and unsecured creditors and local businesses that actually employ people on island are paid back a much greater amount than 2 percent.

*Question 5. The government of Puerto Rico and the Oversight Board oppose amendments to PROMESA to facilitate access to public debt information. The Government argues that this level of transparency would create problems in debt restructuring proceedings and negatively impact attorney-client privilege.*

*Is this the case?*

Answer. The concerns of the Government and the Oversight Board are overblown. The Government would not lose the right to assert attorney-client privilege and courts will undoubtedly continue to respect that important privilege. As for debt restructuring proceedings, those should be transparent. But if the Government or Oversight Board in a given instance believed that the disclosure of documents would compromise their ability to negotiate, they could always object to a disclosure demand on that basis, and it would be up to a court to decide if the objection was legitimate.

*Question 6. Mr. Velazquez, you encourage Congress to establish a broadly accepted mechanism for the residents of Puerto Rico to validate and challenge future debt issuances.*

*Could you share more information about how this process would look like and how could it interact with the establishment of a Comprehensive Audit Commission?*

Answer. As I explained in my testimony, Congress should look to mechanisms adopted by many states that put limits on debt issuances and that allow for challenges to debt issuances that violate those limits. Congress should do this especially if the Governor of Puerto Rico does not affirmatively add such a mechanism to current legislation that she has proposed.

Just this past week the Governor of Puerto Rico introduced legislation that would provide definitions of which bonded debt would count toward Puerto Rico's constitutional debt limit. That legislation also proposes to create debt management practices meant to ensure that Puerto Rico will not repeat the mistakes of the past. These are steps in the right direction, but the current legislative proposal repeats the sins of the past by excluding the citizens of Puerto Rico from having any say on how their money is spent.

This should not be the case. Ten days ago, voters in Virginia voted for a new legislature. In certain counties, they also got to vote on whether to issue bonds. For example, in Prince William County, voters got to decide whether to approve the issuance of $600 million in bonds for a new sports complex and the widening of certain roads.[3] The question on the ballot specified the roads which would receive the improvements that the bonds would be funding. Why shouldn't Puerto Ricans have the same opportunity?

Similarly, most states allow for taxpayers to sue to stop bonds from issuing in novel circumstances. California is one of several states with a statutory Pre-Issuance Validation Mechanism. California uses their proceedings to evaluate whether proposed issuance would violate any constitutional debt limits, whether it must be routed through a referendum, or whether a proposed issuance actually serves a public purpose (as it must).

As Kobre and Kim noted in its report,[4] procedurally, pre-issuance validation mechanisms vary by jurisdiction, but the statutes typically incorporate several components such as the creation of a right to initiate the proceeding, and the conferral of that right upon certain stakeholders, the identification of the court in which the proceeding must be filed, as well as a requirement that the general public be properly notified of both the proposed bond issuance and the pending validation proceeding.

SEIU believes that the Audit Commission proposed in the discussion draft can play a key role in bringing validation proceedings and also acting as a gatekeeper to proposed plebescites. For example, the Commission could draft the questions that

[3] Emily Slides, Prince William County Weights $600 Million Ballot Questions. https://www.insidenova.com/news/politics/prince_william/prince-william-county-weighs-m-ballot-questions/article_af09d846-724d-11e9-ad83-2f5ca7efb4f7.html (last accessed November 13, 2019).

[4] Kobre and Kim, https://media.noticel.com/o2com-noti-media-us-east-1/document_dev/2018/08/20/Informe%20de%20Kobre%20Kim%20sobre%20la%20deuda%20de%20PR_1534811503036_12865995_ver1.0.pdf, at 450 (last accessed November 15, 2019).

voters should monitor in a plebescite authorizing the issuance of a bond, and issue educational materials about the impact that the issuance will have on a taxpayer's bill. Similarly, the Commission could be given standing to bring challenges if it determines that a proposed debt offering violates the debt limit, or the debt standards that the Government of Puerto Rico is now considering enacting. In other words, the Commission can serve an important watchdog function for the people of Puerto Rico on an ongoing basis.

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Mr. SABLAN. Thank you very much, Mr. Velázquez. Now Ms. Cubano. Did I say that right?

Ms. CUBANO. Yes, you said it right.

Mr. SABLAN. OK, Ms. Cubano, you have 5 minutes.

**STATEMENT OF LILIANA CUBANO, PRESIDENT, PUERTO RICO PRODUCTS ASSOCIATION**

Ms. CUBANO. Thank you. Chairman Grijalva, Ranking Member Bishop, and Committee members, good afternoon and thank you for the opportunity to appear today before your Committee, and especially for your interest in the 3.2 million U.S. citizens residing in Puerto Rico, a U.S. jurisdiction larger in population than 20 states.

I currently serve as the elected president of the Puerto Rico Products Association, which is made up of several hundred local companies operating in Puerto Rico. I am a woman entrepreneur, business owner, and a board member of the Puerto Rico Private Sector Coalition, which is my privilege today to represent. The Private Sector Coalition of Puerto Rico is comprised of 30 leading business, trade and professional organizations which constitute up to 90 percent of our island's economy, and 75 percent of our local jobs.

We appreciate the Chairman's effort to reform PROMESA and shift the focus from austerity to one focused on economic growth as noted in Section 4 of Amendments to the PROMESA Act of 2019.

Restoring economic growth will help to create meaningful and well-paid jobs, stop emigration and loss of our talented young people, expand our middle class and generate the revenue sorely needed by the local government to enable it to provide services and maintain infrastructure.

While I will share our recommendations to our local elected official as well as the Federal Oversight Management Board later in my statement, there are some important actions where Congress can be instrumental in putting Puerto Rico's economy on the path to growth in the short term.

First of all, prevent the impending Medicaid cliff by enabling the bipartisan Territories Health Improvement Act advanced by unanimous vote in the House Energy & Commerce Committee.

We ask Congress to work to ensure that the flow of the Federal Hurricane Recovery Funds to the island is maintained in a transparent and timely fashion. These funds have moved far too slow due to unnecessary delays, notably almost 24,000 families still live under blue tarps almost 2 years after Hurricane Maria.

We also recommend that Congress require that decisions made by the FOMB must be made with full consideration of the direct and indirect impact of the economy of Puerto Rico and our island's ability to be competitive. The most obvious example of why this is

needed is the PREPA RSA being advocated by the FOMB which will impose up to a 48 percent increase of Puerto Rico's already high-sky electricity rate. Imagine the impact of electricity rates of over 30 cents per kilowatt hour in your state.

Puerto Rico has a diverse vigorous business class capable of generating wealth and eager to make progress. It is time for the local government and the FOMB to act on economic reforms like, for example:

Permit reforms: Simplify and enhance the efficiency and effectiveness of the government building and business operating permits process in Puerto Rico.

Reduce taxes and simplify the tax code that suppresses the business climate in Puerto Rico.

Air cargo trans-shipment hub: Pursue with the U.S. Department of Transportation an application for expanded cargo flexibility at its international airports to promote the use of the airports and our former military airfields as an international hub for air cargo transportation between Latin American and Europe.

Education: Maximize apprenticeship programs in order to obtain a certified and work-ready workforce.

Energy and infrastructure: Re-evaluate and reconstruct the proposed PREPA RSA as mentioned.

Economic policy: Seek input from long-standing private sector organizations representing local business, manufacturing and employees in policy discussions as solutions to Puerto Rico's challenges.

Labor costs: Request the FOMB to exercise their powers to review and repeal Executive Order 2018–033 which compelled government-sponsored construction projects in Puerto Rico to increase labor costs.

Again, I want to thank the Committee for the opportunity to represent the Private Sector Coalition of Puerto Rico today. The Private Sector Coalition have argued that economic growth is the only real solution to Puerto Rico's challenges and we look forward to working with your Committee and the Congress to advance real solutions. Thank you.

[The prepared statement of Ms. Cubano follows:]

PREPARED STATEMENT OF MS. LILIANA CUBANO, ON BEHALF OF THE PUERTO RICO PRIVATE SECTOR COALITION

Chairman Grijalva, Ranking Member Bishop and Committee members: Good afternoon and thank you for the opportunity to appear today before your Committee, and especially for your interest in the 3.2 million U.S. citizens residing in Puerto Rico, a U.S. jurisdiction larger in population than 20 states.

I currently serve as the elected President of the Puerto Rico Products Association which is made up of several hundred local companies operating in Puerto Rico. I am a woman entrepreneur, business owner, and a Board Member of the Puerto Rico Private Sector Coalition which today is my privilege to represent. The Private Sector Coalition of Puerto Rico is comprised of 30 leading businesses, trade and professional organizations which constitute up to 90 percent of our islands' $103 billion local GDP and 75 percent of the local jobs.

We appreciate the Chairman's efforts to reform PROMESA and the initiative to shift the focus away from austerity to one focused on economic growth as noted in Section Four of the Amendments to PROMESA Act of 2019.

We believe it is time to recognize that economic growth is the only true solution to the long-term challenges faced by Puerto Rico. Economic growth is critical to addressing the difficulties facing our island. Restoring economic growth will help create meaningful and well-paying jobs, stop the emigration and loss of our talented

young people, expand our middle class, and generate revenues sorely needed by the local government that enable it to provide services and maintain infrastructure. Accomplishing this is the only way to successfully take Puerto Rico out of bankruptcy.

We cannot lose sight of two key factors: One being that, since 2006 and prior to the 2017 hurricanes, our economy had been in free fall, losing 15 percent of GDP. Reconstruction was needed, not just from the hurricane, but from a long and deep economic contraction. Our infrastructure is crumbling under the impact of over 13 years of economic contraction and the effects of two major hurricanes in 2 weeks' time. The other factor is that the delay to obligate Federal disaster recovery funds is delaying economic benefits to the people of Puerto Rico. Also, it is important to stimulate the productive capacity of the Island. In short, in order for Puerto Rico to recover a sustained growth path much more needs to be done than is currently underway.

Let's state the obvious: Puerto Rico needs an agreed upon, holistic, long-term economic growth strategy. We all recognize that meaningful economic growth in the productive sector is the only true solution to Puerto Rico's challenges of labor participation and tax revenue to support government services.

**RECOMMENDED SHORT-TERM ACTION AGENDA FOR CONGRESS:**

While I will share our recommendations to our local elected officials as well as the Federal Oversight Management Board (FOMB) later in my statement, there are some important actions where Congress can be instrumental in putting Puerto Rico's economy on the path to growth in the short-term, including:

1. Prevent the impending Medicaid Cliff by enacting the bipartisan "Territories Health Improvement Act" advanced by a unanimous vote of the House Energy & Commerce Committee. The Medicaid funding provided in this package is critical to ensuring a vital healthcare system in Puerto Rico where every hospital, doctor and clinic is a Medicaid provider. If the Medicaid Cliff occurs, many local hospitals will be forced into bankruptcy and close to a million U.S. citizens will lose their Medicaid coverage.
2. We ask Congress to work to ensure that the flow of Federal disaster recovery funds to the Island is maintained in a transparent and timely fashion. These funds have moved far too slow due to unnecessary delays. It is of particular importance that HUD complies with what Congress required under the 2019 Disaster Appropriations Act of 2019 and publish requirements for CDBR-DR and mitigation funds. Of similar importance is that FEMA comply with Section 428 of the Stafford Act and allow PR professionally licensed engineers to certify cost estimates and expedite the project formulation process. There is still much reconstruction work to be done that should be dealt with immediately in order to be better prepared for the effects of a changing climate. Notably, almost 24,000 families still live under "blue tarps" over 2 years after Hurricane Maria.
3. We also recommend that Congress require that decisions made by the FOMB must be made with full consideration of the direct and indirect impact on the economy of Puerto Rico and our island's ability to be competitive. Our islands need to achieve a goal of being a top 10 jurisdiction in competitiveness and ease of doing business. The most obvious example of why this is needed is the PREPA RSA being advocated by the FOMB which will impose up to 48 percent increase on Puerto Rico's already sky-high electricity rates. Imagine the impact of electricity rates of over 30 cents/kwh in your state. We need to substitute an inefficient public monopoly with an energy market that paves the way to an economic renaissance.

**RECOMMENDED SHORT-TERM ACTION AGENDA BY THE GOVERNMENT OF PUERTO RICO AND THE FOMB:**

Puerto Rico is at a historical juncture and faces great socio-economic challenges. Recent studies conducted by the Federal Reserve Bank of New York show that, in real terms, the economy of the Island contracted by more than 15 percent during the last decade. The analyses posed the following competitive challenges for the Island:

- **Improve labor market opportunities:** Puerto Rico's labor participation rate is among the lowest in the world, with less than half of the eligible workers participating in the formal economy. In addition, the unemployment rate has been persistently well above the median of the United States. The unemployment rate is especially high for young people.

- **Develop human capital:** We have the second most productive workforce in the hemisphere, second only to the mainland United States. Although the workforce of the Island in general is among the most educated in the world, having one of the largest rates of college graduates in the Nation, Puerto Rico is still lagging compared to the United States and other countries in terms of skills. There is a particularly high abundance of low-skilled workers. There is also a growing concern that the quality of the education system has deteriorated, especially at the primary and secondary levels. We need to develop a workforce that graduates from high school "work-ready" by the strengthening of pre-apprenticeship, apprenticeship programs.
- **Reduce the costs of doing business:** The business regulatory environment in Puerto Rico makes it expensive and cumbersome to establish and grow new businesses and expand existing ones. In particular, regulations, the high cost of electricity, a cumbersome permitting process and expensive underdeveloped transport infrastructure are barriers to a more dynamic environment.

Other entities such as the World Economic Forum and the World Bank point to the great potential and positive impact for the expansion of the Puerto Rican local business sector if true reforms are enacted.

Puerto Rico has a diverse, vigorous business class capable of generating wealth, and eager to make progress. It is vitally important to expand efforts to take advantage of the considerable strengths that Puerto Rico has, including a bilingual and well-educated adult population, an open economy that occupies a central position in the Caribbean, extensive experience as a host of multi-national corporations and close ties with the United States. The public sector and the private sector must work together to make Puerto Rico's economic environment to support growth, development and innovation.

Given the background described above, economic activity and job creation in the short and medium term are of great importance.

**IT'S TIME FOR THE LOCAL GOVERNMENT AND THE FOMB TO ACT ON ECONOMIC REFORMS:**

**Our Recommendations:** Formulate and implement, during the next 30 days, an Action Plan that includes the following key actions which will advance sustained economic growth for Puerto Rico:

1. **PERMIT REFORMS**—Simplify, and enhance the efficiency and effectiveness of the government building and business operating permits process in Puerto Rico
   - Streamline of permit procedures, differentiate between complexity of types of applications, reduce time and cost to complete all formalities and improve the quality control and safety mechanisms in the construction permitting system.
2. **TAXES**—Reduce and simplify the tax code that suppresses the business climate in Puerto Rico.
   - Eliminate business inventory tax.
   - Eliminate B2B taxes to stimulate the hiring of the services of local companies.
   - Eliminate charges to cargo terminal transport trucks used in the inspection process (scanning) that is already carried out by the U.S. Border Patrol. This duplicity is unnecessary and adds unnecessary costs at the ports.
   - Conduct tax elasticity studies to assess which taxes negatively impact the business climate and consumption patterns in Puerto Rico.
3. **AIR CARGO TRANSHIPMENT HUB**—Pursue with the U.S. Department of Transportation an application for expanded cargo flexibility at its international airports to promote the use of the airports and our former military airfields as international hubs for air cargo transportation between Latin America and Europe.
   - Puerto Rico is at the crossroads of the Caribbean and is a logical connecting point on air routes between Europe and Central and South America.
   - Encourage international cargo carriers to use Puerto Rico airports as connecting hubs.

- The Puerto Rican tourism industry also stands to gain substantially from approval of the application. Puerto Rico has the potential to become one of the great tourist destinations of the world but lags behind our neighbors. We need to triple our current hospitality stock.

4. **EDUCATION**
   - Maximize pre-apprenticeship and apprenticeship programs in order to obtain a certified and "work-ready" workforce.
   - Implement Lifelong Learning concepts in order to develop the human capital of Puerto Rico. This would include initiatives to develop world-class practices of doing business (ease-of-doing business), promoting the internationalization and export of Puerto Rican products and services, and developing a culture of innovation.
5. **ENERGY AND INFRASTRUCTURE**—Re-evaluate and restructure the proposed Puerto Rico Power Authority Restructuring Support Agreement (RSA) advocated by the FOMB.
   - The RSA, designed and approved by the FOMB, does not promote the economic development of Puerto Rico. Instead, its implementation could result in the loss of over 170,000 jobs, a 22 percent decrease in our island's GNP, and create high inflationary pressures.
   - Establish an energy open market and eliminate PREPA's role as the intermediary and unbundle tariffs.
   - Promote clean energy and recycling initiatives as a priority of PREPA and other Puerto Rico government entities.
   - Diversify energy sources—waste to energy as a way to help solve landfill problems, and seek a Jones Act exemption for LNG. To date, there are no U.S. built vessels that can transport clean and economical LNG from the U.S. Mainland to Puerto Rico. This will help to ensure our energy security and dramatically lower our generation costs.
   - Create regional infrastructure commissions aimed at structuring recommendations that help the continuous improvement of the energy infrastructure in terms of maintenance, cleaning and repair needs.
6. **ECONOMIC POLICY**—Seek input from the long-standing private sector organizations representing local business, manufacturing and employees in policy discussions as solutions are assembled to Puerto Rico's challenges.
   - Establish a permanent Joint Economic Development Board, compromised by private and public sector representatives, with the authority to recommend and supervise the implementation of these and future key economic development strategies and initiatives that will promote Puerto Rico's competitiveness.
7. **TRADE**—Exports and trade are a key component needed for growth; let's better position Puerto Rico with an aggressive export agenda.
   - Actively promote trade with Puerto Rico as a priority objective for all U.S. commercial missions abroad and especially in the Caribbean and Latin America region.
8. **LABOR COSTS**—Request the FOMB to exercise their powers to review and repeal Local Executive Order 2018–033 which compelled government-sponsored construction projects in Puerto Rico to instantaneous and disproportionately increase labor costs.

Again, I want to thank the Committee for the opportunity to represent the Private Sector Coalition of Puerto Rico today. The Private Sector Coalition argues that economic growth is the only real solution to Puerto Rico's challenges and we look forward to working with your Committee and the Congress to advance real solutions.

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## ATTACHMENTS

### Private Sector Coalition Letter on Medicaid

COALICIÓN DEL SECTOR PRIVADO

September 4, 2019

Hon. CHARLES GRASSLEY, Chairman,
Finance Committee,
United States Senate,
Washington, DC

Mr. Chairman:

The Private Sector Coalition of Puerto Rico is comprised of over thirty business, trade and professional organizations representing the primary job creators and taxpayers of Puerto Rico. We are committed to fostering policies that advance the interests of the 3.4 million U.S. Citizens who reside on our island and promoting economic growth.

Our letter serves to express our support for the provisions contained in the "Territories Health Improvement Act" as approved by the House Energy & Commerce Committee on July 23rd. We appreciate the bipartisan work of this Committee and look forward to working with you to enact this vital legislation into law.

We note that the availability of quality of health care is an important component of our strategy to grow our local economy and retain our workforce. Every family considers health care availability as a factor in choosing where to live and work and we seek certainty and stability for our local health care system. We continue to argue that economic growth is the only true solution to the challenges faced by Puerto Rico.

We welcome the Finance Committee's attention to the impending "Medicaid Cliff" facing Puerto Rico's Medicaid system in the third quarter of 2019. Without immediate action by Congress, we face a devastating loss of 85% of our Federal Medicaid funding likely forcing a large number of Medicaid enrollees to lose their coverage and also jeopardize the financial stability of every hospital and health care provider in Puerto Rico.

While we have always advocated for a permanent solution to the recurring issue of the Medicaid Cliff and the need to more fairly allocate funding for Puerto Rico's Medicaid program, we note that the House Energy & Commerce Committee advanced legislation will provide four years of increased Federal funding totaling $12 Billion and give our local Medicaid program the stability to address key issues impacting providers; especially our local hospitals and our patients. Every Puerto Rico health willing care provider is a Medicaid provider and after many years it's time for a rate increase in reimbursements for local hospitals and providers, which among other is part of the intent of the "Territories Health Improvement Act".

The Private Sector Coalition has also long supported efforts by Congress to ensure the integrity of the Medicaid program and its administration in Puerto Rico. We appreciate your desire to ensure proper administration of Medicaid funding by the local government and look forward to collaborating with you to design these additional requirements to ensure the Government of Puerto Rico protects the integrity of the program with no resulting harm to patients, to local providers and their ability to deliver quality care for every Medicaid eligible patients.

It's important to point out that health care providers in Puerto Rico are forced to operate with much lower reimbursement rates than their counterparts in the States. In fact, our Medicaid reimbursements are barely one-half or less than the U.S. average and our local hospitals have not received a rate increase since 2011.

The Medicaid Cliff and the uncertainty it has created over the past decade has been a major contributing factor to the loss of doctors, specialists and health care professionals who have been recruited away by stateside health care systems offering more generous compensation packages. The uncertainty and financial squeeze imposed on Puerto Rico's health care providers has made it very difficult to offer attractive and competitive compensation packages to retain our experienced, bilingual medical staff and professionals. The inability of our Medicaid system to provide a reimbursement increase for hospitals and other providers since 2011 due to the combination of a significantly lower level of Federal funding along with uncertainty of the impending Medicaid Cliff has been a primary factor for this loss.

This has certainly impacted the ability of Puerto Rico's health care system to provide readily available care to the Medicaid population as well as to the general population throughout Puerto Rico.

Another consequence of the uncertainty created by the Medicaid Cliff is the impact on the ability of Puerto Rico's hospitals and clinics to modernize and upgrade their physical plant and facilities as well as medical diagnostic and treatment technologies. Approximately, 90% of local hospitals are privately owned and have 30–40 year old buildings and physical plant. These hospitals are dependent on bank financing to make physical improvements and upgrades. However, the short-term approach to addressing the Medicaid Cliff has resulted in local banks being hesitant to provide financing for improvements. Puerto Rico's providers are willing to invest and want the most state-of-the-art facilities and equipment to provide quality health care. We must remember that banks always look at the long-term ability of their clients to repay their loans and without the guarantees provided by a permanent solution to the Medicaid Cliff, bank financing has been limited. This lack of financing has delayed and frozen the ability of local hospitals and clinics to modernize and obtain the best medical technologies.

In addition to the main issue of the Medicaid Cliff, in May of this year, the Government of Puerto Rico, together with private sector leaders, outlined a list of critical sustainability measures to provide essential health services to Puerto Rico's Medicaid recipients. They are very specific and have been enclosed with this letter.

Again, we are grateful for your leadership you have shown on issues impacting the U.S. Citizens residing in Puerto Rico. We look forward to working with you toward the timely enactment of a real solution to the Medicaid Cliff and ensuring quality health care for the 3.4 million U.S. Citizens residing in Puerto Rico.

Best Regards,

**Puerto Rico Private Sector Coalition**

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Puerto Rico Hospital Association
Puerto Rico Products Association
Puerto Rico Manufacturers Association
Puerto Rico Builders Association
Puerto Rico Business Retailers Association
United Retailers Association
Puerto Rico Shippers Association
Society for Human Resources Management
Puerto Rico Chamber of Marketing, Industry, and Distribution of Food
Puerto Rico Farm Bureau
Puerto Rico Chamber of Commerce
Puerto Rico Hotel & Tourism Association
Puerto Rico Society of CPAs
Puerto Rico Automobile Distributors Association
Puerto Rico Restaurant Association
Medical Devices Cluster
Latin American Business Council

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**Private Sector Letter to Governor on PREPA RSA**

COALICIÓN DEL SECTOR PRIVADO

**MESSAGE TO THE GOVERNOR:**

**RETHINK PREPA'S RESTRUCTURING AGREEMENT (RSA) AND OTHER MEASURES IN PREPA'S FISCAL PLAN TO PROMOTE PUERTO RICO'S ECONOMIC DEVELOPMENT**

Dear Governor Vázquez Garced:

Puerto Rico's economy is in jeopardy of being further weakened by the actions of the Federal Oversight and Management Board (FOMB) imposing significantly higher electricity (almost 10 cents/kilowatt-hour) rates on consumers and business over the next five years.

The RSA, and other measures in the PREPA Fiscal Plan, as conceived and approved by the Fiscal Oversight and Management Board, does not help to promote the economic development of Puerto Rico. In fact, the implementation of these measures is projected to cause over the next 5 years:

1. Loss of over 170,000 jobs.
2. 22% decrease in the Puerto Rico Gross National Product.
3. Triple the inflation rate and continues to increase further on

These significant increases in operating costs will have the following negative effects on the economy:

1. In commerce, the increase is normally transferred to consumers, reducing the purchasing power of the general population and increasing incentives for migration.
2. In manufacturing, it reduces the ability to compete in international markets.
3. In the government, it will aggravate the present fiscal crisis.

The study developed by the respected economist Ramón Cao-García Ph.D. and commissioned by the Consumers Representative on the PREPA Governing Board is the only report and analysis that has been published detailing the effects of the RSA agreement and the other measures in the PREPA Fiscal Plan. This study provides the basis and starting point of a broad discussion and responsible evaluation leading to solutions and alternatives. We urge your Government to analyze Dr. Cao's study, present any alternative study currently available in the Government, and from the open analysis, Puerto Rico will benefit.

The Private Sector Coalition urges that the debt restructuring agreement with bondholders (RSA) be openly discussed and reevaluated, and if there are no documents or credible studies that support said agreement, that it be withdrawn and re-submitted again after proper revisions.

The Puerto Rico Energy Bureau is the proper entity for jurisdiction over the periodical review of the debt restructuring charge and should be given authority to adjust it to respond to changes in consumption. The chart of pre-established Transition Charge increases included in the RSA which showed increases in the charge by 64.5%, should not be used.

The additional measures included in the PREPA Fiscal Plan should be discussed with the Fiscal Oversight and Management Board to avoid or redistribute them outside the electricity rate, to promote the sustainability of our electrical system and the economic development of Puerto Rico.

PREPA must pay its debt. However, it is important to consider how much Puerto Rico can pay without overly restricting its financial capabilities, and also considering the consequences these costs have on the economy. This agreement must put consumers and the competitiveness of Puerto Rico's business sector first in order to ensure our sustainability and competitiveness.

Dr. Cao-García's study provided a reasonable alternative and proposes a moderate increase of 1.91 cents per kilowatt-hour, instead of the close to 10 cents/kilowatt-hour resulting from the RSA and the other measures in the Fiscal Plan. This increase is equivalent to an annual debt service payment of $281 million, corresponding to a restructured debt of $4,668 million, with a maturity of 40 years at an interest rate of 5.25%.

The effects, over a period of five (5) years, of the moderate rate increase of 1.91 cents/kilowatt-hour proposed on the Cao-García report compared to the increase of 10 cents/kilowatt-hour in the RSA and Fiscal Plan, are as follows:

1. **Employment:**
   a. Increase of 2,294 jobs, instead of a loss of over 170,000 jobs.
2. **Gross National Product:**
   a. Decrease in the Gross National Product of 4.43% (with a trend of economic growth) instead of a 22% decrease (with a tendency to decrease in economic growth).
3. **Production Costs:**
   a. Increase for the wholesale and retail sector of 0.22% (a minimum increase) instead of an increase of 2.7%, which is equivalent in many cases to the profit of a small and medium business.

b. Increase in the manufacturing sector of 0.19% (a minimum increase) instead of an increase of 1%, which is significant considering global competitiveness.

Madam Governor, the RSA and the measures included in the Fiscal Plan of PREPA go against the economic development of Puerto Rico. We want to meet with you as soon as possible to identify ways to mitigate the impact of the proposed increases in electricity costs to an already fragile Puerto Rican economy.

Respectfully,

BOARD OF DIRECTORS,
*Puerto Rico Private Sector Coalition*

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*Carlos M. Rodriguez, President,*
Puerto Rico Manufacturers Assoc.

*Liliana Cubano, President,*
Puerto Rico Products Association

*Jose Ledesma-Fuentes, President,*
Puerto Rico Chamber of Commerce

*Emilio Colon-Zavala, PE,*
Puerto Rico Builders Association

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QUESTIONS SUBMITTED FOR THE RECORD BY REP. GRIJALVA TO MS. LILIANA CUBANO, PRESIDENT, PUERTO RICO PRODUCTS ASSOCIATION

As expressed during the hearing, we appreciate your efforts to reform PROMESA and the initiative to shift the focus away from austerity to one focused on economic growth as noted in Section 4 of the Amendments to PROMESA Act of 2019.

Our answers on behalf of the Private Sector Coalition to your two questions are listed below:

*Question 1. In your testimony, you emphasize the importance of shifting the focus away from austerity, due to its negative impact on economic growth. Does the Coalition support defining and protecting essential public services to ensure the basic needs of the residents of Puerto Rico are met and to reduce migration?*

Answer. PROMESA originated from uncertainty over Puerto's Rico's finances due to lack of fiscal information, inaccurate projections and the use of non-recurring revenues for recurring expenses. Accordingly, PROMESA created a Financial Management and Oversight Board (FOMB) to bring transparency to Puerto Rico's finances; restore the principle of good government planning with a multi-year fiscal plan; establish 4 years of balanced budgets; and place the island on a path to return to the financial markets. Unfortunately, the FOMB has not adequately met these goals. Its fiscal plans and many of its actions have suffered from some of the same problems FOMB was intended to address.

Although austerity measures seek to restore macroeconomic balances through the control of budget deficits and public debts, the cutting of wages, the trimming of social aid programs, the raising of taxes and the imposition of new ones, such measures often result in negative economic effects in spite of the goals at the outset. Research conducted by the International Monetary Fund and other entities has concluded that the need for cutting budgets during economic recessions has a tendency to actually increase deficits while deepening and prolonging the recession, worsening unemployment levels and extending the time economies take to fully recover in economic terms. In the case of Puerto Rico, added to the fact that well before Hurricanes Irma and Maria hit, the Island had been experiencing years of severe economic and social crisis, austerity measures have impacted essential government services and diminish quality of living.

Austerity alone is not a path to recovery. While Puerto Rico needs to do more, there are limits to the scale and pace of additional fiscal adjustment that can be achieved. Restoring economic growth will help to create meaningful and well-paying jobs, stop the out-migration and loss of our talented young people, expand our middle class, and generate the revenues sorely needed by the local government to enable it to provide services and maintain infrastructure. Congress must recognize that leveraging Federal programs' funding with private investment in order to achieve sustained economic growth is key to getting Puerto Rico out of the cycle austerity trap.

Economic development strategies, such as the ones included in our earlier testimony (i.e., permit reforms, tax simplification, lower energy cost, air cargo transshipment hub and expanded trade, among others), could be enabled through economic development mechanisms and tools not currently present under PROMESA, could provide an important boost to labor force participation and private sector activity, helping the island's competitiveness. It should be noted that PSC recommended the establishment of a permanent Joint Economic Development Board, compromised by private and public sector representatives, with the authority to recommend and supervise the implementation of key economic development strategies and initiatives that will jumpstart Puerto Rico's economy.

The Puerto Rico Private Sector Coalition supports defining and protecting essential public services to ensure the basic needs of the residents of Puerto Rico. Essential public services should include public health, education, law enforcement, firefighting, electricity, among others. In its current form, PROMESA does not clearly define what an essential service is. The PSC understand that given the fact that it is fundamental to provide essential governmental services to the health, safety and welfare of the residents of Puerto Rico, PROMESA should provide, to the extent possible, for the definition of essential services, and identification of a priority scheme for payment of these services.

*Question 2. You mention in your statement the importance of ensuring a flow of Federal disaster recovery funds to the Island. Does the Puerto Rico Private Sector Coalition have a proposal to address this concern, or does the Coalition have a position on the establishment of a Federal Reconstruction Coordinator and a PREPA Revitalization Coordinator?*

Answer. The Disaster Appropriations Act of 2019 required HUD to publish requirements for the allocation for funds under the CDBG-MIT program in September 2019. Puerto Rico is the only jurisdiction where HUD did not comply with the required publication in the Federal Register. Also, Puerto Rico is the only jurisdiction in which FEMA does not accept the required Applicant Cost Estimates prepared by Professionally Licensed Engineers as required under Section 428 of the Stafford Act. Both are unacceptable.

HUD announced in July 2019 that a federal monitor would be required for disaster recovery funding awarded by the Agency. This, without any implementation plan or strategy as to if it will be a HUD employee, a contractor, a panel or a working group. Lack of planning and transparency on the process has significantly delayed recovery efforts in Puerto Rico and left its residents in a position of elevated vulnerability.

Taking into consideration that over 24,000 families still live under a blue tarp, it is imperative that permanent reconstruction work start. The Private Section Coalition believes these situations with disaster recovery funding is discriminatory against the over 3MM U.S. citizens that reside in Puerto Rico. The fact that corruption charges regarding disaster recovery funding in Puerto Rico have been levied to residents of CONUS only, further support our belief that these delays are discriminatory in nature as Puerto Rico does not have two Senators or voting Members of Congress to support our case.

Without any plan, clear guidance or vision as to what or who a Federal Reconstruction Coordinator is to be hired, the CSP cannot support such an initiative. The reason for this is precisely this will further delay much needed reconstruction programs' start. Any concern regarding corruption or misuse of Federal recovery funding can be considered by:

1. Establishing transparency requirements in procurement processes.
2. Repeal of local Executive Order 2018–033 that artificially raised the minimum wage for public construction contracts and requires Project Labor Agreements, and substitute with U.S. DOL's prevailing wage determination requirements as per applicable Federal legislation.
3. Require corruption prevention management processes equal or similar to ISO 37001 to Government Agencies and any contractor that wishes to obtain a Federal grant or contract.
4. Establishment of a transparency portal where all disaster recovery grants and contracts are published.
5. Strong and continued monitoring from the Office of Inspector General has as has been performed to date.

We feel that these controls will greatly restore confidence in the use of Federal recovery funding.

Mr. SABLAN. Thank you very much. In commentary, my island also continues to be covered in blue tarp, and where you have 38 cents per kilowatt hour, it is 44 cents per kilowatt hour where I come from, so I have an idea of what you are sharing. I guess our only scholar, student scholar here, Mr. Butín-Rivera. Welcome, you have 5 minutes.

**STATEMENT OF LYVAN A. BUTÍN-RIVERA, STUDENT REPRESENTATIVE, UNIVERSITY OF PUERTO RICO**

Mr. BUTÍN-RIVERA. Mr. Sablan, Ranking Member Bishop, and Committee members, I am a senior accounting student at the University of Puerto Rico. Until a few months ago, I worked as a student representative on the University Board and its Budget Committee. That gave me the opportunity to study the budget of the UPR system and its 11 campuses, analyze the fiscal plan approved by the FOMB, and submit specific recommendations for next fiscal year.

Today, I am here on behalf of 53,000 students that need for their voices to be heard to support the amendment to the Puerto Rico Oversight, Management, and Economic Stability Act, also known as PROMESA, proposed by Chairman Grijalva and to sustain the fight of millions of Puerto Ricans off and on the island that are fighting for a future with social economic development in Puerto Rico.

Before the implementation of PROMESA, the UPR system had already received drastic cuts to its budget that accumulated to $550 million to Fiscal Year 2017. In Fiscal Year 2018, the fiscal board presented a plan that included annual budget cuts that accumulated to a total of $450 million by Fiscal Year 2024. That represents 56 percent of the total budget of the University of Puerto Rico.

The University is not unaware of the need of fiscal restraint. We have been working with these budget cuts, adjusting multiple measures to continue providing quality higher education on the island. First, the University has tripled its tuition through annual increasing and created new fees for students. This has affected directly the most vulnerable students in the institution.

The institution reduced its faculty and administrative personnel to the point that most of our campuses are understaffed at all levels. This has translated in a limited number of courses, deterioration of our infrastructure, and limited staff attending student services. For example, some offices that used to be operated by full staff now are being operated by one or two work-study students.

The University has stopped some of its critical permanent infrastructure projects. This is due to a combination of lack of funding and FEMA not distributing the necessary funds for reconstruction purposes. In some cases, campuses like Bayamon and Rio Piedras completely lost buildings due to the damages of Hurricane Maria, and to this day the reconstruction of those buildings essential to the functioning of the University campuses has not even begun.

As a result of the budget cuts, the University has underfunded pension to the point that the net pension liability has exploded to almost $3 billion and the amount that the University must pay to sustain the system has doubled.

It is not difficult to see how the budget cuts are creating massive deficits on the cashflows of the UPR. In the fiscal plan for the University approved on June 5 by the FOMB, it projects that the University will have a deficit of $88 million by the end of this fiscal year. In the report that me and my colleagues from the budget committee submitted to the University board last semester, we concluded that if the budget cuts imposed by the fiscal plan for the next 2 fiscal years for the University are implemented, probably the University will be obligated to close most of its campuses and it will lose its accreditation due to its inability to meet the financial obligations of the system.

The approval of the amendment proposed by Congressman Grijalva is critical for the sustainability of the University of Puerto Rico. Some of the University campuses with this year's budget are not sure if they are going to be able to pay their payroll or even pay their utility bills. By endorsing this amendment, we ensure that the immediate future of the University of Puerto Rico is secured. This will give the opportunity for the University to reorganize, update its infrastructure, acquire better technology, and in the near future operate more effectively.

Referring to the University of Puerto Rico, Ms. Jaresko stated, the University of Puerto Rico system is the crown jewel of Puerto Rico. Having that in mind, it is important that the University is properly funded for the well-being of its citizens to secure the social and economic future of the island.

We say that a government is defined by the opportunities it gives to its citizens. For many Puerto Ricans, the University of Puerto Rico represents our only hope for a better future as well as the possibility of social and economic mobility. That is one of the main reasons to grant the University of Puerto Rico a status of an essential service. This will guarantee that the University of Puerto Rico continues the educational legacy initiated since 1903 and continues to educate and provide the highest quality education available on the island.

[The prepared statement of Mr. Butín-Rivera follows:]

PREPARED STATEMENT OF LYVAN BUTÍN, FORMER MEMBER OF THE UNIVERSITY BOARD BUDGET COMMITTEE

Honorable Chairman Grijalva and Committee Members: My name is Lyvan Butín and I am a senior student majoring in accounting at University of Puerto Rico, Bayamon Campus. My presentation's purpose is to advocate for the amendment proposed by the Honorable Congressman Raúl Grijalva to the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) on behalf of the 53,000 University students from the University of Puerto Rico. This amendment will also protect Puerto Rico's public education and allow economic growth and social development.

I was a member of the University Board Budget Committee until recently. This is the highest non-partisan body of governance of the University of Puerto Rico. In this committee, I studied and revised the multiple budgets that conform the University system as a whole, particularly its 11 campuses and the fiscal plans approved by the Financial Oversight and Management Board for Puerto Rico (FOMB) and the University's Governing Board. I had the opportunity to examine the different regulations and accreditations that govern the University of Puerto Rico. This Budget Committee concluded that if the Fiscal Plan projected cuts are implemented, the University of Puerto Rico—the only public university—has a high probability of closing operations in a near future, leaving Puerto Rico in a precarious economic state. This in particular would contribute to social inequality and a mass migration to the United States would be inevitable.

I. PROMESA GOALS

The primary purpose of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), at section 101(a), is to promote a method to achieve fiscal responsibility in the Territory of Puerto Rico. Nonetheless, since the creation of the Financial Oversight & Management Board for Puerto Rico (FOMB), the method used to achieve fiscal responsibility has been through the implementation of austerity measures in the government sector, as well as stimulating privatization measures and granting tax exemptions to possible private sector investment. All these without any reliable analysis of those strategies or of the private sector investment. At the same time, there has been no consideration of economic studies on the possible outcomes of these investments. There has never been an economic analysis of the actions proposed or implemented. The result of these measures has been a massive migration of Puerto Ricans to the United States, engendering social inequality, poverty and violence in Puerto Rico.

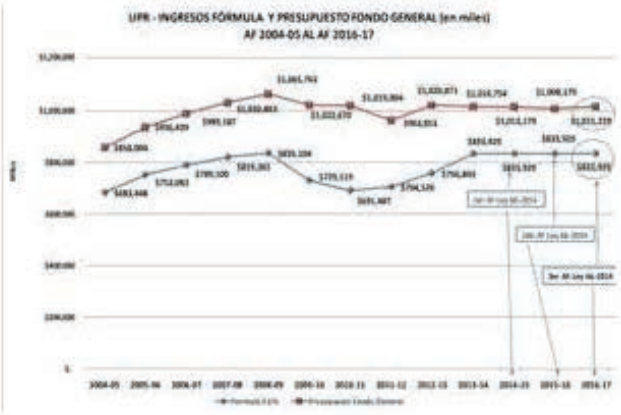
The University of Puerto Rico produces 73 percent of the scientific knowledge in our region. An economic study established that the University of Puerto Rico's return investment is $1.56 for each $1 that the government contributes to the institution. This creates 164 jobs for each one hundred (100) jobs generated as part of the institution's activities.

The approved fiscal plan imposes a reduction of $512 million without any scientific data or criteria and does not take into consideration the University of Puerto Rico's social contribution to the island's local recovery and economic development.

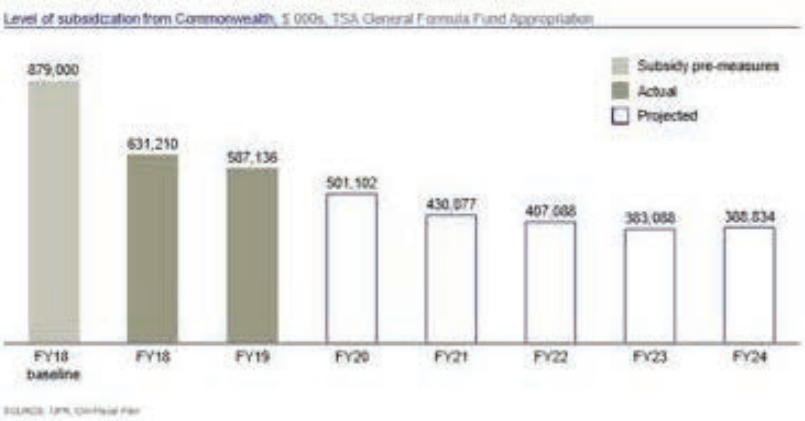
II. BUDGET CUTS TO THE UNIVERSITY OF PUERTO RICO

Before the implementation of PROMESA the University system had already undergone mayor cuts to its budget. In 2014, the administration of the Governor, Alejandro García Padilla decides to freeze the allocation of funds to the University of Puerto Rico. This without following the established formula for the allocating of funds to our university. The university is entitled to receive 9.6 percent of the annual rental annuities by law. This represents a major part of our consolidated budget. Ignoring the University's budget formula established by law contributed to an accumulated loss of $550 million through Fiscal Years 2015 to 2017.

The graph below shows the dramatic budget reduction suffered by the University in recent years:




In Fiscal Year 2018, the FOMB started implementing their cuts through their fiscal plan, which started with a reduction of $202 million to the University of Puerto Rico system. Two years has passed since the first mayor cuts. Currently this Fiscal Year 2020, the budget cuts have accumulated to a total of $333 million. However, we are still projected to receive more cuts until the Fiscal Year of 2024; that adds another $112 million to the reduction. In total, the budget cuts ascend to $445 million. That represents a 56 percent of the total budget of the University of Puerto Rico since the freezing of the University formula used for the development of its budget.




The immediate effect of the severe budget cuts is the resulting operational deficit. Under the fiscal plan, a deepening deficit began this fiscal year.

*Measures To Sustain Operations With The Budget Cuts*

The University is not oblivious of the need for fiscal restraint alternatives and has been working on those since 2014 with an economic reduction from the Government. Thus, adopting multiple measures to continue providing higher education excellence. Some of the drastic adjustments that the University has been adopting in the past years are:

- Triple tuition fee increases and the creation of a new fee for students.

EXHIBIT 13: SCHEDULE OF TUITION INCREASES (COST PER CREDIT)

| FY 2019 | FY 2020 | FY 2021 | FY 2022 | FY 2023 | FY 2024 |
|---|---|---|---|---|---|
| $115 | $124 | $134 | $145 | $157 | Indexed to inflation |

Fee changes over time

Cost per transaction (1):

| Existing fees: | FY16-18 Cost | FY19 | FY20 | FY21 | FY22 | FY23 | FY24 |
|---|---|---|---|---|---|---|---|
| Maintenance Fee | 47.00 | 47.00 | 75.00 | 100.00 | 100.00 | 100.00 | 100.00 |
| Technology Maintenance Fee | 25.00 | 25.00 | 25.00 | 25.00 | 50.00 | 50.00 | 50.00 |
| Laboratory Rights | 33.00 | 100.00 | 100.00 | 100.00 | 100.00 | 100.00 | 100.00 |
| Graduation Rights | 27.00 | 80.00 | 80.00 | 80.00 | 80.00 | 80.00 | 80.00 |
| Other Maintenance Rights | 67.00 | 67.00 | 67.00 | 67.00 | 67.00 | 67.00 | 67.00 |
| Admission Application | 20.00 | 30.00 | 30.00 | 30.00 | 30.00 | 30.00 | 30.00 |
| Re-Admission | 33.00 | 35.00 | 35.00 | 35.00 | 35.00 | 35.00 | 35.00 |
| Transfer to other Institutions | 33.00 | 50.00 | 50.00 | 50.00 | 50.00 | 50.00 | 50.00 |
| Transfer within the UPR System | 20.00 | 25.00 | 25.00 | 25.00 | 25.00 | 25.00 | 25.00 |
| Transcripts & Certificates | 1.35 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |
| Document Duplicates | 1.35 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |
| Change in Faculty | 20.00 | 20.00 | 20.00 | 20.00 | 20.00 | 20.00 | 20.00 |
| ID Card | 5.00 | 10.00 | 10.00 | 10.00 | 10.00 | 10.00 | 10.00 |
| Fees for late tuition | 15.00 | 20.00 | 20.00 | 20.00 | 20.00 | 20.00 | 20.00 |
| New fees: | | | | | | | |
| Summer Maintenance Fee | - | 50.00 | 50.00 | 50.00 | 50.00 | 50.00 | 50.00 |
| Fees for partial drop in courses | - | 10.00 | 10.00 | 10.00 | 10.00 | 10.00 | 10.00 |
| Fees for full drop in courses | - | 15.00 | 15.00 | 15.00 | 15.00 | 15.00 | 15.00 |
| Repetition of courses | - | 20.00 | 20.00 | 20.00 | 20.00 | 20.00 | 20.00 |

- Reduction of faculty and administrative personnel. Most of our campuses are understaffed and this jeopardizes the multiple University of Puerto Rico accreditations. This measure has contributed to the increased recruitment of lecturers and part time Instructors. The hiring freeze of tenure track faculty positions places at risk the University of Puerto Rico accreditation. This has translated in a limited number of courses for students, a deterioration of our infrastructure and the limited staff attending student services. For example, in some offices used to be operated by full staff or administrative personnel, now are being operated by one or two work-study students.

- Interruption of some of our essential infrastructure projects. This is due to a combination of factors such as the lack of funding and that FEMA has not disbursement the necessary funds for the reconstruction required. Due to these measures, the university is in a critical situation regarding its infrastructure. There is an urgent necessity to fund projects to rebuilt and repair the University of Puerto Rico's infrastructure. In some cases, University Campuses such as Bayamon and Río Piedras, complete lost buildings due to the damages of hurricane María. To this day the reconstruction of those buildings essential to the functioning of many units of the University Campuses have not even begun.
- Academic and administrative reorganization or consolidation. At this moment, the university is evaluating every academic program that it offers throughout the 11 campuses operated by the whole University of Puerto Rico system; the University of Puerto Rico contemplates the consolidating of programs. On the administrative level, the University of Puerto Rico is working in economic strategies to foster savings by restructuring operations and its administration. I foresee this as one of the great challenges because if we want to operate more effectively, we need to invest in better technology, and infrastructure. Regretfully, we simply do not have the funding for all this.

III. UNIVERSITY'S PENSION PLAN CRISIS

The pension plan of the university is being affected critically by these drastic budget cuts. Since the first budget cuts, the university no longer funds adequately its pension plan. As of today, the plan has an actuarial liability ascending to $2,968,233,000.

| | 6/30/2017 | 6/30/2016 | Change |
|---|---|---|---|
| Total Pension Liability | $ 4,359,733,000 | $ 3,339,371,000 | + $1,020,362,000 |
| Total Plan's Net Assets | $ 1,391,500,000 | $ 1,332,668,000 | + $ 58,832,000 |
| Net Pension Liability | $ 2,968,233,000 | $ 2,006,703,000 | + $961,530,000 |
| Net Position as a Percentage of the Total Pension Liability | 31.92% | 39.91% | - 7.99% (a 20% deterioration) |

According with the University of Puerto Rico fiscal Plan, the university will have to pay about $150 to $160 million annually in order to close the actuarial deficit. The FOMB has proposed three different scenarios for the Pension Plan:

1. Leave the system as is, and increase the university's contribution from $80 to $160 million or more annually.
2. Transform the retirement plan to a defined contribution plan and pay somewhere close to $143 million annually.
3. Transform the retirement plan to a defined contribution plan and reduce most of the benefits. Under this option, the university must spend around $100 million annually to the pension plan.

The university is leaning to sustain its pension plan as is, but the problem is that the amount that we have to pay ($160 million) it is incredibly high when compared to our budget. The uncertainty of the future of the pension plan is forcing productive employees into retirement because they are afraid that the university is going to transform or eliminate their pension plan.

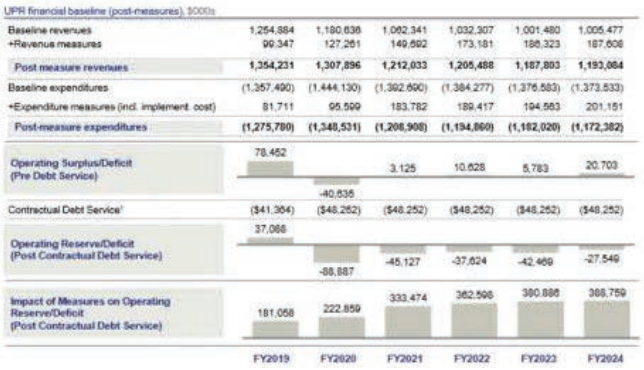
As of July 31, 2019, University's pensioners are 9,023, and their monthly payroll amounts to around $16.5 million. Both numbers are expected to increase given the large number of people who can retire because they now meet the years of service for retirement as shown in the table.

| Unidad | 0-5 | 6-10 | 11-15 | 16-20 | 21-25 | 26-30 | 31-Más | Total |
|---|---|---|---|---|---|---|---|---|
| | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Centro de Recursos para las | 18 | 4 | 12 | 7 | 16 | 1 | 4 | 62 |
| Consejo de Educación Superior | 0 | 0 | 0 | 0 | 0 | 4 | 2 | 6 |
| Junta de Síndicos | 12 | 4 | 2 | 3 | 7 | 4 | 2 | 34 |
| UPR - Administración Central | 42 | 22 | 20 | 37 | 80 | 58 | 39 | 298 |
| UPR - Aguadilla | 53 | 22 | 46 | 67 | 48 | 17 | 41 | 294 |
| UPR - Arecibo | 36 | 26 | 38 | 77 | 81 | 46 | 68 | 372 |
| UPR - Bayamón | 55 | 42 | 45 | 71 | 75 | 47 | 83 | 418 |
| UPR - Carolina | 26 | 43 | 41 | 58 | 51 | 31 | 51 | 301 |
| UPR - Cayey | 87 | 36 | 70 | 71 | 81 | 56 | 63 | 464 |
| UPR - Ciencias Médicas | 475 | 241 | 344 | 266 | 269 | 205 | 376 | 2,176 |
| UPR - Estación Experimental | 94 | 27 | 49 | 46 | 24 | 32 | 53 | 325 |
| UPR - Humacao | 65 | 28 | 59 | 80 | 101 | 65 | 91 | 489 |
| UPR - Mayaguez | 288 | 120 | 288 | 307 | 273 | 186 | 272 | 1,734 |
| UPR - Ponce | 55 | 23 | 29 | 76 | 52 | 19 | 33 | 287 |
| UPR - Rio Piedras | 462 | 139 | 327 | 377 | 371 | 333 | 464 | 2,473 |
| UPR - Servicio de Extensión | 74 | 39 | 46 | 52 | 51 | 45 | 46 | 353 |
| UPR - Sistema de Retiro | 7 | 1 | 9 | 3 | 9 | 11 | 6 | 46 |
| UPR - Utuado | 39 | 25 | 14 | 32 | 35 | 22 | 19 | 186 |
| Total | 1,889 | 842 | 1,439 | 1,630 | 1,624 | 1,182 | 1,713 | 10,319 |

One can see that in the next 4 years the number of people that can receive benefits from the pension plan would rise by 2,895. Therefore, the situation is made more difficult for the institution because it will have to disburse more money to the retirement system. The University of Puerto Rico will not have the money to sustain its pension plan and it will be forced to enter a pay as you go system, requiring greater disbursements from the Central Government.

IV. BUDGET DEFICITS

It is easy to see how the budget cuts are creating a massive fiscal deficit for the University of Puerto Rico. The Fiscal Plan approved last June 5, 2019 by the FOMB projects that the University will have a deficit of $88 million by the end of Fiscal Year 2020.




As anyone can see in this graphic, the Fiscal Board is projecting that the deficit will disappear during the next fiscal years. But, the truth is the opposite: the deficit will not disappear any time soon, it will continue to increase. The University has already taken all possible measures for the improvement of cash-flow and the generation of major savings. Although we can still implement minor adjustments that will save money, these adjustments yield minuscule results when compared to the projected budget cuts.

If the next reductions are implemented, we will be obligated to take drastic decisions regarding the future of the University of Puerto Rico. We will probably have to close many of our campuses, leaving thousands of students without a university center to attend. In Fiscal Year 2021, the University of Puerto Rico will be receiving $430 million from the Central Government. This will not be enough funding to operate effectively: we will have to close several campuses to sustain the system.

| Major Campuses | Budget |
|---|---|
| Rio Piedras | $212,904,438 |
| Mayaguez | $134,578,621 |
| Medical Science | $118,353,984 |
| Total | $465,837,043 |

| Minor Campuses | Budget |
|---|---|
| Cayey | $31,826,974 |
| Humacao | $39,117,931 |
| Aguadilla | $20,594,444 |
| Arecibo | $29,570,029 |
| Bayamon | $35,261,700 |
| Carolina | $25,315,733 |
| Ponce | $23,068,820 |
| Utuado | $13,790,235 |
| Total | $218,545,866 |

The position of the President of the university and the FOMB is that they want to keep all campuses open, but as you can see, this is not going to be possible. The quality of education provided by the University has never been questioned. When we were placed on "show cause" by the Middle States Commission on Higher Education, it was for two central reasons:

1. Failure to comply with the financial information requirements by the MSCHE.
2. Concerns regarding the amount of fiscal resources the institution has to fulfill the obligation with its students.

The budget cuts, as specified in the fiscal plan, are going to force the closing of the University of Puerto Rico. We have to mention that in 1992, Congress amended bankruptcy law to exclude an institution of higher education that has filed for bankruptcy eligibility to participate in Title IV financial aid programs.

The approval of the amendment proposed by Congressman Grijalva is critical for the sustainability of the University of Puerto Rico. Some of the university campuses with this year's budget are not sure if they are going to be able to pay the payroll for the last months of the fiscal year or pay the utility bills. By endorsing this amendment, we ensure that the immediate future of the University of Puerto Rico is secure. This will give the opportunity for the university to reorganize, update infrastructure, acquire better technology, and in the near future operate more effectively. Referring to the University of Puerto Rico, Ms. Jaresko stated that, "the University of Puerto Rico system is the crown jewel of Puerto Rico." Having that in mind, it is important that the university is properly funded for the well-being of its citizens to secure the social and economic future of the island. We say that, a government is defined by the opportunities it gives its citizens. For many Puerto Ricans, the University of Puerto Rico represents our only hope for a better future, as well as the possibility for social and economic mobility. That is one of the main reasons to grant the University of Puerto Rico the status of an essential service. This will guarantee that the University of Puerto Rico continues the educational legacy initiated since 1903 in continuing to educate and provide the highest quality education available in Puerto Rico. This is what characterizes my University of Puerto Rico and what this University is known for.

QUESTIONS SUBMITTED FOR THE RECORD BY REP. GRIJALVA TO MR. LYVAN BUTÍN-RIVERA, STUDENT REPRESENTATIVE, UNIVERSITY OF PUERTO RICO

**Mr. Butín-Rivera did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.**

*Question 1. The Executive Director of the Oversight Board testified that the government of Puerto Rico has been subsidizing the University of Puerto Rico (UPR) at a rate far more than average for mainland U.S. states—roughly 70 percent instead of 20–30 percent—and that the PR Government can no longer afford these subsidies given that it is bankrupt?*

*What is your reaction to the concern that the government of Puerto Rico can no longer afford to subsidize the UPR at the same rate that they were previously?*

*Question 2. We have received a number of crit icisms that the language we have in the "Discussion Draft" defining essential services to protect the UPR will have the unintended effect of leaving other government services, which are not defined as essential, open to massive cuts. Are these conclusions wrong or would you recommend that we make all government services essential?*

*Question 3. The Oversight Board also asserts, that revenues are depressed and insufficient at UPR because tuition levels are extremely low for all students—regardless of ability to pay—and there is little effort in attracting Federal grants and active development of alumni contributions. Could charging a higher tuition for students of great means, as well as securing more Federal grants and alumni contributions, make up for the budget cuts in your opinion?*

*Question 4. Recognizing that the financial resources of the government of Puerto Rico are scarce, has the University presented recommendations to the Government to achieve cost savings that could mitigate budget cuts to the University? Could you share some of the recommendations with the Committee?*

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Mr. SABLAN. Thank you. Thank you very much, right on time. Finally the Chair now recognizes Mr. Spiotto. Sir, you have 5 minutes.

## STATEMENT OF JAMES SPIOTTO, MANAGING DIRECTOR, CHAPMAN STRATEGIC ADVISORS

Mr. SPIOTTO. Thank you. Chairman Grijalva, Ranking Member Bishop, and distinguished members of the Committee, thank you for the opportunity to address you. Certainly these amendments raise very interesting issues.

The part of the amendments that I would like to address is how do you effectively deal with public debt. If you look at the over 600 sovereign debt restructurings since 1950 for 95 countries, you see that they get repeated time and time again because the systemic problem was not addressed. Public debt is not a systemic problem; it is a symptom of a systemic problem.

For Puerto Rico, I think people are united that there should be a recovery plan that reinvests in Puerto Rico that stimulates the economy, that creates new good jobs for the people of Puerto Rico, attracts business and others to come, and with that, you have an increase in tax revenues that will be the high tide that raises all the boats.

The important thing is that, like any government, you need to have access to the capital markets. Governments need to borrow money because revenues do not come in on an even basis. Sometimes what you think you levied, you don't collect. So, you need a way of making sure there is liquidity to literally keep the lights on. Access to the market is essential. The sovereign debt restructurings

that did not work did not address the systemic problem and did not maintain good access to the market.

The problem I have with Title VIII is that Title VIII provides by legislative resolution the discharge of all unsecured public debt. The problem with that is there is no rationale, there is no justification. Chapter 9 of our Municipal Bankruptcy Code basically is titled Municipal Debt Adjustment. Title III of PROMESA is titled Debt Adjustment. It is to be adjusted to what is sustainable and affordable. To wipe it out without recognizing the principles of best interests of creditors, feasibility, fair and equitable, which are in PROMESA in Title III would be a mistake. What is important is not the elimination of debt but it is the adjustment to what is sustainable and affordable.

If you look at 180 restructurings recently of sovereign debt, the mean haircut is only 38 percent. The reduction in Detroit was only 38 percent. Obviously, it has to be adjusted to what is sustainable and affordable, but that does not mean that you have a process that just eliminates it. Why is that important? Because Puerto Rico will need to go back to the market to borrow money for its infrastructure and other governmental services, and to do so it needs access and the ability to borrow at a low cost.

The experiences of Greece, Argentina, Brazil, Peru, and others is that if you don't respect that sacred obligation, you wind up paying more, at least 2 percent more additional interest rate per annum which equals on a 20-year bond bullet maturity and a 5 percent discount, 25 percent of the principal amount goes to additional interest, not to pay for services, not to pay for infrastructure, not to pay for workers or pensions or a tax relief. So, it is important to look at this.

Are there better ways? Yes. How can we help Puerto Rico best? It is giving it what it lost in 936 being repealed, the reason why governments need businesses to want to be there. We ought to look at ways at stimulating the economy, making it a center of commerce and finance, making it a foreign trade source, increasing manufacturing, giving back what it lost when it lost 936 to attract back the people who have left and bring business to Puerto Rico that creates the new jobs, the additional tax revenues, and the high tide that solves the problem.

Thank you.

[The prepared statement of Mr. Spiotto follows:]

PREPARED STATEMENT OF JAMES E. SPIOTTO[1]

Chairman Grijalva, Ranking Member Bishop and distinguished members of the Committee, I am honored to address you at this hearing regarding the Discussion Draft of H.R. ____, the Amendments to Puerto Rico Oversight Management and Economic Stability Act of October 30, 2019 ("Proposed Amendments"). The following remarks are based on my experience in refinancings, workouts and restructurings of state and local debt obligations and those of other countries for over 40 years, as well as my prior written testimony to House and Senate Committees on Chapter

[1] As of January 1, 2014, I retired as a Partner of Chapman and Cutler LLP. I am a Managing Director of Chapman Strategic Advisors, LLC, a consultancy providing educational and strategic insights to market participants concerning finance topics of interest. For further detail, see my resumé. The statements expressed in this material are solely those of the author and do not reflect the position, views or opinions of Chapman and Cutler LLP or Chapman Strategic Advisors LLC.

9 Municipal Bankruptcy and the government finance market including in 1983, 1988, 1992, 1995, 2011, and with respect to Puerto Rico in 2015, 2016 and 2018.

The history of sovereign debt restructurings and past state and local government financial challenges has demonstrated that Puerto Rico should develop a recovery plan that encourages reinvestment in Puerto Rico, providing needed essential services and infrastructure improvements. This plan would stimulate economic development, rebuilding and enhancing infrastructure, motivating those who have left the Island to return, spark expansion of local business, and attract new business thereby creating new, good jobs. This raises the level of employment and labor participation that increases personal, business and tax revenues: the high tide that raises the economic fortunes and health, safety and welfare of Puerto Rico's citizens and provides the creditworthy basis for repaying creditors. There are some serious questions as to whether the Proposed Amendments will accomplish this goal of establishing fiscal responsibility and enhancing access to the capital markets.

THE GATHERING STORM OF PUERTO RICO'S FINANCIAL DISTRESS

Historians may well debate the causes and impact of Puerto Rico's financial and operational distress, but it should be clear that public debt was not the cause of the financial distress of the government. Rather, it is a symptom of a systemic problem. As Puerto Rico has continually and correctly noted, the Merchant Marine Act of 1920 added 10–15 percent to the price of many goods carried by foreign vessels, and the repeal of Section 936 of the IRS Code (previously Section 931) removed the encouragement to U.S. corporations to invest in Puerto Rico and Federal policy created inequities in Federal funding and treatment of Medicaid and tax policy for Puerto Rico compared to states. This purportedly has cost Puerto Rico billions annually for decades, and all of these are a fertile ground for blame.

In 1996, Congress repealed (effective 2006) Section 936 of the Internal Revenue Code (previously Section 931) that existed since the 1920s to encourage U.S. corporations to invest in Puerto Rico by providing an exemption from Federal taxes. This measure promoted two-thirds of Puerto Rico's GDP, namely, in finance, insurance, real estate (19.6 percent), and manufacturing mainly in pharmaceuticals and electronics (46.4 percent).

By 2006, Puerto Rico was in financial distress due at least in part to the effect of the Jones Act, the repeal of Section 936 of the Internal Revenue Code without any replacement, the inequity of Federal Government funding compared to states costing Puerto Rico billions annually for decades relating to Medicaid, Supplemental Security Income ("SSI"), earned income tax credit ("EITC"), child tax credit ("CTC"), etc. All of this culminated in financial distress. In 2006, Puerto Rico had $40 billion of public debt and public debt per capita of $10,666.66, double the average for state and local governments in the United States. Also in 2006, Puerto Rico's public debt as a percentage of GDP was 45.82 percent.

Put another way, by 2006, Puerto Rico, with $40 billion in public debt, chose literally to double down on debt rather than face the then need for financial restructuring or Federal Government assistance such as oversight and refinancing of debt in 2006 rather than 2016, the ultimate result. Between 2006 and 2015, $40 billion of public debt became $72 billion, the percent of debt to GDP rose from 45.82 percent to 69.83 percent, and per capita public debt more than doubled from $10,666.66 to $20,727.38 (the average for state and local government debt in the U.S.A. in 2015 was $5,633.88, one-quarter of Puerto Rico's).

THE EVOLUTION OF PROMESA

In late 2015 and 2016, Congress was presented with the financial problems and debt crisis the Commonwealth of Puerto Rico and its people were suffering. The territory had over $70 billion of public debt and pension liabilities of over $40 billion. The overall debt of Puerto Rico and its instrumentalities debt were viewed as beyond their respective liquidity and the perceived ability to pay as scheduled and created what appeared to be an insurmountable burden to Puerto Rico and its people.

During the first part of 2016, Congress considered what needful rules and regulations would be appropriate. At the same time, the Commonwealth itself enacted in April 2016 the Moratorium Law (Art. No. 21–2016) purporting to suspend payment on the public debt. This caused the expected negative reaction from debtholders and increased the necessity for an effective mechanism for the resolution of the financial crisis. This Committee held hearings and Congress enacted the Puerto Rico Oversight, Management and Economic Stability Act ("PROMESA"), 48 U.S.C. §§ 2101–2241, signed into law by President Obama on June 30, 2016, which created Financial Oversight and Management Board for Puerto Rico (the "Oversight Board"

or "FOMB") for supervision and assistance to Puerto Rico. In enacting PROMESA, Congress exercised its power to "make all needful rules and regulations respecting the territory" under the U.S. Constitution (Article IV, § 3, cl. 2).

The Oversight Board was charged under PROMESA with being the mechanism to achieve fiscal responsibility and economic and operational recovery from the financial distress and debt burdens that Puerto Rico was suffering. PROMESA, as is evident from Congress' hearings in 2015 and 2016 on the Puerto Rico debt crisis, followed the tradition that states and the Federal Government have chosen for providing oversight, supervision and an effective mechanism to resolve the grave financial distress of governments such as Puerto Rico and its related governmental entities. The goal of all these legislative efforts is the creation of a mechanism to encourage consensual resolution as in Title VI of PROMESA. PROMESA is structured to foster such consensus and provides a last resort to use a bankruptcy-like process for involuntary resolution, as Title III of PROMESA does, to effectuate resolution of debt issues that cannot effectively be resolved by agreement. PROMESA was intended to provide financial oversight, assistance and supervision for Puerto Rico. To a degree, PROMESA was to be similar to New York City and the Municipal Assistance Corporation ("MAC") in 1975, Philadelphia and Pennsylvania Intergovernmental Cooperation Authority ("PICA") in 1991 and Washington, DC and its Financial Control Board ("D.C. Control Board") in 1995, which enhanced needed financial credibility and access to the financial markets. It should be noted in MAC for New York City, PICA for Philadelphia and D.C. Control Board for Washington, DC there were no public debt restructurings but rather refinancing of public debt. This was due, in part, to the acknowledged need for governments to be able to borrow in the capital markets.

THE PROMESA EXPERIENCE AND RECENT APPROVED AND PROPOSED SETTLEMENTS FOR PUBLIC DEBT AND OTHER CREDITORS

Contrary to the hope for Title VI resolutions in the first 3 years of PROMESA, the dynamic uncertainty of the situation continued with the litigious response by creditors and the Commonwealth resulting in limited consensual resolution in 2017 and 2018. Over 2 years ago, the Oversight Board filed for the Commonwealth and some covered entities a Title III bankruptcy proceeding that permits involuntary resolution if consensual agreement is not reached. There have been recent announcements of a settlement with the Commonwealth, Oversight Board, COFINA bondholders and GDB creditors among others.[2] There have been recent efforts by the Title III District Court to stay active litigation for a set period of mediation to attempt to foster consensual resolution and a settlement proposal[3] for the remaining debt followed by a proposed plan of debt adjustment that generally follows the proposed settlement. The employee retirement system obligations to employees and retirees has also been the subject of a proposed settlement.[4] In past resolutions of state and local government debt restructurings like Detroit, Jefferson County, Stockton, San Bernardino and others, there came a time when virtually all creditor constituents, with some reluctance, reached a global agreement and settlement that resolved litigation and provided a path forward. Given the passage of time and the

[2] Puerto Rico's approved settlement: There are two settlements of major public debt that have been approved namely: (1) the GDB debt of $4.1 billion with a 55¢ on the dollar recovery and the COFINA settlement of $17.8 billion of debt and private loans with a 93% recovery for senior and 53.5% recovery for subordinated for a blended recovery of 68%. Accordingly, of public debt, 29% of the $73.8 billion public debt and private loans have court approved settlements.

[3] Puerto Rico's proposed settlements to public debt and consensual creditors: $35 billion of claims: The $35 billion of G.O. bond debt, Public Building Authority obligations and other debt originally supported by $3 billion of public bond debt. The G.O. bond debt has a proposed settlement for the vintage G.O.s (pre-2012) of $6.9 billion with a 64% recovery: the 2012 G.O.s of $2.7 billion with a 45% recovery or litigate: the 2014 G.O.s of $3.6 billion with a 35% recovery or litigate. The Public Building Authority obligations that the FOMB and Commonwealth are now calling debt consist of vintage PBA (pre-2012) of $3.9 billion with a 73% recovery and the 2012 PBA of $0.7 billion with a recovery of 23%. Also, there is other unsecured debt (non-G.O. and non-PBA unsecured creditors) of $16 billion with a recovery of 9%. When you add the $35 billion of proposed settlements to the $21.6 billion of approved settlements for public debt and private loans there are about $56.6 billion of proposed and approved settlements. These proposed settlements have been generally incorporated into a proposed plan of debt adjustment for the Commonwealth and instrumentalities in the Title III proceedings. Virtually all of the $51.461 of bond and private loans contained in the fiscal plan is covered by approved proposed settlements not counting ERS pension liabilities.

[4] Proposed employees' retirement systems settlement: There is also a proposed settlement of the ERS pension liabilities of about $50 billion that proposes an 8.5% cut in pension benefits over $1.200 a month and that affects about 39% of the retirees. This settlement proposal is supported by the Official Committee of Retired Employees.

continuing litigious spirit that has prevailed with the absence of a global settlement and general agreement, all creditor constituents' frustrations and fatigue can motivate the desire for drastic approaches. The Discussion Draft appears to be a product of this environment.

Unfortunately, financial challenges and distress were compounded by the natural disasters of Hurricanes Irma and Maria and other ill winds. The resulting broken infrastructure only magnified the distress and human suffering. Such human tragedy may blur legal priorities and, to a degree rightfully so, shift the focus of efforts and attention. Puerto Rico really needs a Marshall Plan to reinvest in Puerto Rico and rebuild its infrastructure and economy. It appears illogical to ask a government to provide its best proposal for repayment of its debts or creditors to expect the best recovery when the engine for payment, the government's infrastructure and economy, is struggling to exist. But, public debt elimination is not the historically best, preferred or economically productive method of resolving Puerto Rico's financial and infrastructure challenges.

THE PROPOSED LEGISLATION AND DISCHARGE OF PUBLIC DEBT

The proposed legislation would *inter alia* (a) add some further definition to essential public services and economic growth, (b) require disclosure by professional persons employed by court order, (c) provide for the legislative discharge of unsecured public debt without corresponding discharge or impairment of unsecured debt for goods, services, pensions, other retirement benefits or healthcare benefits of any kind under a newly created Title VIII, and (d) create a Public Credit Comprehensive Audit Commission, Office of Reconstruction Coordinator for Puerto Rico and Revitalization Coordinator for Puerto Rico Power Authority under the proposed new Title IX.

The new Title VIII of PROMESA would authorize Puerto Rico and its instrumentalities to be able to discharge (eliminate so that there is no future liability or obligation to pay), financial obligations (public debt securities and loan financial guarantees and derivative transactions, hereafter "Public Debt") that is unsecured by enacting a resolution that either has been adopted by (a) an affirmative vote of over a majority of the members of each house of the legislature and is signed by the chief executive or (b) an affirmative vote of not less than two-thirds (2/3) of the members of each house of the legislature. As noted above, discharge is limited to unsecured financial obligations/Public Debt and does not include similar ranked and classified unsecured debt related to goods, services, labor, pension, other retirement benefits, healthcare, tax refund or tax credit. Given Puerto Rico's debt per capita outstanding, receipt of disaster relief and emergency assistance and loss of population, there should be no doubt of Puerto Rico's ability to qualify for the relief of Title VIII as intended by the proposed legislation. Will a Title VIII discharge resolution supersede and undo approved and proposed settlements for Public Debt? Will current unsecured Public Debt creditors demand secured debt payout for the restructured remaining amount of unsecured debt?

Purportedly, the legislature of Puerto Rico under the proposed Title VIII could discharge secured Public Debt and place the burden on the secured Public Debt holder to bring a declaratory judgment action either in the courts of Puerto Rico or the Federal courts in Puerto Rico to have its debt declared secured and determine the extent of the secured status (all or part of the debt). Any pledge of revenue or future tax payments by Puerto Rico or its instrumentalities, which is the essence of revenue bond financing and statutory lien financing, would be terminated as of the date of the legislation effecting the discharge. Virtually all of state and local government financing is based on payment from future revenue and taxes and over half of state and local government financing in the United States is revenue bond financing. This is the financing that provides funding for needed infrastructure, improvements and capital improvements (schools, roads, water, sewer and electrical systems, public buildings, etc.) for state and local government as well as territories of the United States. Such legislation as the Proposed Amendments places a cloud over and threatens the viability of such financing for territories and state and local governments as will be further discussed below.

Once the legislature of Puerto Rico has appropriately adopted a resolution of discharge, the creditor of a financial obligation of Public Debt is stayed and estopped from any action to collect or enforce the discharged debt except for the declaratory judgment action to determine if and to the extent it is secured. It appears that, if a plan of adjustment is not confirmed or the Oversight Board is determined not to be validly appointed, some or all of the $73.8 billion of financial obligations/Public Debt could be subject to Title VIII, including the $21.7 billion of prior court approved COFINA and GDB Public Debt and the Public Debt portion of the proposed

$35 billion settlement. There is no exception for prior court approved settlements from discharge or the need for declaratory judgment. If this is not intended, it should be specifically spelled out and excepted. Clearly, $13.2 billion of Puerto Rico's General Obligation Bonds, $4.1 billion of Highway Toll Authority Bonds, $4.0 billion of Public Building Authority Bonds, $4.1 billion of Employee Retirement System Bonds, etc., could, absent a confirmed plan of adjustment and a valid, appointed Board, be at risk of discharge. In addition, Title VIII also provides that financial obligations/Public Debt can be avoided or invalidated under traditional legal theories.

The proposal of a Puerto Rico Public Credit Comprehensive Audit Commission, under Title IX, empowers the Commission to audit Public Debt and the sustainability of outstanding Public Debt and to assess how new rules, policies and controls over Public Debt can be developed or improved and to investigate any irregularities. While these are noble goals, the Oversight Board and others have long been engaged in pursuing this. There already exist suggestions for best practices for governance, management and financing of Puerto Rico and its instrumentalities as have been developed for states and local governments. (*See* Government Finance Officers Association Best Practices available on its website.)

The real question is not what or how much debt can be eliminated but rather how best to obtain a financial recovery for Puerto Rico and its instrumentalities that stimulates economic growth, creates new, good jobs, encourages those who have left the Island to return (both individuals and businesses), attracts new business to Puerto Rico, funds needed improvements of essential services and infrastructure, and fosters financially sustainable government that is fiscally responsible and enhances access to the capital market (the goal of PROMESA, Section 101).

## RECOVERY MUST BE THE FOCUS

The United States is not alone in confronting the problem of sovereign debt in crisis. Dealing with the financial distress of a government requires not merely short-term actions to reduce debt obligations, increase tax revenues and lower costs, but also the long-term reinvestment in the government, its economy and its people. The financial challenges, loss of business and jobs resulting in many not being meaningfully employed, the need for economic stimulus and business development, the demands for social programs and governmental services, the level of poverty and financial strain on programs to address human distress have been well documented by Puerto Rico, its community leaders, its creditors and the financial markets. Puerto Rico has over 45 percent of its residents living at or below poverty level, it has lost over 250,000 jobs since 2006, labor force participation in Puerto Rico is at approximately 40 percent compared to average of 62.7 percent in the States, and, most distressing, 58 percent of Puerto Rico's children (its future) are living below the Federal poverty level. There should be no debate over whether assistance is needed now, only the question of by whom and what form the assistance will take needs to be answered. The experience of other sovereigns is instructive.

As a parade of over 600 sovereign debt defaults between 1950–2010 involving 95 countries has demonstrated, there are too many repetitive problems because of a limited focus on reducing external debt without addressing the systemic problem that caused the economic distress.[5] The missing and needed ingredient in these failed sovereign restructurings of debt is the long-term reinvestment in the government and its people to improve and expand governmental services and infrastructure and stimulate business opportunities. This creates growth of new businesses and new jobs resulting in new taxpayers to increase tax revenues that brings about the real recovery for the health, safety and welfare of citizens. Such an approach is likely in the best interests of not only the government but also its citizens and taxpayers and its creditors, including employees and retirees. It is only through a robust recovery plan that creditors, including employees and retirees, will be paid to the fullest extent possible.

## CONCERNS AND CONSEQUENCES OF THE PROPOSED LEGISLATION

**The wholesale discharge or elimination of Public Debt without a reasonable justification will result in higher borrowing costs for Puerto Rico assuming it can achieve market access**. A government requires access to borrowing and the capital markets because tax revenues are irregular in timing of payments and amount and needed liquidity literally to keep the lights on requires market financial credibility and access. Financial credibility is premised on the

[5] *See* James E. Spiotto, Municipalities in Distress? (Second Edition) 9–30 (Chapman and Cutler LLP 2016).

ability and certainty of repayment of the borrowed debt. The past experience of sovereign debt borrowers who default or repudiate debt (discharge by elimination as the legislation proposes) has been to suffer the significant increase in the cost of borrowing or annual interest cost or yield due to recent failure to pay, especially if there was not complete justification for the total elimination of the debt or a justified inability to pay. For that reason, any sovereign, state or local debt restructuring has been a partial reduction or haircut in principle not a complete discharge or elimination of debt going forward.

It should be noted for Public Debt of state and local governments in the United States there has been a very low default rate and generally a higher recovery rate than for corporate debt. Historically, between 1839 and 1978 the annual default rate is about a .058 percent or less than 6/100 of 1 percent for 130 years.

**Recorded Defaults, by Type of Local Government Unit 1839–1969**

| | 1839 -49 | 1850 -59 | 1860 -69 | 1870 -79 | 1880 -89 | 1890 -99 | 1900 -09 | 1910 -19 | 1920 -29 | 1930 -39 | 1940 -49 | 1950 -59 | 1960 -69 | Total Defaults | Number of Local Governments in 1967[a] | % of Annual Default Rate Over 130 Yrs.[b] |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| By Type of Units | | | | | | | | | | | | | | | | |
| Counties and parishes | | 7 | 15 | 57 | 30 | 94 | 43 | 7 | 15 | 417 | 6 | 12 | 24 | 727 | 3,049 | .183% |
| Incorp. munics. | 4 | 4 | 13 | 50 | 30 | 93 | 51 | 17 | 39 | 1,434 | 31 | 31 | 114 | 1911 | 18,048 | .081% |
| Unincorp. munics. | | 4 | 9 | 46 | 31 | 50 | 33 | 5 | 10 | 88 | 7 | 4 | 26 | 313 | 17,105 | .014% |
| School districts | | | | 4 | 5 | 0 | 11 | | 14 | 1241 | 5 | 23 | 60 | 1,272 | 21,782 | .048% |
| Other districts | | | | 2 | 1 | 12 | 11 | 7 | 107 | 1,590 | 30 | 42 | 70 | 1,872 | 21,264 | .067% |
| **Totals** | 4 | 15 | 37 | 159 | 97 | 258 | 149 | 36 | 185 | 4,770 | 79 | 112 | 294 | 6,195 | 81,248 | .058% |

a The number of local government units has changed rapidly. For example, in 1932 there were 127,108 school districts, 8,580 other districts, and 175,369 state and local government units.

b The percent of annual default in total defaults by type divided by number of governments divided by 130 (years).

Sources: Default information in *The Daily Bond Buyer*, *The Commercial and Financial Chronicle* and *The Investment Bankers' Associations Bulletin*: default lists from Federal Deposit Insurance Corporation, Life Insurance Commission, and U.S. Courts; and Albert M. Hillhouse, Defaulted Municipal Bonds (Chicago: Municipal Financial Officers Association, 1935). Number of local government units from: U.S. Department of Commerce, Bureau of Census, Census of Governments, 1967, Vol. 1 "Governmental Organization" (Gov't Printing Office, 1969) and ACIR Report Bankruptcy, Defaults and Other Local Government Financial Emergencies U.S. Government 1973.

Since 1970, Moody's reports that for rated state and local government municipal bonds between 1970–2013 there was an average of two rated bond defaults per year with a recovery rate of at least 60 percent which is higher than the recovery for corporate senior unsecured bonds of 48 percent. Recoveries in recent Chapter 9 bankruptcies were 80 percent for sewer bonds in Jefferson County, 100 percent of principal for special revenue bonds for water and sewer in Vallejo, Stockton and Detroit. There have been 684 Chapter 9 municipal debt adjustments since 1937 the enactment of Chapter 9, 362 Chapter IX between 1937 and 1972 with average recovery of 64.7 percent, and 18 Chapter IX between 1954–1972 with an average recovery of 73.9 percent.[6] The default, repudiation and discharge of unsecured Public Debt of Puerto Rico under the proposed Title VIII would be in stark contrast to the historical default rate and recovery rate for state and local governments in the United States and the overall percentage of Haircuts (percent reduction of principal amount of debt) for sovereign Public Debt globally.

Without any justification for the reduction of debt based on anticipated revenue and expense and sustainability, the proposed Title VIII legislature resolution would discharge the unsecured Public Debt. This result for sovereign, state and local government restructurings is historically beyond rare and borders on dangerously unique. For the 180 sovereign restructurings between 1978–2010, the estimated Haircut was a mean of 37 percent, median of 32.1 percent and standard deviation of 27.3 percent.[7] The range was generally from a 2 percent Haircut to 80 percent

[6] Prior to 1978, the roman numeral IX was used to indicate the Chapter on municipal debt adjustment. Under the Federal Bankruptcy Code after 1978, the Arabic number 9 was used.

[7] Sebastian Edwards, *Sovereign Default, Debt Restructuring, and Recovery Rates: Was the Argentinean "Haircut" Excessive?* National Bureau of Economic Research (Feb. 2015), https://www.nber.org/papers/w20964, *see also* Maximiliano A. Dvorkin, Juan M. Sánchez, Horacio Sapriza and Emircan Yurdagul, *Sovereign Debt Restructurings*, Federal Reserve Bank of St. Louis (August 2019), https://doi.org/10.20955/wp.2018.013.

Haircut. The potential results for Puerto Rico under proposed Title VIII discharge would produce an extreme Haircut and stigma on the credit worthiness of Puerto Rico that appears not only unprecedented but also unjustified with no rationale for the extreme result.

THE DISCHARGE OF PUBLIC DEBT UNDER PROPOSED TITLE VIII WOULD INCREASE THE PERCEPTION OF RISK AND COST OF BORROWING FOR PUERTO RICO

As noted above, the ability of government to borrow funds in the capital market is critical to its long-term financial survival. Any increased perception of risk from a high default rate and low recovery rate of past government borrowing will increase the annual interest rate which reflects the risk of repayment to the lenders.

**Access to the market at a low cost of borrowing is desired by all government borrowers**. *Access and the cost of borrowing is a reflection of the perceived risk of the government credit:* Fiscal distress for government begets a higher cost of borrowing and even loss of access to the market. On March 2, 2012, Greece had a 10-year bond annual yield of 37.1 percent and in July, 2015, after the third attempted bailout and austerity package being implemented, Greece's annual yield is still over 10.5 percent with a 52-week range of 5.5 percent and 19.5 percent. Greece has defaulted on its sovereign debt since 1826 at least five times prior to its recent financial crisis (1826, 1843, 1860, 1894 and 1932). Brazil, a large developing economy which defaulted or restructured its sovereign debt 11 times since 1826, the last time 1990, had an average 10-year bond annual yield between 2006 and 2015 of approximately 12.3 percent with an all-time high of 17.91 percent in October, 2008. Puerto Rico, given its recent financial distress experience, had yields on its 10-year G.O. bonds exceeding 10 percent in February, 2014. At the same time, other sovereigns experienced usually low bond annual yields of 2.27 percent for U.S.A., 1.52 percent for Canada, .74 percent for Germany and 1.03 percent France. A review of selected sovereigns that have defaulted since 1998 demonstrates default does result in a time out or lack of access to the international bond market.

**Analysis of Recent Sovereign Restructurings 1998–2010**

| Country | Default Date | Time to Competion (quarters) | Haircut (%) | First Issuance to International Bond Market (quarters after completion) | Participation (%) |
|---|---|---|---|---|---|
| Russia | 08/1998 | 8 | (40,75) | 10 | (75-99) |
| Pakistan | 05/1999 | 11 | (29,32) | 18 | 99 |
| Ukraine | 08/1998 | 12 | (5-5.92) | 16 | (82-100) |
| Ecuador | 09/1999 | 5 | (9-47) | 24 | 98 |
| Argentina | 06/2001 | 12 | (25-82) | 19 | (50-76) |
| Domininican Republic | 12/2004 | 3 | (1-2) | 4 | 97 |
| Serbia | 12/2000 | 20 | 62 | Not Yet | |
| Dominica | 12/2003 | 2 | 50 | - | 78.5 |
| Belize | 12/2006 | 2 | (1-28) | Not Yet | 98 |
| Grenada | 01/2004 | 3 | (40-50) | Not Yet | 91 |
| Jamaica | 02/2010 | - | 20 | 4 | 99 |

Source: Federal Reserve Bank of Dallas, Global and Monetary Policy Institute Working Paper No. 143, Aitor Erce, April 2013.

**In the Detroit Chapter 9 municipal bankruptcy, the emergency manager's unjustified attack on Unlimited Tax General Obligation Bonds (ULTGOs) raised the perception of risk and increased annual interest rates**. The filing of the Detroit Chapter 9 proceedings and the Emergency Manager's unwarranted attack on ULTGOs caused *other municipalities in Michigan*, like school districts, to experience approximately 100 basis points increase in the annual interest rate, the cost of borrowing, on ULTGOs due to the Detroit contagion. In California, the Detroit fall out cost school districts a 50–100 basis point increase, which was historically unjustified given the Chapter 9 experience of *San Jose School District* and *Sierra King Health Care District* cases. California response through the efforts of CDIAC was to attempt to clarify the intended low risk of California ULTGO by passing SB 222 to reconfirm that California state law provides a statutory lien intended to be unimpaired and paid in a Chapter 9.

**There is a 200–300 basis point spread between strong and weak credits**. Traditionally the spread in the state and local government municipal market between strong credits (top investment grade) and significantly weak credit (lower non-investment grade) was 200–300 basis points.[8]

**Being classified as a weaker credit increases the cost of the borrowing by 25 percent or more of the face amount of debt and should be avoided if possible**. To a state or local government or territory like Puerto Rico, a 200 point per year or 2 percent more interest cost a year on a 20-year bond with a bullet maturity would be 40 percent more of the principal amount paid as interest over 20 years. Put another way, on a billion dollar debt issue with a 20-year maturity and a bullet payment of principal at maturity, a 2 percent additional interest cost per annum would be a present value at a 5 percent discount of about $250 million or 25 percent of the face amount. That is $250 million not available to a state, local or territory government to pay needed infrastructure improvements, public services, worker salaries, retiree benefits or tax relief to its citizens. These are funds desperately needed by Puerto Rico for reinvestment into Puerto Rico.

PUERTO RICO'S HISTORICAL AND CONSTITUTIONAL TREATMENT OF PUBLIC DEBT IS TURNED ON ITS HEAD AND IS CONTRARY TO PROPOSED TITLE VIII DISCHARGE

The Treaty of Paris ending the Spanish-American War of 1898 resulted in control of Cuba, Puerto Rico, Guam and The Philippine Islands being given to the United States. Cuba in 1902 and The Philippines in 1946 were given independence. Puerto Rico and Guam remain territories of the United States. In recent years, Puerto Rico as a Commonwealth flirted with independence or statehood with no clear decision.

Puerto Rico was founded on the principles that Public Debt has a first priority of payment upon default (along with expense of insular government) embodied in Section 34 of the 1917 Jones Act, which governed Puerto Rico prior the Commonwealth's Constitution in 1952. The inclusion of Article VI, § 8 in the 1952 Puerto Rico Constitution continued this policy providing constitutional Public Debt, upon insufficient funds to pay expenses, was first to receive payment from "available resources." The statute and constitution mandate that upon insufficient funds and default on general obligation bonds first available funds are to pay Public Debt general obligation bonds. When faced with the 2006 financial crisis, Puerto Rico, with $40 billion of Public Debt outstanding, chose to borrow more rather than restructure its debt. Puerto Rico used additional general obligation bonds and the COFINA securitization structure to add another $17 billion of Public Debt by 2015 that purportedly was not limited by the constitutional debt limit, resulting in Public Debt of Puerto Rico totaling over $72 billion. Both the constitutional priority of general obligation bonds and COFINA securitization bond structure were market accepted and tested financing that enhanced repayment as well be discussed below.

Generally, the Puerto Rico Public Debt structure has followed the traditional structure used by U.S. states and local governments. Puerto Rico's over $13 billion of General Obligation Bonds follow the constitutional priority for payment of G.O. bond debt found in the constitutions and statutes of U.S. states like New York. The financial distress case of New York City in 1975 demonstrates the effectiveness of this constitutional provision that was found to be binding and enforceable to end the moratorium on payment of bond debt that mandated a refinancing rather than a Chapter 9 bankruptcy for New York City as the *Flushing National Bank* case, 40 N.Y.2d 731 (1976) described. The New York highest court found that this constitutional provision in the New York Constitution, which is similar to the Puerto Rico constitutional provision that followed New York's model, mandates the government to make payment of first available funds to the Public Debt general obligation bonds and delay or non-payment were not to be tolerated if funds were so available.

[8] Traditionally the spread in the municipal market between strong credits (top investment grade) and significantly weak credits (lower non-investment grade) was 200–300 basis points (*See e.g.*, approximate 200 basis point trading spread between Detroit sewer and water with and without Chapter 9 threat and Chicago sale tax securitization approximate 275 basis point lower than similar Chicago maturities. https://fixedincome.fidelity.com/ftgw/fi/FINewsArticle?id=2018 01251903SM_BNDBYER_00000161-2a4f-dad2-a779-ff4fc963_110.1. Even if weaker creditor or past defaulters suffer only a 200 to 300 basis point rise in annual interest expense, that is 60% to 90% more payment of principal over 30-year period. (Spread between AAA and BBB can vary 100 to 150 basis points. Baird Fixed Income Study, 4/7/14, p. 8.) February 28, 2018, S&P Municipal Bond Index AAA (average duration 4.9 years) to B (average duration 6.08 years) on average 230 basis point yield difference. Bloomberg Barclay BVAL scale 10 years AAA rated bond to BBB rated bond, a difference of 97 basis points in yield (March 21, 2018). That additional cost could have been used to reduce taxes, pay for needed infrastructure or services or pay unfunded pension obligations. In the near term spread may widen thereby increasing the cost of borrowing for weaker credits.

Likewise, the COFINA securitization structure is intended to be similar to New York City's Sales Tax Receivable Corporation and not included in constitutional debt limits or offensive to the rights of outstanding G.O. debt as the Court of Appeals (the highest court in New York) ruled in 1977 in the case of *Quirk v. MAC for City of NY*, 41 N.Y.2d 644 (1977). The passage of the proposed Title VIII for discharge of unsecured Public Debt of Puerto Rico like general obligation bonds would raise not only constitutional challenges but be contrary to the provision of PROMESA that creditor rights were to be honored consistent with Puerto Rico's constitutional and statutory provisions. Any unjustified discharge of Public Debt would further enflame litigation that is already overloaded with issues and disputes.

THE UNITED STATES' TRADITION OF HONORING PUBLIC DEBT OBLIGATION

Early in our country's history, the importance of honoring Public Debt obligations was declared as the prudent and sound path to take as a developing country. It should be remembered that "No pecuniary consideration is more urgent than the regular redemption and discharge [payment] of Public Debt. On none can delay be more injurious or an economy of time more valuable." These were the words of George Washington, over 220 years ago, in his State of the Union address on December 3, 1793. Washington and Hamilton were instrumental in having the Federal Government assume the states' debt from the Revolutionary War since some states were balking at paying such debt. Those states feared their good tax dollars would go to pay Northern speculators (who purchased the debt at a discount) or the debt of other states who were big borrowers. Washington and Hamilton knew that the progress of the Nation could be no swifter than its financial credibility. The Federal Government assumed the states' Revolutionary War debt to avoid repudiation and to assure financial credibility on the Federal and state level. Now, there are echoes of this same debate over 225 years later. Will there be the same result?

In the aftermath of the Panic of 1837 and the need for states to borrow to pay for transportation improvements in the North (given the success of the Erie Canal) and for banking services in the South, 19 out of 26 states and two territories borrowed money for economic growth. By the 1840s, eight states and one territory defaulted on those borrowings and repudiated those debt obligations. Those issuers that repudiated the debt then experienced either an inability to borrow additional funds or, if they could obtain financing for needed governmental improvements and services, suffered the imposition of a 32%+ yield. By the late 1840s, seven of the eight states had renounced their repudiation and resumed payment on the debt in order to obtain market access at a lower cost. The state and one territory that were left repudiating their debt struggled for over a decade to obtain funds, let alone at a reasonable cost.

After the Civil War, in response to suggestions that the government should discount the cost of war debt by paying it in greenbacks as a devalued currency, President Grant, in the spirit of Washington and Hamilton 80 years earlier, chose to protect national honor. He stated every dollar of the government indebtedness should be paid in gold. Unfortunately, such was not the fate of the failed confederate government's war debt. By means of the 14th Amendment, debt incurred in aid of insurrection was deemed illegal and void. Since the late 1880s, no state has defaulted on its general obligation bonds except Arkansas in 1933 which was quickly refinanced and paid.

THE LACK OF A RATIONALE FOR THE EXTENT OF DISCHARGE CONTRADICTS THE PURPOSE OF PROMESA

As noted above, sovereign debt restructurings and Chapter 9 municipal debt adjustments are not efforts in debt elimination without a justification for the wholesale elimination of Public Debt but were efforts to provide a "fresh start" by reducing debt to an affordable and sustainable level and discharging only that which is incapable of being repaid due to the dire financial circumstances of the government based on an established rationale or justification for the amount of debt eliminated or discharged. As noted above, of the 600 plus sovereign debt restructurings since 1950, there are no examples of a legislative discharge like proposed Title VIII that eliminates all unsecured Public Debt as of the legislative action and leaves unimpaired trade creditors, public workers, pension and other retirement benefits and tax refunds and credits,. The extreme and discriminatory discharge of Public Debt appears to have no justification or basis for the extent of discharge. Chapter 9 municipal debt adjustment that PROMESA incorporates in part in Title III of PROMESA specifically provides the adjustment of debt is for the "best interests of creditors" (Section 314(b)(6) of PROMESA), to the extent necessary to be "feasible" and is to be "fair and equitable," (Section 314(c)(3) of PROMESA). These standards

are not *per se* attributable to the blanket discharge of unsecured Public Debt under the proposed Title VIII. Further, PROMESA was premised on not altering of "pre-existing priorities of creditors in a manner outside the ordinary course of business or inconsistent with territory's constitution or laws of the territory as of, in the case of Puerto Rico May 4, 2016 . . . [Section 204(c)(3)(ii) of PROMESA. For example, the discharge of unsecured general obligation bonds while paying in full trade vendors for goods and services, public workers, pension and other retirement benefits, healthcare benefits and tax refunds and tax credits purportedly in full from "available revenues" is a violation of and contrary to the purpose and intent of Article VI, Section 8 of Puerto Rico's Constitution that, as noted above, similar to New York and other states, provides a priority of payment to "unsecured general obligation bonds" where there are insufficient funds to pay all liabilities.

PROPOSED TITLE VIII WOULD VIOLATE EXISTING RIGHTS OF SECURED CREDITORS

The requirement in proposed Title VIII that a secured creditor would not be secured by a pledge, dedication or mandate after the date of the discharge legislation and future revenues would no longer be paid to and be security for the secured debt violates the continuing lien and pledge of special revenues which the District Court in the Title III proceeding and the U.S. Court of Appeals for the First Circuit have ruled is effective and valid and not terminated. *Assured Guaranty Corp., et al. v. The Financial Oversight and Management Board for Puerto Rico, et al.*, 919 F.3d 121 (1st Cir. 2019). Further, statutory liens purportedly granted by legislation of Puerto Rico mandate the payment for such bonds as COFINA [P.R. Laws Ann. tit. 1399 11a–16] and PROMESA is not to rewrite prior existing laws of Puerto Rico and creditor rights given the required compliance with constitutional laws. Further, this restriction reducing or eliminating the security for secured debt on pledged, dedicated, "secured" tax revenues after the discharge legislation date raises the issues of taking property (secured interest) without just compensation in violation of the Fifth Amendment.

THE PROPOSED TITLE VIII LEGISLATION DISCHARGE OF UNSECURED PUBLIC DEBT IS A PROHIBITED LEGISLATIVE PUNISHMENT WITHOUT TRIAL AND LACKS DUE PROCESS

The proposed Title VIII legislative discharge of unsecured Public Debt provides no ability to contest, appeal or have the benefits of a trial or due process. This amounts to a legislative punishment of unsecured Public Debt holders without a trial equivalent to a bill of attainder prohibited by Article I, Section 9, Clause 3 of the U.S. Constitution. The holders of unsecured Public Debt are summarily estopped and stayed from any further legal remedies or enforcement of their debt and in effect barred from legal redress to the courts. This threatens the traditional notion of due process and the limits of the power of the legislature to punish without trial. [*U.S. v. Lovett*, 328 U.S. 303 (1946)]

THE PROPOSED TITLE VIII UNFAIRLY AND INEQUITABLY DISCRIMINATES AGAINST HOLDERS OF UNSECURED PUBLIC DEBT

As noted above, without trial, rational standard for the extent of discharge or reasonable justification to limit discharge to unsecured Public Debt, the proposed Title VIII authorizes discharge of financial obligations/Public Debt but does not deal with and leaves unimpaired debt for goods, services, pension and other retirement benefits, health care benefits, tax refunds and tax credits that are also unsecured and of equal priority and standing. Such invidious discrimination among creditors would not be tolerated, especially without due process and trial in any Chapters 7, 11 or 9 bankruptcy proceeding. The lack of uniformity and the failure to provide for fair and equitable treatment of all creditors cannot be the basis for an appropriate amendment to PROMESA.

THERE ARE SYSTEMATIC CAUSES OF PUERTO RICO'S FINANCIAL DISTRESS SEPARATE AND APART FROM THE DEVASTATION CAUSED BY HURRICANE MARIA THAT PROMESA AND ANY RECOVERY PLAN MUST ADDRESS

**Counter past economic downturn with economic stimulation and development**. With the repeal of Section 936 and exit of corporate and individual taxpayers, with the accompanying loss of tax revenues, there has been no real replacement or long-term economic development strategy to expand business in Puerto Rico. Key to recovery is attracting new business to Puerto Rico, thereby providing new, good jobs for Puerto Rico's population, and attracting a significant increase in population and taxpayers.

**Correction of adverse Federal policies that cost Puerto Rico billions such as the permanent repeal of the Jones Act, elimination of any inequalities in Medicare, Medicaid, SSI, EITC and CTC**. Congress should examine existing legislation that could be modified to assist Puerto Rico in its effort to resolve its financial and infrastructure crisis. The Jones Act that requires foreign flag vessels that stop in the U.S.A. continental ports and Puerto Rico to pay a tariff increasing the cost of goods for Puerto Rico should be repealed for Puerto Rico's case permanently. Federal assistance in programs to develop new commerce and economic stimulation (such as encouraging increased business activity and supporting manufacturing opportunities, high tech, green tech, creation of new energy generation and strategy for the short- and long-range economic development by Puerto Rico that its creditors can buy into).

**Solving the tax collection problem through identification and implementation of new or increased tax sources along with increasing collection efficiency**. The exploration of new tax policies that would stimulate economic development, and new tax sources that do not adversely affect such economic development efforts should be explored. Dealing with deficiencies in tax collection methods are problems that can be solved or at least greatly reduced, which would bring in additional revenues even without adding new or higher taxes

**Reverse the stigma of financial distress by improving financial creditability in the capital markets**. It would be counter-productive to have the result of any recovery plan be less access and increased borrowing cost for Puerto Rico. Accordingly, steps should be taken to assure that the recovery plan will increase market access and lower cost of borrowing both short-term and long-term. This can be done by following established, best practices of government accounting, administrative budgeting and financing to the extent they have not already been adopted.

**Treatment of outstanding Public Debt by PROMESA process must be perceived by the market as fair**. As a result of the widespread devastation of the island caused by Hurricane Maria, holders of the Public Debt of the Commonwealth and other related issuers are faced with an *inability to pay* situation. While Federal assistance to the island will be forthcoming, this assistance will not take the form of a bailout of outstanding Public Debt. However, it will be important that the ultimate resolution of the outstanding Public Debt be perceived as fair to all parties, including the citizens of Puerto Rico and creditors including Public Debt and not arbitrary under the circumstances.

PROPOSED FURTHER RESPONSE TO THE FINANCIAL CRISIS AND HURRICANE MARIA TO ADDRESS THE NEED TO REBUILD PUERTO RICO'S INFRASTRUCTURE AND STIMULATE ITS ECONOMY

**First stop human suffering and develop a Marshall-type plan for Puerto Rico's governmental services and infrastructure**. The first immediate action is to assure the health, safety and welfare of the citizens of Puerto Rico with provision of food, water, medical services, governmental service and infrastructure all to a level deemed acceptable. This is a Marshall-type plan for Puerto Rico for services and infrastructure (roads, water, sewer, electricity, etc.) at a level that can attract remaining and new citizens and businesses that want to be there and expand their businesses in Puerto Rico. This will create new, good jobs that produce additional tax revenues needed for a recovery. The technical and financial assistance can be provided not only by emergency relief but also other Federal agencies with established expertise DOE (electricity), EPA (clean water) and HUD (housing), etc.

**Develop a long-range economic development strategy for Puerto Rico to elevate Puerto Rico's business opportunities and roles in the Caribbean**. There should be a long-range economic recovery plan for Puerto Rico which is implemented at the same time or in coordination with the Marshall-type plan that establishes viable and desirable services and infrastructure at the appropriate level as noted above. This economic development plan should provide assured liquidity for continued uninterrupted governmental operations and any necessary bridge financing in coordination with the implementation of the "Marshall-type plan." The economic recovery plan should consider making Puerto Rico (which means Rich Port) the key point of commerce for the Caribbean. Numerous islands have been continuously affected by the hurricanes in the Caribbean, and Puerto Rico could be the port and the location where all relief and all commercial activity is focused as the staging and coordinating center. This allows a coordinated effort and allows Puerto Rico to be elevated to a key role for the Caribbean. Part of this would include establishing Puerto Rico as the center of commerce for the Caribbean for banking, shipping and

processing assembly of goods from foreign manufacturers for distribution in the Caribbean and possibly Central American and other locations.

Also, legislation by Congress and the Commonwealth could provide for financial banking services to be the U.S.A. equivalent of the Cayman Islands for specialty financings and investment vehicles. This would facilitate Puerto Rico's becoming the banking center for the Caribbean like London has been for Europe. There already exist programs for high income persons to obtain tax benefits from a Puerto Rico residence and investment in Puerto Rico, and this would be a further expansion. Puerto Rico Laws Act 20 (Export Service Act) and Act 22 (Individual Investors Act). Also, as part of the economic recovery plan, the whole island of Puerto Rico should become a foreign trade zone (a free trade zone) where equipment, goods and parts manufactured in foreign countries can be shipped to Puerto Rico duty-free and processed, assembled or manufactured with only limited duties on the finished product. Such actions would stimulate additional business activity and the benefits of new financial, shipping and manufacturing jobs [direct (the new jobs created by the economic policy), indirect (jobs created for good and services to support the direct job) and induced (jobs created by salaries spent for goods and services by those with the direct and indirect jobs)]. Historically, Puerto Rico had 46 percent of its GDP attributed to manufacturing.

THE PATH FORWARD FOR PUERTO RICO, ITS CITIZENS, BUSINESSES AND CREDITORS

Citizens, taxpayers, business interests, and creditors of Puerto Rico should support the above proposal for an economic recovery plan, since it is the economic growth and success of Puerto Rico that is the means by which additional tax revenues will be raised, providing the funds to pay debt and other obligations, and to fund governmental services and infrastructure at the acceptable level. There is no substitute for the practical ability to be paid from a recovery plan that maximizes value and recovery to the extent reasonable and reinvests in Puerto Rico to ensure continued operations and sufficient tax revenues to pay off its creditors based on what can be paid. If there is no money, there is no payment no matter the rights or priorities. All the rights legally possible do not necessarily translate into payment of Public Debt or assurance of funding of essential services and needed infrastructure if an entire tax-base, *i.e.*, U.S. citizens, are left with nothing to rebuild and no opportunity to recover.

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QUESTIONS SUBMITTED FOR THE RECORD BY REP. GRIJALVA TO MR. JAMES SPIOTTO, MANAGING DIRECTOR, CHAPMAN STRATEGIC ADVISORS

*Question 1. Mr. Spiotto you say, that if a plan of adjustment is not confirmed or the Oversight Board is determined not to be validly appointed, some or all of the $73.8 billion of Puerto Rico Public Debt including the $21.7 billion of prior court approved COFINA and GDB Public Debt, could be eliminated under the "Discussion Draft's" proposal to allow for the discharge of unsecured debt.*

*How is this possible when we were advised that it would be unconstitutional for secured Public Debt to be discharged except through a court approved bankruptcy?*

Answer. Unfortunately, the language of Title VIII of the Discussion Draft Bill, Amendments to PROMESA Act ("Proposed Amendments") provides for the impairment and elimination of security interests, liens and pledges of tax revenues to be collected in the future after the date of the discharge resolution. Further, proposed Title VIII does not clearly state whether the legislative discharge of unsecured public debt could supersede or is subject to prior settlements approved by the Title III or Title VI courts under PROMESA. Further, if the Plan of Adjustment under Title III, as proposed by the Oversight Board, is not confirmed by the courts ("Confirmation") or if the U.S. Supreme Court should rule in the Aurelius Appeal that the Oversight Board was not validly appointed and all acts of the Oversight Board are null and void and of no legal effect, including the prior court approved settlements and those proposed in the Plan of Adjustment,[1] and if the Proposed Amendments are enacted, then the proposed Title VIII, by legislative resolution, could discharge some or all of the $73.8 billion of Puerto Rico debt including prior court approved COFINA and GDB public debt.

This could be done by a resolution of the Puerto Rico legislature under the proposed Title VIII. Under proposed Title VIII, financial obligations/public debt is

[1] The court approved settlements and proposed plan of adjustment settlements are generally set forth in my written testimony, Footnote 2 and 3.

conclusively deemed to be unsecured (Section 804(a)). A holder of public debt which is secured must institute an action in territorial courts or the U.S. District Court of the territory within 180 days after the date of discharge and prove the secured status extent and value of collateral related to the public debt (Section 804(a)(1) and (2)). The burden of proof is on the holder of public debt (Section 804(b)).

The value of collateral being a pledge of future tax revenues to be collected to pay COFINA bonds would, pursuant to Title VIII (Section 804(h)(3)), not include future tax revenues collected after the date of the discharge resolution even though, for example, the clear intent under COFINA was that those future revenues would serve as collateral and security for payment of the COFINA bonds. Prior legislation by Puerto Rico provided that COFINA bonds were to have a statutory lien on such levy and collection of sales and use tax revenues. 13 L.P.R.A. §§ 11a–16. This statutory lien would purportedly be eliminated after the date of a discharge resolution under proposed Title VIII (Section 803). Further, Federal bankruptcy courts have recognized that statutory liens created by state (territory) statutes cannot be rewritten, impaired, or avoided by a Federal bankruptcy court. *See In re County of Orange*, 189 B.R. 499 (C.D. Cal. 1995). *See also*, Order Pursuant to (I) 11 U.S.C. Secs. 105, 364(c), 364(d)(1), 364(e), 902, 904, 921, 922 and 928 (A) Approving Postpetition Financing and (B) Granting Liens and (II) Bankruptcy Rule 9019 Approving Settlement of Confirmation Objections, *In re City of Detroit*, Case No. 13–53846 (Bankr. E.D. Mich. Aug. 25, 2014), ECF No. 7028.

Further, the general obligation bonds issued by the Commonwealth are to have a constitutional priority of being paid first from "available revenues" when there are insufficient funds to pay all obligations under Article VI, § 8 of the 1952 Puerto Rico Constitution. This constitutional priority for general obligation bonds and for pledges of future tax revenues has been honored in state courts, such as in New York, as to general obligation bonds of the City of New York during New York City's 1975 financial crisis and the New York City Sales Tax Receivables Corporation bonds, similar to COFINA bonds, as confirmed by ruling by the highest court in New York. (*See* pages 10 and 11 of my written testimony.)

The result under proposed Title VIII discharging future payments of tax revenues after the date of the discharge resolution and excluding the value of such future revenues in the determination of the secured value of the collateral and status is contrary to other provisions of PROMESA. As noted in my written testimony, PROMESA was premised, not on altering of "pre-existing priorities of creditors in a manner outside the ordinary course of business or inconsistent with the territory's constitution or laws of the territory as of, in the case of Puerto Rico, May 4, 2016 . . ." (Section 204(c)(3)(ii) of PROMESA). Such a result would violate not only PROMESA, but the takings clause of the Fifth Amendment to the U.S. Constitution and traditional notions of due process and established bankruptcy law. For these reasons and those set forth in my written testimony, proposed Title VIII violates the principles and provisions of PROMESA, the U.S. Constitution, and the precedents set in previous sovereign debt restructurings as being too drastic, without standards, rationale or justification for discharge of unsecured debt and the improper avoidance and elimination of "future to be collected" collateral for secured debt.

*Question 2. Do you agree with the hypothesis "that PROMESA was premised on a path marked by immediate and extreme fiscal austerity in order to repay Wall Street bondholders rather than one that was focused on improving and growing the island's economy which would mean the repayment of a sustainable level of debt over a reasonable time period"?*

Answer. No. I do not believe the intent and purpose of PROMESA is or should be "fiscal austerity in order to repay Wall Street bondholders." Rather, the express purpose under Section 101(a) of PROMESA is clearly stated: "The purpose of the Oversight Board is to provide a covered territory to achieve fiscal responsibility and access to the capital markets." As I noted in my written and oral testimony, there should be no dispute that Puerto Rico needs a recovery plan that reinvests in Puerto Rico, that corrects past legislative inequities (as noted in my testimony, in particular, the repeal of Section 936 of the IRS Code effective in 2006 without a comparable replacement) and that would stimulate economic development, encourage businesses to locate their businesses in Puerto Rico, and invest in Puerto Rico thereby creating new, good jobs for those in Puerto Rico. This economic development would raise the labor participation rate from 40 percent closer to the U.S. average of 62.7 percent and reduce the poverty level from over 40 percent closer to the U.S. average of 12–15 percent. This economic stimulus legislation could be fostering and creating Puerto Rico as a center for financing, insurance, commercial activity and manufacturing for the Caribbean with tax advantages or incentives for expanding

and creating a foreign trade zone for the whole Island, exempting the 20 percent surcharge on foreign manufactured equipment and parts for manufacturing or assembly in Puerto Rico.

Austerity *per se* reduces economic activity and is counter to the development of a feasible recovery plan that enhances services and infrastructure and repays restructured debt to the extent it is affordable and sustainable. Assuring the funding of needed governmental services at an acceptable level and needed infrastructure improvements is essential to a successful recovery plan. Clearly inefficiencies, waste and mismanagement of government and governmental services should not be tolerated. This is not austerity, but prudent management of government. Raising taxes beyond a reasonable level or reducing services or necessary infrastructure improvement below what can be tolerated by taxpayers and businesses results in the exodus of citizens and taxpayers, as Puerto Rico knows so well, and, if not corrected, can become a death spiral.

As noted in my testimony, given the disaster relief Puerto Rico is to receive and needs to receive, it would be constructive for Congress to consider an expedited "Marshall Plan" for Puerto Rico[2] providing the needed rebuilding of its infrastructure and instilling best practices in budgeting and finance for state and local governments as espoused by the GFOA and others. With a rebuilt infrastructure, Puerto Rico can better provide needed services to its citizens, stimulate its economy[3] and, with a reasonable replacement for the repealed Section 936, attract new business and new taxpayers creating increased revenues to ease the pain of repaying the adjusted (affordable and sustainable) debt of Puerto Rico while providing needed and improved services and infrastructure improvements. Without a rebuilt infrastructure and stimulated economy, as noted above, it may well be impossible to attempt to rationally discuss what adjustment of debt is affordable or sustainable.

*Question 3. Can you explain your conclusion that Title VIII could allow a secured creditor to lose their security when we expressly limit the title's application to "unsecured debt"?*

Answer. As noted above in the answer to Question No. 1, proposed Title VIII provides in Section 804(a) of the Proposed Amendments that financial obligations/public debt are conclusively deemed to be unsecured debt except to the extent the holder of public debt can prove the public debt is a secured obligation. Section 804(h) of the Proposed Amendments provides that in the action to prove the public debt's secured status, any pledge or security interest in tax revenues not in existence at the date of the discharge resolution, such as tax revenues pledged, dedicated, subject to a security interest or lien to pay public debt and required to be collected after the date of the discharge resolution, shall not be included as collateral value in determining the extent of the secured value. This is contrary to the principles of revenue bond financing and statutory lien bond financing as recognized and enforced by state and local governments. This conflicts and violates the statutory and constitutional provisions of Puerto Rico's Constitution and Laws, as noted above, which, under the terms of PROMESA, are not to be violated. The elimination and termination of pledges, liens and security interests as to future tax revenues or other property that comes into existence after the date of the discharge resolution under Section 804(h) of Title VIII of the Proposed Amendments causes secured creditors to lose their security even though proposed Title VIII claims to only discharge "unsecured debt."

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[2] The more expedited the payment of $41 billion in disaster relief to rebuild Puerto Rico infrastructure, as well as the claimed $50 billion of future FEMA cost over the life of the disaster, the better it is for a successful recovery plan. The better supervised, assured and efficient management and implementation of disaster relief funding by the Federal Government, Oversight Board and Puerto Rico, the better the economic stimulus to Puerto Rico will be.

[3] Economic growth and job multiplier. Reinvestment in needed infrastructure improvements creates increased GDP. As studies have shown, $1.00 of hard infrastructure costs adds $3.20 over 20 years to GDP growth. Further reinvestment in infrastructure translates into year to year growth of the number of employed workers and GDP growth given the economic stimulus and job multiplier. (Every new job creates service jobs, indirect and induced, that increase productivity indirectly. This can range from two or three to four or more new jobs depending upon the industry it is created in.) *See*, Isabelle Cohen, Thomas Freiling, Eric Robinson, *The Economic Impact and Financing of Infrastructure Spending* (Dec. 14, 2011), https://www.wm.edu/as/publicpolicy/documents/prs/aed.pdf. The stimulation of economic growth through programs that attract new business to move into Puerto Rico (like a replacement of the repealed Section 936) and create new jobs increase the tax revenues that help resolve the financial distress and lead to financial recovery.

*Question 4. In your statement, you don't address the Discussion Draft section that would define essential public services. Nevertheless, you urge Congress to assure the health, safety and welfare of the citizens of Puerto Rico with provision of food, water, medical services, and infrastructure all to a level deemed acceptable.*

*Is that consistent with defining essential public services to ensure they are funded by the Oversight Board?*

Answer. As I stated in my written testimony, essential government (public) services should be funded to an acceptable level. It is the function of government to fund essential services and, given the circumstances, fund the services at an acceptable, prudent level given the ability to pay and the tax burden placed on citizens. As noted, raising taxes and reducing expenditures for services given financial distress is not a recovery plan and can lead to the exodus of taxpayers, both individuals and businesses. Likewise, the unjustified elimination of public debt while paying and not adjusting unaffordable or wasteful costs for goods or services, labor costs, pensions, healthcare or tax refunds and tax credits is not financially prudent. That is because such action will be perceived in the capital markets as inefficient and wasteful, thereby increasing the risk and cost of future borrowing. Further, such approach may limit the ability of government to borrow needed funds for capital improvements, infrastructure enhancements, and needed public services including education and health care.

The notion of funding essential governmental services at an acceptable level includes services that are affordable, sustainable and in balance with the overall ability of the government to pay for and finance needed capital and infrastructure improvements, demonstrate fiscal responsibility and enhance access to the capital market at reasonable borrowing costs. PROMESA generally supports funding of essential public services. There is no real need to further articulate the detail of such service, since the detail is better left to Puerto Rico to manage and budget effectively with the guidance and oversight of Congress and the Oversight Board. Whatever is deemed the acceptable level, it should be what the government determines is affordable and sustainable over the long run. Too little services and infrastructure improvements will lead to an exodus of individuals and businesses and the failure of any recovery process. Excessive expenditures and enhancement of services and infrastructure given the ability to pay will lead to a default on future public debt borrowings and other obligations and result in increased borrowing costs and limited access to the capital markets to borrow money for needed infrastructure improvements and services. As Aristotle said in his work *Nicomachean Ethics*, "virtue" is nothing in excess. Funding of public services, infrastructure, education, healthcare and pensions is required so that government fulfills its essential mission of providing for the health, safety and welfare of its citizens. The funding of essential governmental services should not be beyond the ability to pay (reasonable ability to tax and realistic ability to collect revenues) and without causing increased perception of risk by the capital markets as to the ability to repay public debt. Public debt must be reasonable in amount and cost of borrowing—nothing in excess. To favor one side of the equation, payment for goods, services, labor, pensions, healthcare to the unreasonable detriment of inability to pay the cost of financing capital improvements, infrastructure enhancements and funding of basic service needed to keep the lights on creates an extreme that is not virtuous and is hazardous to the financial health and survival of government. On a positive note, under proposed Commonwealth legislation backed by the Governor of Puerto Rico, the Puerto Rico Fiscal Agency and Financial Advisory Authority would be charged with developing a policy for the prudent issuance of public debt in the future to avoid the practices that contributed to Puerto Rico's fiscal problems. The measure would restrict debt financing strictly for capital improvements and prohibit debt to cover operational deficits. José Alvarado Vega, *Governor Presents Bill to Rein in Puerto Rico Debt Issuances*, Caribbean Business, (November 5, 2019), https://caribbeanbusiness.com/governor-presents-bill-to-rein-in-puerto-rico-debt-issuances/. The value to be obtained through the enactment of thoughtful regulation of bond issuances would be undermined by a history of debt repudiation without a rational basis.

In my testimony, I questioned, in response to Representative McClintock's inquiry, whether Puerto Rico's financial problems would be a contagion for state and local governments' ability to borrow in the capital market. I believe, upon further reflection, that there is some concern contagion could be suffered by state and local governments due to Puerto Rico's response to its fiscal problems. The more extreme the result in Puerto Rico, the more the perceived risk there is in any government borrowing, and the more likely there will be an adverse effect on borrowing by state and local governments. That is why it is imperative that Congress, the Oversight

Board and Puerto Rico reach a credible and just outcome for public debt. There has been recognition of the need for increased borrowing for required infrastructure improvements and capital projects by state and local governments as well as Puerto Rico.[4] An extremely negative outcome for public debt, disproportionate and unjustified compared to the recovery for creditors of goods, services, labor, pensions, tax credit and tax refunds, will necessarily mean both Puerto Rico and state and local governments generally will find borrowing costs and access more challenging and less user friendly. While Puerto Rico may have been viewed in the past as an aberration compared to state and local government financing, the more extreme the result for public debt in Puerto Rico, the less virtuous and more costly the perception generally of government credit, even for state and local governments.

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Mr. SABLAN. Thank you, Mr. Spiotto.

I thank the panel for their testimony. Reminding the Members that Committee Rule 3(d) imposes a 5-minute limit on questions, the Chairman will now recognize Members for any questions they may wish to ask of the witnesses. Let me start with myself.

Mr. Martínez, sir, in your testimony you express support for Section 6, disclosure by professional persons employed by court order to avoid conflicts of interest by consultants providing services to the Oversight Board. Several organizations have expressed there is also an urgent need to include language in PROMESA to avoid conflicts of interest by members of the Oversight Board. Should this be a priority for the Committee? And if so, why?

Mr. MARTÍNEZ OTERO. Yes, I think it is a priority because in Puerto Rico right now probably 80 percent or more of the corruption issues are related to hiring fraud and lack of transparency. Why? Because right now we don't have the institutions to prevent that kind of corruption, and when you have a lot of Federal money and government without the corresponding institution to fight against corruption, you always will have the separation by the Department of Education, Healthcare Education, in which in all of them the past secretaries have been arrested because of corruption.

Mr. SABLAN. Thank you.

Mrs. Cubano, thank you, again, for joining us and representing the Puerto Rico Private Sector Coalition. In your testimony, you emphasized the importance of shifting the focus away from austerity due to degrading impact on economic growth. Does the Coalition support defining and protecting essential public services to ensure the basic needs of the residents, the people of Puerto Rico, are met and to reduce migration

Mrs. CUBANO. Yes, we agree that we have to identify those essential services, and we think that the effort will not only be on that, but at least it protects all the efforts. And always directing all the public policy to make possible all the economic growth in the island. We think that that is the way we can help Puerto Rico,

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[4] The American Society of Civil Engineers ("ASCE") claims there is at least a $2 trillion funding gap in needed infrastructure improvements to be funded by 2025. In ASCE's 2017 Report stated the cumulative infrastructure funding needs based on current trends extended to 2025 is $4.59 trillion to have passable infrastructure estimated funding has a gap of over $2 trillion. ASCE discovered in its 2016 economic study "Failure to Act Closing the Infrastructure Investment Gap for America's Economic Future" that the failure to do necessary infrastructure improvements in the U.S.A. will cost the country $3.9 trillion in losses suffered to the GDP by 2025, $7 trillion in lost business sales by 2025 and $2.5 million in lost American jobs in 2025. Am. Soc'y of Civil Eng'rs 2017 Infrastructure Report Card, a Comprehensive Assessment of America's Infrastructure 8 (2017), https://www.infrastructurereportcard.org/wp-content/uploads/2016/10/2107-Infrastructure-Report-Card.pdf.

all the companies, and the people to really conquer the challenge that we are facing at this moment.

Mr. SABLAN. OK. Mr. Velázquez, it is evident from your statement that you don't agree with the Oversight Board statement that the debt restructuring plan they proposed last month will ultimately reduce the amount the government of Puerto Rico will spend on debt service to an amount it can sustainably afford over the next 30 years, from $4.2 billion a year to $1.5 billion a year. You don't believe that the Puerto Rican government will be able to afford $1.5 billion dollars a year in debt payments?

Mr. VELÁZQUEZ. Absolutely not, Congressman. As I stated in my testimony, and I would point to Exhibit A in my testimony, the Oversight Board has a set of projections where they tie personal income to debt service. This goes back to the concept of rising tide lifting all boats. If you look at that number, it is the bottom line in that exhibit in that graph, and what they say is, no, we have about $4 billion based on personal income when you benchmark it against the top 10 states in the United States. In other words, states that have real economies.

Instead, the numbers we are talking about are closer to the top end of that range. And the reason that there is a disconnect there is because there is a difference between kind of like the legal fiction that PROMESA has and the economic reality. The economic reality that we have here is the wages that are in the private sector that the private sector is generating. That is the engine that ultimately affords debt restricting. If the economy isn't working for workers, it isn't going to work for Wall Street because you are not going to have the money needed to pay back Wall Street from the workers that you are trying to tax, and in this case, are getting taxed to death.

Mr. SABLAN. Thank you. I have one more question. I have limited time so Mr. Butín, sir, what is your reaction to the concern that the government of Puerto Rico can no longer afford to subsidize the University of Puerto Rico at the same rate that they were previously?

Mr. BUTÍN-RIVERA. Well, when you are talking about funding the University of Puerto Rico, there are studies that establish that for every dollar that you spend on the University of Puerto Rico, it generates $1.25 back to the government. And also for every hundred jobs that the University creates, it gives back 164 jobs just by spending money on the University because it is not logical to do what you are doing to the University of Puerto Rico.

Mr. SABLAN. Thank you, sir.

Mr. BUTÍN-RIVERA. Can I say one more thing?

Mr. SABLAN. Hurry up.

Mr. BUTÍN-RIVERA. As Mr. Bishop said, Puerto Rico has a lot of human resources and those human resources come through the University of Puerto Rico, so you have to invest in the University of Puerto Rico for the future.

Mr. SABLAN. Thank you, sir. And the Ranking Member has told me that he will yield to the dean of the House, Mr. Young, to go first.

Mr. YOUNG. Thank you, Mr. Chairman. This is for the whole panel. Of the total debt, what percentage is PREPA? Anybody know?

Mr. MARTÍNEZ OTERO. Heriberto Martínez, President of the Economic Association of Puerto Rico. Like 22 percent, more or less $10 billion over——

Mr. YOUNG. What is the percentage of the debt of PREPA? Like 44 percent?

Mr. MARTÍNEZ OTERO. No, not really. Let me——

Mr. YOUNG. How much? 22 percent? When I am asking that question, 22 percent, there have been some suggestions, even by the Board and other people, that it should be sold. How many in the panel support the selling of PREPA to private industry? Nobody. If you are consuming money and not making money why wouldn't you get rid of it?

Ms. CUBANO. The private sector really encourages to have a combination of public and private investment in PREPA.

Mr. YOUNG. OK, I have been involved in this a long time, I happen to be one of the sponsors of PROMESA, and I am just looking for why we keep handling an electrical group that loses money every year and why you keep putting up with that. If you want to have money for the University, if there is a buyer, why not sell it? Anyone here? You are a university student.

Mr. BUTÍN-RIVERA. Well, if you want to sell PREPA, you have to see the history why PREPA was created. PREPA was created because the private sector had a lot of problems with the distribution of the energy on the island. Of course, a lot of years have passed from that moment, but at this moment I think we have to evaluate how we can sustain PREPA and match it with private funding.

Mr. YOUNG. With all due respect, it is a cow that hasn't milked in years. It just eats hay. It doesn't do anything else, but you know what, it is time for the chance for maybe private—if there is a buyer, I don't know who would buy it, but if there is a buyer you might want to consider that.

With that, I yield back. I yield back to my Ranking Member.

Mr. SABLAN. Thank you. I now recognize 5 minutes to Mr. Soto.

Mr. SOTO. Thank you, Mr. Chairman. First, I want to thank Liliana Cubano for talking a little bit about the work we are doing in health care. I think that is one of the bright spots happening through Congress right now. We have our bipartisan Territories Health Care Improvement Act that was co-introduced by Congressman Bilirakis; Congresswoman Nydia Velázquez is also a big proponent of it. It would increase the amount of Medicaid funding from $375 million a year to $400 billion a year for Puerto Rico. That would shore up a lot of the issues at least in the healthcare system. And we recently just passed Help for Medicare Part D for Needy Seniors that right now it doesn't apply in Puerto Rico, so a lot of movement on the healthcare front.

Obviously, we are here for PROMESA today. I appreciate Ranking Member Bishop's concern about having an open markup. We look forward to ideas from all parties behind the dais when we have that open markup, if there are economic development issues you think would make this more bipartisan legislation.

And I agree with the Ranking Member's opinions on statehood, and filed bills to support that. And I guess if I filed an amendment, I could count on your support in subsequent markups, so we will see on that later on. That would actually render PROMESA potentially even obsolete because you would have state-sovereign immunity at that point, and perhaps you wouldn't need PROMESA anymore.

I wanted to go through a couple of the issues that I hear a lot from constituents, issues related to canceling the entire debt and ending PROMESA. Mr. Velázquez, do you know of a legal way to cancel the entire debt? Is there a plan that you are recommending? Because I know you were kind of dancing around it, but I just was curious if there was a specific plan.

Mr. VELÁZQUEZ. Well, one obviously, the Territorial Relief Act considered in the discussion draft is one way to do it. The other way is usually through court action. Court actions will, for example, consider various legal issues as to whether a debt was issued ultra vires or not, and obviously that is a question that is very much at the center of the legal proceedings occurring in PROMESA.

Mr. SOTO. If PROMESA was terminated, what would your recommendation be in the alternative?

Mr. VELÁZQUEZ. If you get rid of—well, first of all, I was going to say——

Mr. SOTO. I just need a short version because my time is limited.

Mr. VELÁZQUEZ. Sure. Then you would very much need the Territorial Relief Act or something similar to that if you get rid of PROMESA.

Mr. SOTO. OK. Mr. Spiotto, what would happen if we cancel the debt and ended PROMESA and used the Territorial Relief Act, in your opinion?

Mr. SPIOTTO. Without justification or rationale, it will significantly impact the ability of Puerto Rico to go back into the capital market and borrow. And the rates that it borrows at will be increased, access in various respects may be limited, and it may prevent doing the types of things that might make sense with public-private partnerships and so forth for some of the utilities that may help provide money.

Mr. SOTO. Thank you, Mr. Spiotto, my time is limited. Mr. Butín-Rivera, we have the essential services defined here. Would that give some of that well-needed relief that you are requesting for the University of Puerto Rico?

Mr. BUTÍN-RIVERA. Yes, and also to assure a quantity of money that the University needs to run. The amendment talks about $800 million from the central budget. That is about the reality that the University needs right now, but that doesn't mean that we can run more effectively. We have to invest in the University for it to run more effectively.

Mr. SOTO. Thank you. And Mr. Martínez Otero, what is your opinion on both the economic development section and the audit section that we have currently in the draft?

Mr. MARTÍNEZ OTERO. I support it and I like the definition of economic growth, but I think that you need to be more specific in which industrial sectors you want to support or invest, like for

example, corporate sector, or which part of the private sector do you want to grow in our economy because we need more private investment at this moment.

Mr. SOTO. I share a lot of people's concern about the economic development aspect. The only concern I have otherwise though is, is this taking away, then, from the Puerto Rico legislators' authority to be able to do that. So, that is something that I am sort of grappling with.

I wanted to end by just a show of hands, how many of you, raise your hand if you would support a Reconstruction Coordinator. Raise your hand. OK, so none of you would support a Reconstruction Coordinator. How many of you would support a Revitalization Coordinator for PREPA? Raise your hand if you would support that. OK, thank you so much.

Obviously these are complex issues. I appreciate all your testimony, and I commend the Chairman for putting forward a draft and then hosting now 2 days' worth of hearings with multiple panels to hear from everybody before we come up with an actual bill, and even from there we will have an opportunity for markup. I yield back.

Mr. SABLAN. OK, thank you, Mr. Soto. The Chair now recognizes the Ranking Member of the Full Committee, Mr. Bishop.

Mr. BISHOP. Again, let me piggyback on what Mr. Soto said at the very end on how much we appreciate you coming up here. It is very good to have disparative views, especially from those who are on the ground floor in what they are doing, even though at some point that vision may necessarily have some blinders on it on where it is supposed to be.

Also, see this is the problem of actually not reading something that is prepared and just talking what I actually believe. It is Serrano whose bill I wanted to talk about statehood and he is from the Bronx, he is not from North Carolina or New Jersey or anywhere close to that. You've seen one Easterner, you've seen them all.

[Laughter.]

Mr. BISHOP. But that is what we should be doing.

There are another couple of things that have been very good, not only with some of the discussions in here and in your written testimony, but stuff that was brought out in the last hearing as well that deals with FEMA issues and CDBG-DR funds. And, unfortunately, as significant as those are and the problems I think we have talked about even when we were in Puerto Rico, those are not the jurisdiction of this Committee. We can't solve those problems in the Committee and that is why in the last hearing Representative González actually left the chairing of this to go over to the committee of jurisdiction to deal with those particular issues. That has to be part of the equation that is still there.

Mr. Spiotto, if I could ask you the simple question as well, the Congress crafted PROMESA with bipartisan support but the goal of that was always to ensure that it regains financial credibility by improving oversight and accounting measures with the ultimate goal of having better government accounting practices, a return to market access that would be at reasonable rates. In your

professional opinion, do you believe this draft proposal that we are considering today is written with those same goals in mind?

Mr. SPIOTTO. No, I believe it conflicts with those, and could significantly impair the type of recovery that Puerto Rico should have.

Mr. BISHOP. Well, then let me just once again ask the same question that Darren asked of you to give you the same opportunity to respond to it one more time. If, indeed, any of these draft proposals, which in my estimation are not going anywhere, if these draft proposals ever actually became law, would Puerto Rico have an easier time in reaccessing the financial markets after they would have the Puerto Rico Legislature as well as the governor simply wipe out the debt obligations?

Mr. SPIOTTO. It would have a harder time because the fear of the blanket wipeout of public debt would make creditors demand security, it would create real problems in obtaining credit, and it would put a block or an obstacle in doing the types of things you want to do when doing a restructuring and a recovery plan.

Mr. BISHOP. So, I guess if we were to try to be cynical and say that certain special interest groups that happen to be there on the island that, yes, we should restructure you, wipe out your debt, in the long term that would have a negative overall effect of what you are trying to do, because I think you were talking about the difference between the symptoms versus the causal implication.

Mr. SPIOTTO. Yes.

Mr. BISHOP. Is that a fair statement to make?

Mr. SPIOTTO. Yes, just because you have a large amount of debt is really a symptom of having a financial problem that wasn't addressed. If Puerto Rico had the ability to resolve their problems in 2006, they would not have taken on another $30-some billion worth of debt which created a lot of the problems.

Mr. BISHOP. I have maybe like 1 minute left. Are you familiar with the efforts that were done in New York City in 1975, in Philadelphia in 1991, and in DC here in 1995?

Mr. SPIOTTO. Yes.

Mr. BISHOP. Did any of those examples ever wipe out their debt obligations wholesale in the manner that the Chairman's draft of this legislation proposes?

Mr. SPIOTTO. No, they refinanced all of them; they paid them back. In fact, DC and the Financial Control Board did the same thing.

Mr. BISHOP. So, if we want to learn from history, we don't go down this road.

Mr. SPIOTTO. It creates more problems than benefits.

Mr. BISHOP. Thank you. Once again, I appreciate all of your efforts to come up here. What you should realize is that you are coming up here at the wrong period of time. We should be going down to Puerto Rico for these hearings in November and December. If you wanted to come here, you can come up here in the summer, we have to go down there in the winter. So, not only are we doing it the wrong time of the day, we are doing it in the wrong location.

Mr. SABLAN. February.

Mr. BISHOP. That is right, February. We just made a deal. We will go down there in February.

[Laughter.]

Mr. SABLAN. Thank you, Mr. Bishop. Thank you. At this time, Mr. Cartwright, sir, you have 5 minutes.

Mr. CARTWRIGHT. Thank you, Mr. Chairman, and I would like to thank the witnesses for traveling here and giving us your testimony.

Mr. Velázquez, thank you for your testimony. I had a question for you. The government of Puerto Rico and the Oversight Board oppose amendments to PROMESA, and these amendments would facilitate access to public debt information, in other words make public debt information more transparent. And what the government argues is that this level of transparency would create problems in debt restructuring proceedings, and, as they say, negatively impact attorney-client privilege.

I want to find out if you agree that that is the case and whether you could further explain what the negative impacts of transparency would be on debt restructuring.

Mr. VELÁZQUEZ. Congressman, thank you for the question. That argument by both the Oversight Board and the government of Puerto Rico is a complete red herring to keep you from actually focusing in on what the real bogey is. The real bogey here is getting information out to the people of Puerto Rico, and not only that but to the financial markets. There is a lot of information that has been asked about transparency that both creditors and us, frankly as a labor union, and the people of Puerto Rico want. I find those arguments to be a complete red herring. What we need to focus on is transparency of the debt and of those documents.

Mr. CARTWRIGHT. So, it is quite the opposite. You don't believe that more transparency is a bad thing?

Mr. VELÁZQUEZ. That is correct.

Mr. CARTWRIGHT. I see, OK. And to our student on the panel, Mr. Butín-Rivera, thank you for your testimony as well. And thank you for providing an overview of the challenges that the University of Puerto Rico faces including a lack of funding for its operations and its retirement system. Recognizing that the financial resources of the government of Puerto Rico are scarce, has the University presented recommendations to the government to achieve cost savings that could mitigate budget cuts to the University?

Mr. BUTÍN-RIVERA. Yes. The University has been open to give services to the government through a deal, through this last year that will be cheaper than the private sector, and we could do an even a better job for the government. Even Ricardo Rosselló, when he came here, he mentioned that he signed an order for the UPR to be the first in line when new contracts are going to be held. But in reality, that number has not been a big number that the University needs to run when compared to the budget cuts.

Mr. CARTWRIGHT. You mentioned cheaper and better as recommendations. Could you give us some specific examples?

Mr. BUTÍN-RIVERA. For example, we can give, when new laws are being written and the University of Puerto Rico could help with accessory to the legislation writing. We could help with that and we could give really good recommendations from the University. We have the best law school in Puerto Rico, but simply the contracts are not being given to the University of Puerto Rico. And in some

cases like the police academy, the UPR gave a proposition to help the police academy and it was given to a private university.

Mr. CARTWRIGHT. So, if the University's recommendations were accepted, how might that affect the quality of education and the ability to attract top students at the University?

Mr. BUTÍN-RIVERA. We would have more money to invest in the University. That is like the logic of what we can do for the government. And also it will give opportunities for the students to help the government, too.

Mr. CARTWRIGHT. I thank you for those answers, and I yield back.

Mr. SABLAN. Thank you very much, Mr. Cartwright. At this time, the Chair recognizes Mr. Gohmert for 5 minutes.

Mr. GOHMERT. Thank you, Mr. Chairman. It always seems to me that Puerto Rico should be the Hong Kong of North America, and obviously the financial issues are not helping, and of course there is all the litigation over the Board and we will see how that works out.

But I had the honor of serving with Luis Fortuño here in Congress for a term before he was elected to governor, and my understanding was he was trying to get the debt under control and when you have 30 percent or so of the population working for the government and you pay no Federal income tax but the local tax is between 30 and 40 percent, it doesn't draw businesses in like I would have thought there would be the opportunity.

So, with PROMESA it seemed like there was at least a chance to get debt under control; it looked like restructuring had saved some money. But long term, people are going to need to see that, and investors, that there is a good game plan.

We see here in the United States with the billions and billions of dollars that was spent trying to drive green energy, renewables, there was fiasco after fiasco. We had a hearing previously, in a previous Congress, over the solar power plant near the border of Nevada and California. They got between $2.2 billion and $2.3 billion. And with all they have done for a number of years now, when they testified, they had paid back $6 million of the amount of loans.

It concerns me when I see the proposal go from 2 percent renewables to 100 percent renewables because as a Democrat colleague, the late John Dingell, pointed out, when you start raising energy prices, it is a massive tax on the people that can least afford it. And renewables get expensive. If it is solar, if it is wind, then you have to have double the production lines because you have to also draw energy from something that you know you can count on since you can't always count on wind and sun.

I am a little concerned about just the massive expense and this driven desire to go from 2 percent to 100 percent renewables, and just how devastating that might be. Let me go from right to left. Mr. Spiotto, do you see going to 100 percent renewables helping the financial situation in Puerto Rico?

Mr. SPIOTTO. I believe we need to redo the grid and provide a method of providing good electrical services, and that is one extreme which I don't think should be a near-term goal at least, if not a long-term.

Mr. GOHMERT. Mr. Butín-Rivera, surely paying energy bills doesn't come easy to a student, does it?

Mr. BUTÍN-RIVERA. No, it is not, sir.

Mr. GOHMERT. What have your energy bills done in recent years when you were able to get energy?

Mr. BUTÍN-RIVERA. What are my bills? It has been really high when compared to the states, and we have had problems with the electrical system. As you know, I was one of those peoples in the hurricane where I was 6 months with no energy in my house. But I think that is an example of how renewable energy can help the island. I was 6 months with no energy in my house and solar panels that we bought from the internet was the thing that helped me and my family to support ourself for those 6 months.

Mr. GOHMERT. Well, it is good to hear. My time is expired, but I appreciate all of you being here.

Mr. SABLAN. All right, thank you very much, Mr. Gohmert. It is now my distinguished pleasure to recognize the distinguished lady from New York, a proud Puerto Rican and also chair of the Small Business Committee.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman. Let me take this opportunity to thank all of you for coming here and shedding light of the struggle and the plight of the people of Puerto Rico for justice and equality. Mr. Spiotto, I hear you when you said that one of the most important outcomes of all this debt restructuring of the public debt is how can we guarantee for the people of Puerto Rico and the government of Puerto Rico access to the capital markets. What is your opinion about the need for the Oversight Board to audit the public debt?

Mr. SPIOTTO. Well, I believe both the notion of fiscal responsibility and access—certainly they should determine what is valid and what is not. Part of that is the court process in Title III, of the amendments with regard to an audit commission.

Ms. VELÁZQUEZ. Do you support auditing the debt?

Mr. SPIOTTO. A government could do that; I don't think it is necessary given the Title III action and the actions that are presently pending.

Ms. VELÁZQUEZ. So, you don't think that the people of Puerto Rico deserve to know how the government got into this mess.

Mr. SPIOTTO. I think the government of Puerto Rico can take on, itself, a determination as to what happened. But as far as the restructuring process in PROMESA, I leave it to the Title III action to do it. Separately, you——

Ms. VELÁZQUEZ. It is OK, I guess you are not going to answer my question and I have limited time.

Mr. Velázquez, last week Omar Marrero from AAFAF publicly stated that Puerto Rico's government opposes the definition of essential services because creditors could argue that whatever money not utilized to cover those services that are going to be enumerated can be used for debt repayment. In your statement, you support the definition of essential services. Is the proposed language of the PROMESA draft clear enough to prevent creditors from getting greater recoveries under this argument?

Mr. VELÁZQUEZ. I actually think the language could be improved upon. Let me give you an example. If you look at my testimony,

I have as an exhibit the amount of money that is going to go out to bondholders starting the first 3 years. It is Exhibit C to my testimony. If you look at the first 3 years, there is actually much more money going out on the first 3 years than the later 3 years, and than the rest of the time. And the reason for that, or the question I raise is, how did you get that money? And it looks to me like, not knowing what is going on, but the hurricane money is going out that way. And that is a concern of mine, that you are using the Federal funds as a way to actually make sure that there are higher gains for the bondholders.

I would like to see language that defines essential services in a way so that we don't have this situation where extra money is going to the bondholders in the first years while we are still trying to recover from the hurricane.

Ms. VELÁZQUEZ. Thank you. You also recommended in your testimony that we include some FOIA-type language. However, I believe there is a commonwealth FOIA-type act called the Transparency Act that was recently signed into law that will provide the mechanisms for disclosure. In your opinion, that is not enough?

Mr. VELÁZQUEZ. No, our concern is getting access to the courts for the people of Puerto Rico, and access to tools. When it stays in the control of the government of Puerto Rico, those tools, they have had a history of complicating things, and the language we suggested was a way of giving an alternative forum to those in Puerto Rico in case those procedures don't work.

Ms. VELÁZQUEZ. Thank you. Mr. Martínez Otero, the University of Puerto Rico has 11 campuses throughout the island, including its main campuses in Rio Piedras and Mayaguez. So, what would be the economic impact, and I understand the economic impact that it will have on the student, but at the municipal level have you done any study, any research?

Mr. MARTÍNEZ OTERO. Yes, we have research from the economist José Caraballo Cueto, former president of the Puerto Rico Economies Association, and in that study he found that the UPR is the most important economic sector, industrial sector in like seven of the municipalities in Puerto Rico. That means 10 percent of the municipalities. And if you close, for example, UPR Cayey, UPR Utuado, the economy of the municipality probably will collapse.

Ms. VELÁZQUEZ. Thank you. I yield back.

Mr. SABLAN. Thank you, Ms. Velázquez. At this time, the Chair recognizes Mr. McClintock for 5 minutes. You don't have to use all of it, but you are recognized for 5 minutes.

[Laughter.]

Mr. MCCLINTOCK. I won't, it will just seem that way. In California, I find these hearings most reassuring. I find some comfort in knowing there is a government as badly managed as my own, and I do feel a certain camaraderie because both Puerto Rico and California have the most beautiful climates, the most beautiful resources, miles of gorgeous beaches. We are both cruise destinations. We are both ideal for resorts, for recreation. Yet, people and businesses are fleeing my state and fleeing your commonwealth in droves. They ought to be flocking to California; they ought to be

flocking to Puerto Rico. Instead, they are fleeing from them. And that is not because of any act of God, that is because of acts of government. Really, really bad public policy over a long period time, and people end up voting with their feet.

I represent an area in Northern California, our power is out today. Any time it is a windy day now in California you no longer have power. When you do have power, you pay twice as much as the average rate payer in the rest of the country. We have become a third-world enclave when it comes to the delivery of electricity. And I know that you are suffering the same problem there.

In California, the utilities have been forced by stupid government policies to, in the case of PG&E, divert $2.5 billion they could have been using for infrastructure upgrades to protect their lines against fire, instead $2.5 billion a year goes out the door for green energy schemes. There are also mandates on PREPA for the same thing, are there not? How is your electricity reliability? And how are your prices as a result?

Ms. CUBANO. Well, that is one of the things that we are proposing, that the RSA from PREPA should be evaluated.

Mr. MCCLINTOCK. Who is responsible for these green energy policies? Who is imposing them on you? Is that some stupid idea the commonwealth government came up with? Or is that something we imposed on you? How did that work?

Mr. MARTÍNEZ OTERO. The issue about the Puerto Rico Electric Power Authority, PREPA, is that last year ex-Governor Rosselló, he created an agreement for a public-private partnership with some private corporations, we don't know, we don't have the information——

Mr. MCCLINTOCK. Public-private corporation, partnership——

Mr. MARTÍNEZ OTERO. Public-private partnership.

Mr. MCCLINTOCK. That is another way of saying let's invite corruption into the process. I just want to know where did this come from? Just very quickly because my time is up.

Mr. MARTÍNEZ OTERO. The government.

Mr. MCCLINTOCK. OK. Somebody said these issues are terribly complicated. It doesn't seem to me they are complicated at all. If you spend more than you take in, you are going to run out of money. If you walk away from your debt, people stop loaning you money. And socialism sucks. You take enough money from working people, you pile enough regulations on businesses, people leave. Mr. Spiotto, my principal concern is this: the commonwealth seems to want very much to walk away from the debts that it has incurred through a lot of very bad policies. If they do that, who in his right mind would loan them any money?

Mr. SPIOTTO. Well, that is the dilemma. A portfolio manager, a major institutional investor, has to respond to people as far as why their investments are prudent. And you want to make sure that if there is the unfortunate debt restructuring, it has a rational, justified basis.

Mr. MCCLINTOCK. I actually opposed PROMESA because I thought it was an intrusion on the right and the responsibility of the voters of Puerto Rico to correct the mistakes they made by changing the people they put into office that created all of these bad decisions that now has brought Puerto Rico to this sorry state.

They do need to take responsibility for their own actions and their own finances. If they choose to walk away from debt, that comes with severe consequences. They lose access to the credit market. No doubt there will be a movement to come here to get loan guarantees from the U.S. government. Sorry, we have our own problems that we created for ourselves.

But I do wonder if Puerto Rico does that, is there a contagion in the credit markets? Do the credit markets look at other municipal and sovereign debt issued within the United States and say that is getting too risky, too, we are going to have to charge more for interest?

Mr. SPIOTTO. I think a lot of people will try to say that it is an aberration, but Puerto Rico has used, for example, their constitution in 1952 as a provision that there is a priority if there are insufficient funds to pay public debt. California has a similar provision. New York has a similar provision in their constitution. If one does not follow that, it raises the question, will others follow. I think generally the market will say no, because no state has defaulted on its GO debt since the late 1800s with the exception of Arkansas in 1933, and that was immediately refinanced to pay it.

Mr. MCCLINTOCK. So, you don't see a risk of contagion?

Mr. SABLAN. Mr. McClintock, thank you very much.

Mr. MCCLINTOCK. Just yes or no.

Mr. SPIOTTO. No.

Mr. MCCLINTOCK. Thank you.

Mr. SABLAN. Thank you, Mr. McClintock. The Chair now recognizes Mr. Webster for 5 minutes, please.

Mr. WEBSTER. Thank you, Mr. Chairman. I really don't have anything to question. But I appreciate everyone coming. This is very informative.

Mr. SABLAN. Thank you, Mr. Webster.

I thank the witnesses for their valuable testimony, and the Members for their questions. The members of the Committee may have some additional questions for the witnesses, and we will ask you to respond to these in writing. Under Committee Rule 3(o), members of the Committee must submit witness questions within 3 business days following the hearing, and the hearing record will be held open for 10 business days for these responses.

If there is no further business, without objection the Committee is recessed for the next panel. Thank you everyone.

Mr. WEBSTER. Thank you.

Mr. SABLAN. Thanks, Petie. Good luck to you.

Mr. WEBSTER. Nice meeting you, sir. Great, great answers. Thank you.

Mr. SOTO [presiding]. If everybody could take their seats, we would greatly appreciate it.

Thank you to our second panel for appearing today. We have Mr. Rodrigo Masses-Artze, President of Private Alliance for Economic Growth of Puerto Rico; Dr. Cecilio Ortíz-García, Senior Fellow in the National Council for Science and the Environment; Ms. Annie Mayol, President, Foundation for Puerto Rico; and Ms. Adi Martínez, Senior Policy Advisor, Oxfam America. Thanks for being here today.

We are going to let Mr. Masses-Artze testify first, since we know that you have to leave early, and the Ranking Member has also agreed to that, Mr. Webster. So, if you would please proceed, Mr. Masses.

**STATEMENT OF RODRIGO MASSES-ARTZE, PRESIDENT, PRIVATE ALLIANCE FOR ECONOMIC GROWTH OF PUERTO RICO**

Mr. MASSES-ARTZE. My name is Rodrigo Masses and I am here representing the Alliance for Economic Growth of Puerto Rico. The alliance was created by a group of business people and other private sector stakeholders, including former presidents of the principal trade associations of the island.

We all share a deep concern about the rapidly deteriorating economic and social conditions in Puerto Rico, the absence of a clear roadmap to a better future for the island, and a dysfunctional political establishment that has shown very little inclination to address and implement the profound structural changes required for Puerto Rico to realize its full potential as the economic powerhouse of the Caribbean.

I respectfully ask that my full statement be included in the record, and I will now proceed to my testimony. Thank you.

To be clear, there is no more urgent issue before us today than the reconstruction of the island. PROMESA was established as a temporary means to provide much-needed stability. However, if one were to do a cost-benefit assessment of PROMESA and of the Oversight Board, I am afraid that the outcome would be inclined toward a not-so-favorable result. Rather than just proposing cuts, cuts, and more cuts, the Oversight Board should join together with the other government and private stakeholders, laying the groundwork for stable economic growth on the island, as cuts alone—and you very well know that—do not achieve the desired long-term outcome.

Congress recognized this vital need for economic growth when enacting PROMESA. It did so by establishing a bipartisan Congressional Task Force on Economic Growth in Puerto Rico, and required it to produce a report. To date, however, Congress has failed to consider, much less enact, most of the specific recommendations unanimously agreed upon by the Task Force in 2016.

On the other hand, the government of Puerto Rico must stand tall and also do its share, its fair part. As the other panel mentioned, and I agree with most of the measures presented here: First, there is a need to be completely transparent in the oversight, and oversight of the contracting process, with full access to the media.

Second, Puerto Rico has a very low labor force participation rate, mainly because of the gender discrimination and the absence of a clear-cut policy to support one of the biggest assets our island has, women entrepreneurs.

Third, the effective transformation of the energy and water government monopolies is essential if we want to end up with an efficient, modern, and sustainable energy and water infrastructure. In our view, cost-effective energy must not exceed 15 cents/kWh.

Further, it is critical that in defining policy to deal with infrastructure, municipalities and communities be brought into the process.

Fourth, solid waste disposal is an area that has already reached a critical stage. Most of the island's landfills do not meet EPA standards, and those that do are very short in life span. Puerto Rico desperately needs a well-designed policy aimed to recycling, minimizing solid waste, and ensuring that materials used in construction and embedded in consumption products are environmentally safe.

Fifth, Puerto Rico needs a telecommunications public policy that recognizes the sector not only as infrastructure that needs to be regulated, but as an enabling technology repository that will stimulate economic growth.

Having said all of that, the fact is that Puerto Rico urgently needs a development roadmap focused on the post-reconstruction process. The new approach to development for Puerto Rico must be based on solid knowledge of local conditions and anticipate change in them. It must provide for inclusive governance that incorporates municipalities and community-based organizations.

Puerto Rico needs not only to protect but enhance its manufacturing base and make possible the development of advanced manufacturing activities, including tourism, agroindustry, and women-driven enterprises. It also needs to promote innovation across the complete spectrum of economic activities, but special emphasis on local small- and medium-sized firms.

Last, the alliance respectfully recommends that this Committee require the governor of Puerto Rico to have the local government agencies responsible for the economic affairs present to the public a progress report every 60 days on what has been achieved and what has not.

The alliance commits to submit its own every 60 days.

Mr. SOTO. Mr. Masses, you need to wrap up your remarks because your time has expired.

Mr. MASSES-ARTZE. Yes. Basically, we commit to present our report to you every 60 days as well. Thank you.

Mr. SOTO. Thank you so much.

[The prepared statement of Mr. Masses-Artze follows:]

PREPARED STATEMENT OF RODRIGO MASSES-ARTZE, PRIVATE ALLIANCE FOR THE ECONOMIC GROWTH OF PUERTO RICO

Chairman Grijalva, Ranking Member Bishop, Congresswoman González-Colón, and members of the Committee. My name is Rodrigo Masses-Artze, and I'm here on behalf of the Private Alliance for the Economic Growth of Puerto Rico (A4G). I am honored to once again appear before the Committee, this time to present our position on this most critical matter for the people of Puerto Rico, and most grateful for the opportunity you have given me to do so.

A4G was created by a group of business people and other private sector stakeholders concerned about the rapidly deteriorating economic and social conditions in Puerto Rico, the absence of a clear roadmap to a better future for the Island, and a dysfunctional political establishment that has shown, to date, very little inclination to address and implement the profound structural challenges required for Puerto Rico to realize its full potential as the economic powerhouse of the Caribbean. A4G is comprised of representatives from all key sectors in the Island's economy and is already actively involved in the development of important initiatives and proposals to drive Puerto Rico's sustainable economic development. It has also offered its support and expertise to the Governor and her administration to provide needed advice on economic matters.

I know that the Committee is fully aware of recent events on the Island, of the still ongoing recovery and reconstruction efforts and the many problems confronted, including the snail's pace at which congressionally allocated Federal funds have been disbursed. Likewise, I am certain that, PROMESA being a creature of this Committee, you are familiar with all the controversies and criticism surrounding the Financial Oversight and Management Board (FOMB), and the PROMESA legislation itself. Evidently, this is why we are here today.

However, the fact is that, putting these controversies aside, there is no more urgent issue before us than the reconstruction of Puerto Rico, not just from the devastation of Hurricanes Irma and Maria but, perhaps more importantly, from the prolonged economic contraction of the last decade. This fiscal crisis has eroded our institutions and provoked the mass exodus of hundreds of thousands of Puerto Ricans to the U.S. mainland, searching for opportunities in the States that are unavailable to them back home.

Righting this ship—a ship carrying 3.2 million American citizens whose lives and well-being are at stake—will require creativity, outside of the box thinking, and close collaboration between the Federal Government (Congress and the Executive Branch), the Government of Puerto Rico, the FOMB, and the private sector.

PROMESA AND THE FOMB

I am well aware that PROMESA created the FOMB to ensure that Puerto Rico's long-standing fiscal mess was brought under control, that the debt issue be dealt with, and that the Island could once again have a healthy fiscal situation that would allow its return to the capital markets. In short, it was established as a temporary means to provide much needed stability that could lead to sustainable economic success. However, if one were to do a cost-benefit assessment of PROMESA and the FOMB, I am afraid that the outcome would be inclined toward a not so favorable result.

A conservative estimate is that, since its inception, PROMESA has cost the people of Puerto Rico well in excess of $600 million, precious resources that could have been better invested in more productive activities. So far, the results of this investment have been meager. Granted, some progress has been achieved under Title III, and some agreements have been attained with creditors, but the cost to Puerto Rico and its business community has been immense. Furthermore, the FOMB's insistence on pension cuts, eliminating municipal subsidies, steamrolling over major institutions such as the University of Puerto Rico, and reducing essential services, will likely result in very concerning short- and long-term social repercussions. Were it not for the limited recovery and reconstruction funds already on the ground, I have absolutely no doubt that Puerto Rico's economy would have contracted even more and more profoundly than it has as a result, at least partially, of the FOMB's actions.

Rather than just proposing cuts, the FOMB should be, jointly with other government and private stakeholders, laying the groundwork for sustained economic growth on the Island, as cuts alone will not achieve the desired long-term outcomes. Congress recognized this need for economic growth when enacting PROMESA. It did so by establishing a bipartisan Congressional Task Force on Economic Growth in Puerto Rico, and requiring it to produce a report regarding: "(1) impediments in current Federal law and programs to economic growth in Puerto Rico including equitable access to Federal healthcare programs; (2) recommended changes to Federal law and programs that, if adopted, would serve to spur sustainable long-term economic growth, job creation, reduce child poverty, and attract investment in Puerto Rico." As mandated by PROMESA, the Task Force unanimously issued a report on December 2016, with numerous recommendations on very specific and realistic actions Congress could take to assist Puerto Rico. To date, Congress has failed to consider, much less enact, most if any of them. And the FOMB, while actively engaged in other undisclosed lobbying efforts in Washington, has only provided a very timid support to these critical initiatives. That needs to change, and the FOMB must be accountable to someone, perhaps this Committee.

That being said, it is also true that Puerto Rico cannot just sit and wait for Congress to come up with all the solutions and for the Federal recovery and reconstruction funds to flow into the Island. The Government of Puerto Rico must also do its share. There are a number of initiatives that the Government of Puerto Rico, in collaboration with the Federal Government and the private sector, could implement to steer the Island back in the right direction. Let me briefly enumerate some of them.

COMPLETE TRANSPARENCY IN THE CONTRACTING PROCESS WITH FULL ACCESS TO THE PRESS

First of all, we need to make certain that Federal reconstruction funds allocated to Puerto Rico are used effectively and efficiently as Congress intended. The agile and swift allocation of these funds to specific projects is critical, as is that municipalities are granted a much more prominent role in the decision making and use of these funds. There is ample evidence that municipal governments have been able to deliver a number of services more efficiently and expeditiously than central government agencies, including infrastructure projects. Municipalities, however, have been sidelined from the process of fund allocation, totally handled at the central government level. This is a mistake and must be addressed.

A second area in which much can be done to improve the process of fund allocation relates to the manner in which contracts for reconstruction of the housing stock and infrastructure are being issued. This has opened the door to corruption, both local and stateside, as evidenced by the recent arrest of former top FEMA officials who worked in Puerto Rico during the island's recovery from Hurricane Maria as part of a Federal corruption investigation. What A4G feels is needed is a competitive, open, transparent process for all reconstruction projects, with strenuous oversight and accountability. In addition, A4G feels that local contractors should be much more involved in the reconstruction process. This has not been the case, as evidenced by the FOMB and independent analysts who have estimated that only 13 cents out of every dollar of Federal recovery spending has actually benefited the local economy.

WOMEN ENTREPRENEURSHIP

Puerto Rico has a very low labor force participation rate (LFPR) mainly because of gender discrimination and the absence of a clear-cut policy to support women. It is clearly established that providing support to women with children with daycare centers and other such assistance will not only help women leave welfare programs and improve their standard of living, but will constitute a powerful stimulus for economic development. This is particularly important since over 60 percent of single women with children on the Island live below the poverty level and women's LFPR is only around 33 percent.

MOUNTAIN CONSORTIUM: TRANSFORMATION OF ENERGY AND WATER MONOPOLIES

Puerto Rico was devastated by Hurricanes Irma and María, and the Island's reconstruction has been slow and will probably leave us with an infrastructure not much better, if at all, than what we had prior to the storms. But the problem with our infrastructure is not just its physical and archaic condition. The fact is that the Island's energy and water systems are both government monopolies that have, unfortunately, acted as such for decades. Just recently, a new increase in the power rate was announced only to be subsequently reversed after Governor Vázquez intervened because no assessment of costs was made. The transformation of these two monopolies is essential if we want Puerto Rico to end up with an efficient, modern, and sustainable energy and water infrastructure. A4G also feels that Puerto Rico should aim at a power rate of no more than 15 cents per kWh. This could be accomplished if PREPA would expeditiously begin working toward the implementation of the government's much publicized public policy of achieving 100 percent renewable energy production by 2050. But just a few days ago, PREPA unilaterally suspended the ongoing year-long negotiations with all the renewable energy shovel-ready projects, some of which have signed PPOAs dating back to 2010. Thus, these goals are achievable, but only if the aforementioned transformation leads to privatizing both entities.

Further, it is important in defining policies to deal with infrastructure that municipalities be brought into the process. An excellent example of what can be done is provided by a consortium of municipalities in the mountainous central Puerto Rico, led by the mayor of Villalba, to construct a mini-grid that will power, not only his municipality, but also Morovis, Orocovis, Ciales, and Barranquitas. These municipalities constituted the "last mile" in the post María power restoration.

ZERO WASTE

Solid waste disposal is an area that has already reached a critical stage. Most of the Island's landfills do not meet EPA standards and those that do have a very short life span. Puerto Rico desperately needs a well-designed policy aimed at recycling, minimizing solid waste, and ensuring that materials used in construction and embedded in consumption products are environmentally safe. For a relatively small

island such as Puerto Rico, having an excellent environmental quality is not only an objective by itself to improve quality of life, but is also necessary as a determinant of competitiveness. Thus, not taking proper care of our beaches will ultimately impact tourism, not taking care of our solid waste disposal system will eventually increase costs to our producers and thus reduce our capacity to compete for investment.

CONTINUOUS AND UNINTERRUPTED CONNECTIVITY

We are fortunate that the private firms that operate the telecommunications system have taken it into themselves to provide a much better, reliable and resilient system. Much remains to be done and doing so will require a change in the manner in which the government intervenes with the system. Although there has been some improvement, the focus on the government's part has been to regulate rather than stimulate the industry. Puerto Rico needs a telecoms public policy that recognizes the sector not only as infrastructure that needs to regulated, but as an enabling technology depository that will stimulate economic growth.

NEW ECONOMIC PROMOTION APPROACH

Having said all of the above, the fact is that Puerto Rico urgently needs a Development Roadmap focused on the post reconstruction process. I understand that the government's attention is now on the reconstruction process. That is correct, but it means that developing that Roadmap should be a concern not only of the private sector but is something that the FOMB should be paying attention to, at a minimum, by assuring that its actions do not have a negative impact on sustained economic growth.

A new approach to development for Puerto Rico must be based on thorough knowledge of global conditions and anticipated changes in them. It must provide for inclusive governance that incorporates municipalities and community-based organizations. There is much to learn from others: Ireland's Social Partnership, Pittsburgh's use of community resources to stimulate its transformation, Singapore's emphasis on education as a key component of any development roadmap. Puerto Rico needs to not only protect, but enhance its manufacturing base and make possible the development of advanced manufacturing activities. It also needs to promote innovation across the complete spectrum of economic activities but with special emphasis on local small and medium size firms.

Additionally, Puerto Rico has significant competitive advantages that it can lever to achieve sustained growth: our access to the U.S. markets, a highly trained labor force, a strong manufacturing base and, increasingly, a dynamic technology sector that is already exporting services globally and providing needed technological foundations to local entities in health services, education, and other areas.

TOURISM

The opportunity for growth and development of the tourism industry should be an immediate priority of the Committee, the local government, and the FOMB. The hotel industry, by its nature, is a labor-intensive industry. Direct and indirect jobs, local food chain and supply purchasing, and construction and redevelopment are direct by-products of successful tourism. Efforts to develop the potential that Puerto Rico has in this segment of the economy should be addressed. Puerto Rico has the wherewithal to be competitive in the tourism industry and its promotion can have immediate impacts on our economy.

ACCOUNTABILITY

We respectfully ask the Committee to require the Governor of Puerto Rico to have those agencies responsible for economic affairs to present to the public a progress report every 60 days on what has been achieved or not in their particular areas. This report should be made public by a respected entity such as the Comptroller's Office so as to avoid the political paraphernalia that typically accompany these announcements.

Mr. Chairman, as I indicated at the beginning of my testimony, the need to restart the Puerto Rican economy's engine is an urgent matter. Not to do so is to condemn the Island to continued loss of population and its young people leaving the Island in search of a better quality of life in the States. This will require close collaboration between the Federal and Puerto Rican governments, the FOMB, and the private sector. If the Committee intends to move forward with this effort to change PROMESA, I urge you to consider amendments that will make it possible to use

PROMESA and the FOMB's unquestioned influence in securing a better future for Puerto Rico. The 3.2 million American citizens of Puerto Rico deserve no less.

Thank you.

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QUESTIONS SUBMITTED FOR THE RECORD BY REP. GRIJALVA TO MR. RODRIGO MASSES-ARTZE, PRESIDENT, PRIVATE ALLIANCE FOR ECONOMIC GROWTH FOR PUERTO RICO

**Mr. Masses-Artze did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.**

*Question 1. I agree with your statement that laying the groundwork for sustained economic growth in the Island should be high priority for the government of Puerto Rico, the Oversight Board and this Committee.*

*You also mention the importance of granting municipalities a more prominent role in the reconstruction process as active decision makers. How do you envision the participation of municipalities and the private sector in the planning phase of the reconstruction process to ensure improvements in the economic and social conditions in Puerto Rico?*

*Question 2. In your testimony, you emphasize the need for a Development Roadmap for Puerto Rico. Could you provide more information about what this Roadmap would address?*

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Mr. SOTO. We are going to continue on with our regular order now, and Ms. Adi Martínez, you are recognized.

## STATEMENT OF ADI MARTÍNEZ, SENIOR POLICY ADVISOR, OXFAM AMERICA

Ms. MARTÍNEZ. Thank you, Mr. Soto, Chairman, members of the Committee, and staff, for giving us this opportunity to talk about Federal recovery funds coordination and Section 11 of the discussion draft.

Oxfam is an international non-profit, non-partisan organization that for decades has delivered disaster and development assistance around the world. Our work has taught us that effective and lasting recovery and development is dependent on empowering local people and communities to claim their rights, fight injustice, and hold their government and private sector accountable.

The challenges that we see in Puerto Rico are very similar to challenges we have worked to solve in many other communities that are recovering from disasters and lifting themselves out of poverty.

I have lived in Puerto Rico all my life. I was there when Hurricane Maria hit, and as a director of Fundación Fondo de Acceso a la Justicia, plunged into getting resources for legal assistance teams who traveled to rural, poor, and disenfranchised communities on the island and who, to this day, are struggling to access recovery assistance.

In my work at Oxfam, I remain tightly connected and consult daily with communities and civil society leaders in Puerto Rico, and I can tell you that our low-income and marginalized communities are facing critical challenges that impede their recovery and puts them in harm's way in the face of future disasters.

We believe our recovery must be equitable, transparent, and effective. We have seen over and over again around the world that

extreme centralization of the kind seen in Puerto Rico invites corruption and leads to ineffective and poorly prioritized spending. It does not take advantage of the local community's historical and institutional knowledge.

I would like to submit for the record an Oxfam report entitled "To Fight Corruption, Localize Aid," together with other documents that show support to my statements.

As an evidence-based organization, we strongly believe that there is nothing more powerful or effective to combat corruption and ensure that Federal dollars really meet people's needs than to give voice to community leaders. They know best what they need, and in Oxfam's experience around the world, they are by far the most effective and reliable voices pressing for good governance, accountability, and transparency.

We know that in the face of corruption, Congress and Federal agencies often propose further centralized controls. In Puerto Rico, this includes the withholding of funds, the assignment of independent financial monitors, while other policy makers suggest intervention of the Fiscal Oversight Management Board.

The legislative proposal being discussed here today also includes the appointment of a Reconstruction Coordinator. It is important to establish immediately that the whole discussion of Federal recovery funds coordination or any legislation thereof should be separate from PROMESA or its amendments. Also, it is clear to us that civil society in Puerto Rico overwhelmingly rejects the idea of greater centralization and the continued disconnect from those who matter most, the people.

Oxfam's core message to the Committee and the U.S. Congress is that those measures will not solve the challenges at hand and will not yield the results we all seek.

We believe this moment is a critically important opportunity for the U.S. Congress to demonstrate that it is listening to the civil society in Puerto Rico. A fast-growing list of civil society organizations and supporters has endorsed the concept of a civil society working group as an alternative for the coordination of recovery funds.

Note that in our current endorsement list are organizations that represent hundreds of smaller ones: United Way of Puerto Rico, Grupo G8, PRODEV, and VAMOS, among others.

Also, we are submitting draft language to create a civil society task force that has been developed in dialogue and with the direct input of many of these and other groups. As we work with partners on the ground to socialize the task force idea and get input, that support list continues to grow.

The civil society task force will consist of 13 elected representatives from across civil society and 4 highly experienced professionals who will be embedded in each key recovery agency: FEMA, HUD, COR3, and Vivienda.

As asked by those groups endorsing the concept, this task force would: First, advise and advocate for transparent, accountable, and effective decisions and outcomes that address urgent needs and achieve equitable and resilient recovery in Puerto Rico; second, it would oversee processes to ensure stakeholder participation and incorporation of stakeholder input, and ensure the voices of women,

elders, the disabled, and marginalized communities are heard and addressed.

The embedded representatives will be the main support to the task force in the execution of its duties. They would serve for 1 year with the possibility of term renewals if re-nominated unanimously by the task force. Other task force members would be elected to serve for 3 years, unless the sector they represent decides in their assembly established procedure that their mandate should be revoked.

In closing, the urgency for recovery in Puerto Rico makes these considerations of utmost importance. I look forward to answering any questions and continued work with Committee staff to make this a reality.

Thank you.

[The prepared statement of Ms. Martínez follows:]

PREPARED STATEMENT OF ADI MARTÍNEZ-ROMÁN, OXFAM AMERICA

Thank you, Mr. Chairman, members of the Committee, and staff, for giving us this opportunity talk to about Federal recovery funds coordination and Section 11 of the Discussion Draft. Our testimony will only touch upon Section 11 and will not present any position as to the other components of the discussion draft. In fact, as explained below, we strongly think the two themes, PROMESA amendments and Federal recovery coordination should be completely separate.

Oxfam is an international non-profit, non-partisan organization that for decades has delivered disaster and development assistance around the world. Our work has taught us that effective and lasting recovery and development is dependent on empowering local people and communities to claim their rights, fight injustice and hold their government and private sector accountable. The challenges that we see in Puerto Rico are very similar to challenges we have worked to solve in many other communities that are recovering from disasters and lifting themselves out of poverty.

Mr. Chairman, I have lived all of my life in Puerto Rico, only being away for college and post-graduate studies. I worked for 10 years in the University of Puerto Rico Law School as a professor and Dean of Student Affairs, and as the coordinator of the student ProBono Program, after which I worked as the Executive Director of Fundación Fondo de Acceso a la Justicia (FFAJ), a local non-profit that finds resources for civil legal aid to the poor. After the hurricane hit, I continued as director of the FFAJ and plunged into getting resources for legal assistance teams who traveled to rural, poor and disenfranchised communities on the island and who—to this day—are struggling to access recovery assistance. As you can see in my CV, since my student days I have continuously worked with poor communities, its leaders, and for access to justice in Puerto Rico.

In my work at Oxfam I remain tightly connected and consult daily with communities and civil society leaders in Puerto Rico. Together with Oxfam's Program Manager in our office in Puerto Rico, Ms. María Concepción, we can tell you that our low income and marginalized communities are facing critical challenges that impede their recovery and puts them in "harm's way" in the face of future disasters.

We believe our recovery must be equitable. It must address people's needs—prioritizing those of the more than 40 percent of people who live in poverty and the communities where the needs are greatest. The recovery must also be transparent, accountable and effective. Oxfam America is uniquely independent because we take no U.S. government dollars—and we have for years been a leading voice on Capitol Hill for policy solutions aimed at achieving effective, transparent and accountable U.S. assistance. Those approaches and solutions need to be applied in Puerto Rico. I'd like to submit for the record an Oxfam Report entitled, "To Fight Corruption, Localize Aid," together with a graphical presentation and other documents that show support to my statements below.

Mr. Chairman, we have seen over and over again around the world that extreme centralization of the kind seen in Puerto Rico invites corruption and leads to ineffective and poorly prioritized spending. It does not take advantage of the local community's historical and institutional knowledge.

We are an evidence based organization and we strongly believe that effective and equitable planning, execution, and oversight *is only possible* when affected communities are fully engaged. Local people *must* be included and empowered. There is *nothing* more powerful or effective to combat corruption and ensure that Federal dollars really meet people's needs—than to give voice to community leaders. They know best what they need, and in Oxfam's experience around the world, they are by far the most effective and reliable voices pressing for good governance, accountability and transparency. In Puerto Rico, this is not different, as it has been demonstrated repeatedly in their effective work after the hurricane and by the movement of its population requiring good governance this past summer of 2019.

We know that in the face of corruption, Congress and Federal agencies often propose further centralized controls. In Puerto Rico, these currently include the withholding of funds, steeper compliance requirements, and the assignment of independent financial monitors, while other policy makers suggest the intervention of the Fiscal Oversight Management Board. The legislative proposal being discussed here today also includes the appointment of a Reconstruction Coordinator that represents another layer of centralized control.

It is important to establish immediately that the whole discussion of Federal recovery funds coordination or any legislation thereof should be separate from the PROMESA law or its amendments. It is very important to maintain a clear separation between the Federal recovery funds and considerations on debt repayment and restructuring. These resources should not in any way be thought of as a way to pay creditors and/or inflate economic prospects for the fiscal plans. The urgency for Federal recovery funds lies exclusively in the dire needs of a disaster hit population, and we must insure that legislative attempts for its effectiveness pass political muster without being tangled to other unrelated political considerations. Any legislation developed should be separate from PROMESA amendments.

Also, it is clear to us that civil society in Puerto Rico overwhelmingly rejects the idea of greater centralization and the continued disconnect from those who matter most—the PEOPLE. Oxfam's core message to the Committee and the U.S. Congress is that in our experience, *those measures will not* solve the challenges at hand, and *will not* yield the results we all seek.

Mr Chairman, we believe this moment is a critically important opportunity for the U.S. Congress to demonstrate that it is listening to civil society in Puerto Rico. Congress is clamoring for good governance and accountability—and so are the people in Puerto Rico. It is time for Congress to put them in the driver's seat as key players, fully engaged and empowered, to ensure the right Federal recovery dollar decisions are made, and the people of Puerto Rico begin to really see and feel the effects of effective and equitable recovery investments.

A fast-growing list of civil society organizations and supporters has endorsed the concept of civil society working group as an alternative for the coordination of recovery funds. We submit for the record a copy of the petition to Congress to avoid further centralization initiatives, including the appointment of a Federal Coordinator, and that any recovery coordination must be done with a group of elected civil society representatives. Note that on our current "endorsement" list and letters are organizations that represent hundreds of smaller organizations—United Way of Puerto Rico, Grupo G8, PRODEV, VAMOS, among others. There is also an ample spectrum of organizations in terms of type, composition and area of services, such as professional schools, law clinics, planners and unions.

Also, we are submitting draft language for the creation of a Civil Society Task Force that has been developed in dialogue and with the direct input of many of these and other groups. As we work with partners on the ground to socialize the Task Force idea and get input, the proposed language has been enriched with local knowledge and the support list continues to grow.

As currently conceived, the Civil Society Task Force would consist of 13 elected representatives from across civil society, and 4 highly experienced professionals who would be embedded in each key recovery agency, FEMA, HUD, COR3 and Vivienda. The embedded representatives would be recruited by the agencies from the three qualified candidates proposed by the Task Force to each of the agencies. Their qualifications, the required monthly meetings with the Task Force and reporting requirements of these professionals are specified in the language.

As asked by the groups endorsing the concept, this Task Force would:

First: Advise and advocate for transparent, accountable and effective decisions and outcomes that address urgent needs and achieve equitable and resilient recovery in Puerto Rico.

Second: Oversee processes to (1) ensure stakeholder participation and incorporation of stakeholder input and (2) ensure the voices of women, elders, the disabled and marginalized communities are heard and addressed.

The embedded representatives will be the main support to the Task Force in the execution of its duties within the agencies, which include, among other things:

- Promote agency and regional collaborative actions
- Oversee proper stakeholder analysis
- Review the data and make sure it is made public
- Identify duplication and propose solutions
- Monitor violation of human rights
- Eliminate barriers to participation of local organizations and businesses

It is important to note that the four embedded representatives would serve for 1 year, with the possibility of term renewals if re-nominated unanimously by the Task Force. Other Task Force members would be elected to serve for 3 years, unless the sector they represent decides in their assembly established procedure that their mandate should be revoked. This to ensure the answerability of these persons to the groups represented, which is a key element of this proposal. The election assemblies for the Task Force members would be supervised by locally trusted groups like the Commission of Civil Liberties, the Association of Professional Social Workers of Puerto Rico, and the Law School Clinics.

In closing, and as proven internationally, only with civil society direct involvement will Congress achieve transparency, accountability and resiliency for Puerto Rico. The urgency for this in Puerto Rico makes these considerations of utmost importance. For these reasons we urge you to work with us and civil society leaders in Puerto Rico to achieve our common goals by quickly introducing and fast tracking House passage of civil society task force legislation—separate from PROMESA reform—to kick start our way to an empowered civil society ensuring transparent, accountable and effective and equitable recovery in Puerto Rico.

I look forward to answering any questions and continued work with Committee staff to make this a reality.

Thank you.

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

— Letter from Annie Mayol, President & COO, Foundation for Puerto Rico to Oxfam América dated October 9, 2019.

— Letter from Samuel González, President, Fondos Unidos de Puerto Rico/United Way to Oxfam América dated October 21, 2019.

— Oxfam America Research Report titled, "To Fight Corruption, Localize Aid: How U.S. Foreign Assistance Can Support a Locally Driven Fight Against Corruption."

— Petition Proposing a Puerto Rico Civil Society Task Force and Civil Society Representatives to Facilitate Recovery Efforts.

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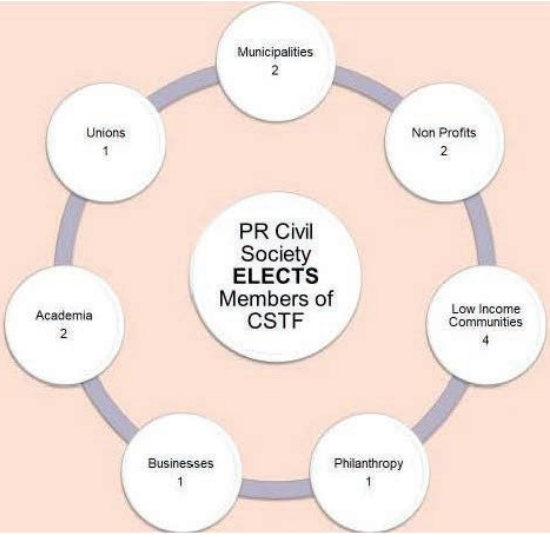
QUESTIONS SUBMITTED FOR THE RECORD BY REP. GRIJALVA TO MS. ADI MARTÍNEZ, SENIOR POLICY ADVISOR, OXFAM AMERICA

*Question 1. You propose a Civic Society Task Force to increase the participation of civic society in Puerto Rico's disaster recovery process. I have expressed that engaging municipalities, communities, and non-profit organizations should be a priority for the Federal and local government. Please share what sectors—in your view—should be represented in the Civic Society Task Force?*

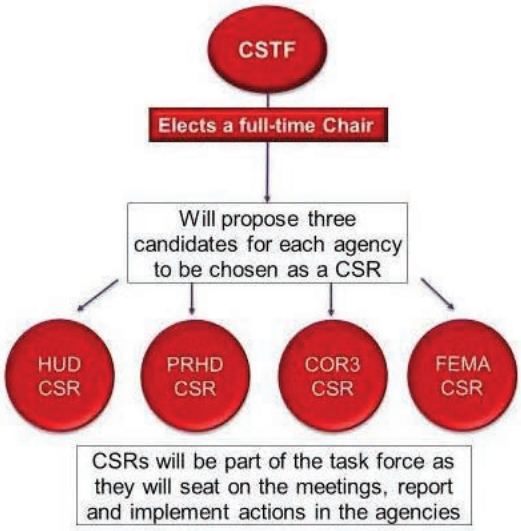
Answer. Our main argument is that locally elected civil society representation in the form of a task force is *the only effective way* to insure transparency, accountability and resiliency in the use of Federal funds. In our dialogues and experiences with groups in Puerto Rico, we have identified sectors in civil society that have actively and effectively worked on emergency aid and recovery, with very good results despite small amount of resources. These include municipalities, low-income community leaders, non-profits, philanthropic organizations, universities, private businesses, and workers' unions. That is why we have proposed that each sector selects their own representatives to the CSTF, in assemblies, with the help of trusted institutions like the Commission of Civil Liberties, the Association of Professional Social Workers of Puerto Rico, and the Law School Clinics. Each group (see diagram below) will have different amounts of representatives, according to their involvement in recovery and size, with low-income community leadership being the group with most representation, as there are thousands of low-income communities in Puerto Rico that still need effective recovery.




It is important to clarify that these civil society representatives in the CSTF would have as one of its main purposes to insure spaces and processes of real and effective participation of the general public. The CSTF should not be construed as a body that substitutes the public participation that is required for effective recovery, but as a group that will guarantee those processes exist.

*Question 2. How do you envision the Civic Society Task Force would influence the decision-making process of Federal and local agencies that play a role in the reconstruction process? What would be their authority?*

Answer. Once the CSTF has elected its main members, it will organize its processes and elect a **full-time Chairperson that would be the principal point of contact** between Congress and the CSTF. Nevertheless, the CSTF would also proceed to propose **4 highly experienced professionals who would be embedded in each key recovery agency**, FEMA, HUD, COR3 and Vivienda, and who would be the main support to the Task Force in the execution of its duties within these agencies. The embedded representatives would be recruited by the agencies from the three qualified candidates proposed by the Task Force to each of the agencies. Their qualifications, the required monthly meetings with the Task Force and reporting requirements of these professionals are specified in the language.




The legislation created by Congress, as proposed in the language we have been working on with the groups, will specify the duties of the members of the task force and its embedded representatives, and their authority to act, propose and require. We envision that the CSTF would have meetings and processes to work with their represented groups on the ground, identify bottlenecks, needs of public participation, problems of transparency, etc. These could even work with regional groups to further enrich the process. But the authority of the CSTF would be clearly delineated by statute and should be sufficient for the CSTF to truly implement its mission.

**CSTF AUTHORITY**

**Petition information from agencies, which will have to provide it to the CSTF in reasonable time.**

**Present information requests before other public instances, including local and federal government.**

**Order monitoring and auditing processes.**

**Have primary jurisdiction to intervene, have knowledge of, and conduct, on the initiative of the CSTF, any investigation on any matter or dispute relating to the principles and duties outlined above.**

**Request specific actions from agency directors relating to the CSTF duties and have primary jurisdiction to undertake administrative or judicial review processes as needed.**

This authority, as conceded by Congress, would be executed in the agencies through the embedded representatives. That is why they are so essential to the model, as they would be professionals with the mission to, among other things, raise red flags on agency actions and work directly with the agency Secretary (or appointed contact) to execute the duties of the CSTF.

Please let us know if you have further questions. We are available and look forward to continuing work with the Committee in the development of this language. As emphasized, the urgency for recovery in Puerto Rico makes these considerations of utmost importance, and we firmly believe that our common goals of an empowered civil society ensuring transparent, accountable and effective and equitable recovery in Puerto Rico can be achieved. Thanks again for the opportunity.

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Mr. SOTO. Thank you for your remarks, Ms. Martínez.

Ms. Mayol, you are recognized.

**STATEMENT OF ANNIE MAYOL, PRESIDENT, FOUNDATION FOR PUERTO RICO**

Ms. MAYOL. Good afternoon, Chairman and Committee members. My name is Annie Mayol. I am President and Chief Operating Officer of Foundation for Puerto Rico. I am honored and grateful to be here.

Foundation for Puerto Rico is a 501(c)(3) local not-for-profit organization. Since our creation in 2011, our mission has been to transform Puerto Rico through sustainable socio-economic development strategies. Our goal is a prosperous Puerto Rico that unleashes the talent, creativity, and passion in the people of Puerto Rico.

In the aftermath of Hurricane Maria, Foundation for Puerto Rico became an active participant in the relief and recovery efforts, including serving as a backbone to support non-governmental organizations in the island. We hosted over 180 organizations in our space, El Colaboratorio, where more than 230 relief missions around the island were coordinated.

In addition, we served as a fiscal sponsor to other NGOs so they could implement important programs around the island in areas like aid to farmers and resiliency programs for local community centers.

While providing immediate relief around the island, Foundation for Puerto Rico identified critical gaps in the support of small business owners. We developed a small business cash grant program to help hundreds of businesses in key economic clusters stay open, and we grew the program into the Bottom Up Destination Recovery Initiative.

This initiative uses the visitor economy as a strategy for recovery. Originally funded by private donations, we have expanded to 12 towns around the island through a grant of EDA.

Last year, the Puerto Rico Department of Housing asked our organization to lead the whole community resiliency planning program. This program channels HUD community development block grant disaster recovery funds to develop community-led plans, focused on making them more prepared and resilient in the face of future events like Maria.

Foundation for Puerto Rico has been working with the Federal and local government, with business owners, with local community leaders, and have seen the commitment of all of our partners to guarantee the good use of the disaster funds and the interest, not only to achieve compliance but to drive real change to Puerto Rico.

We have firsthand experience with the integrity and discipline with which the Puerto Rico Department of Housing is managing

these funds. However, the delay in the disbursement of CDBG-DR funds has directly affected the capacity to implement these disaster recovery programs and is impacting the most in need.

Due to the reimbursement nature of the funds, non-governmental organizations like Foundation for Puerto Rico face additional liquidity challenges and burdens that directly impact implementation. We believe Puerto Rico's NGO sector can play a game-changing role, healing the distrust between the island and the Federal Government while helping to keep the focus on recovery, prosperity, and integrity.

Foundation for Puerto Rico believes adding more layers and bureaucratic processes is not the solution to ensuring the proper use of disaster relief funds. This is what motivates our concern over the proposed creation of the Office of the Reconstruction Coordinator for Puerto Rico.

Instead, Foundation for Puerto Rico recommends the creation of a Federal point person whose role is to ensure the timely release of the CDBG-DR and FEMA funds. There is a major lack of Federal coordination and vision in the use of these funds. Thus, we recommend that the primary focus of this role should be to jumpstart our recovery.

This role should assist both Federal and local agencies with the development of an organized and transparent process in which recovery projects will be funded, and ensure adequate participation from communities, municipalities, and NGOs.

Our concern should not only be the potential improper use of funds for which numerous safeguards already exist, but we should also be breaking silos and creating connections between all of the programs to ensure we implement projects that have the most direct and enduring positive impact on the quality of life of the people of Puerto Rico.

At Foundation for Puerto Rico, we like to say there is no future in rebuilding the past. This is our opportunity to build a better future for Puerto Rico.

We strongly encourage the Federal Government to facilitate local NGOs' participation in the implementation of these disaster recovery funds. No one sector alone can do this job. Only when every sector—that is, government, private industry, NGOs, and the community—work together for a common goal does the possibility of permanent transformation exist.

To achieve this, we also recommend that the House Natural Resources Committee look at ways that other Federal disaster funds can be more accessible to communities. Where there is a requirement for local matching funds, such as EDA, that requirement should also be waived for a minimum of 3 years to ensure that funds flow faster and more effectively.

In summary, our three recommendations are to establish a Federal point person, ensure optimal participation of the NGO sector in the recovery, and waive the local match requirement for disaster funds.

Thank you for your interest and support for Puerto Rico's recovery.

[The prepared statement of Ms. Mayol follows:]

PREPARED STATEMENT OF ANNIE MAYOL DEL VALLE, PRESIDENT & CHIEF OPERATING OFFICER, FOUNDATION FOR PUERTO RICO

Good afternoon Chairman Grijalva, Ranking Member Bishop, and members of the Committee. My name is Annie Mayol, and I'm president and chief operating officer of Foundation for Puerto Rico. I am honored and grateful to have the opportunity to speak with you today.

Foundation for Puerto Rico is a 501(c)(3) local non-profit organization. Since our creation in 2011, our mission has been to transform Puerto Rico through sustainable socio-economic development strategies. Our goal is a prosperous Puerto Rico that unleashes the talent, creativity, and passion of the Puerto Rican people.

In the aftermath of Hurricane Maria, Foundation for Puerto Rico became an active participant in relief and recovery efforts, including serving as a backbone to support other NGOs on the island. We hosted over 180 organizations in our space, El Colaboratorio, where more than 230 relief missions around the island were coordinated. Also, we served as Fiscal Sponsor raising more than $10 million for other local NGOs, so they could implement important programs around the island in areas like aid to farmers, support to artists, and resiliency programs for local community centers.

While providing immediate relief around the Island, Foundation for Puerto Rico identified critical gaps in support for small businesses in key regional areas. We developed the Small Business Cash Grant Program to help hundreds of businesses in key economic clusters stay open, and we grew the program into the Bottom Up Destination Recovery Initiative. This initiative uses the Visitor Economy as a strategy for recovery. The Visitor Economy is a concept much broader than tourism. It aggregates all direct, indirect, and induced economic activity resulting from visitors' interactions with their destination. Foundation for Puerto Rico has been advocating for implementing a Visitor Economy strategy as a spearhead for Puerto Rico's economic development which will produce the most immediate and accessible economic benefits for our communities. Using this framework, the Bottom Up Destination Recovery Initiative, originally funded by private donations, has now expanded to 12 municipalities thanks to a grant from the U.S. Economic Development Administration.

The Bottom Up Destination Recovery Initiative teaches communities to identify their most important assets (cultural, businesses, attractions, natural resources, etc.), learn how to market them, identify ways to attract more visitors (accommodation, attractions, experiences), to create their own Destination Plan. A crucial part of the initiative is to also train and coach the community on readiness efforts to face future disasters, the adoption of resilience practices and sustainability. The aim is to identify and mobilize individual and community assets, skills and passions to build sustainable economic development from the bottom up. Through the Bottom Up Initiative, we are currently impacting more than 500 businesses around the island, creating 30 new businesses and developing eight Community Destination Plans.

Foundation for Puerto Rico serves as a leader on the island's economic development stage, with the results to show for it, including the incubation of Discover Puerto Rico, the new non-governmental destination marketing organization that has already succeeded in restoring visitor numbers to pre-Hurricane Maria levels. As champions of the Visitor Economy, we believe that in a few short years Puerto Rico can double the level of visitor activity, add billions of dollars to its GDP and tens of thousands of new jobs to lift the island up and out of recession.

Last year, the Puerto Rico Department of Housing asked our organization to lead the Whole Community Resiliency Planning Program. This program channels HUD Community Development Block Grant-Disaster Relief funds to develop community-led plans focusing on making them more prepared and resilient in the face of future events like María.

The Whole Community Resilience Planning Program is an integral part of the approved Disaster Recovery Action Plan of the Puerto Rico Department of Housing. It is designed to enable communities throughout the island to determine their unique needs, set long-term goals and short-term objectives, identify priorities and request funding for the development of long-term resilience plans.

As part of this program, we have formed multisectoral working groups composed of representatives from Federal and Puerto Rico government agencies, sister non-profit organizations, trade groups and professional associations that possess the knowledge and experience required in the areas of economic, educational, infrastructural, health, environmental and housing development.

Through our work, Foundation for Puerto Rico has been collaborating with the Federal and local government, with business owners, with local community leaders,

and have seen the commitment by all our partners to guarantee the good use of these disaster funds and the interest, not only to achieve compliance, but to drive real change for Puerto Rico. We have firsthand experience with the integrity and discipline with which the Puerto Rico Department of Housing is managing these funds.

However, the delay in the disbursement of CDBG-DR funds has directly affected the capacity to implement these disaster recovery programs and is impacting the most in need. Due to the reimbursement nature of the funds, non-governmental organizations, like Foundation for Puerto Rico, face additional liquidity challenges and burdens that directly impact implementation.

Puerto Rico's NGO sector can play a game-changing role in healing the distrust between the island and the Federal Government while helping to keep the focus on recovery, prosperity, and integrity. NGOs are perceived by residents as trusted partners that can operate free from partisan political or other narrow economic interests, continuity and needed agility for the effective implementation of projects leading to sustainable results. We have studied the post-disaster trajectories of New Orleans and New York, where NGOs like ours were instrumental in achieving successful outcomes. By giving well-governed, well-structured NGOs a greater role, we can do more with less, while maintaining integrity, discipline, transparency, and professionalism.

While Foundation for Puerto Rico believes that adding more layers and bureaucratic processes is not the solution to ensuring the proper use of disaster relief funds, we do believe that more players are needed at the table. This is what motivates our concerns over the proposed creation of the Office of the Reconstruction Coordinator for Puerto Rico.

Foundation for Puerto Rico recommends the creation of a Point Person at the Federal level whose role is to ensure the timely release of CDBG-DR and FEMA funds. There is a major lack of Federal coordination and vision in the use of these funds, thus we recommend that the primary focus of this Federal Point Person should be to jumpstart our recovery.

This Federal point-person should assist both Federal and local agencies with the development of an organized and transparent process in which recovery projects will be funded and ensure adequate participation from communities, municipalities, and NGOs. Our concern should not only be the potential improper use of funds, for which numerous safeguards already exist, but we should also be breaking silos and creating connections between all the programs to ensure we implement projects that have the most direct and enduring positive impact on the quality of life of the people of Puerto Rico. At Foundation for Puerto Rico, we believe that there is no future in rebuilding the past and this is our opportunity to build a better future.

We strongly encourage the Federal Government to facilitate local NGO participation in the implementation of these disaster recovery funds. No one sector alone can do this job. Only when every sector, that is, the government, private industry, NGOs, and the community work together for a common goal does the possibility of permanent transformation exist.

To achieve this, we also recommend that the House Natural Resources Committee looks at ways that other Federal disaster funds can be more accessible to the communities. Where there is a requirement for local matching funds, such as the U.S. Economic Development Administration, that requirement should also be waived for a minimum of 3 years to ensure that the funds flow faster and more effectively.

In summary, our three recommendations are to establish a Federal Point Person, ensure optimal participation of the NGO sector in the recovery, and waive the local match requirement for disaster funds.

Thank you for interest and support for Puerto Rico's recovery. Foundation for Puerto Rico and I welcome the opportunity to work with members of this Committee toward that end.

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QUESTIONS SUBMITTED FOR THE RECORD BY REP. GRIJALVA TO MS. ANNIE MAYOL, PRESIDENT, FOUNDATION FOR PUERTO RICO

*Question 1. You mention that NGOs can play a game changing role in healing the distrust between the local and the Federal Government. Tell us more how this can be done? Would it be helpful to have other NGOs participating as subrecipients in the disaster recovery process?*

Answer. NGOs can heal the distrust between the local and federal governments by being an impartial ally to achieve local disaster recovery goals while maintaining a reputation of honesty. NGOs maintain trust and good use of funds at their core

and have experience with the management of federal funds, making them the ideal subrecipient candidate of federal funds. At the local level, NGOs are at the heart of community building and development. These organizations were part of the initial response after Hurricane Maria, accessing hard-to-reach communities. Due to the decades-long relationships many local NGOs have with Puerto Ricans, there is an underutilized opportunity to integrate them in the disaster recovery process.

Given the relationship NGOs have with local communities, incorporating them in the disaster recovery conversations and process would create an integrated, multi-jurisdictional, comprehensive and efficient process. Following the method Puerto Rico Department of Housing has used with the Foundation for Puerto Rico, there is massive potential for comprehensive disaster recovery.

*Question 2. In addition to the issue of the disbursement of CDBG-DR funds, at the end of your testimony you also mentioned the Bottom Up Destination Recovery Initiative your organization has expanded through a grant from the U.S. Economic Development Administration. Can you explain how the agency's matching funds requirement impacts that important recovery initiative?*

Answer. It is very challenging for NGOs to acquire the capital necessary to match federal grants. Most NGOs have modest endowments or no endowments at all, making it challenging to find matching funds for even a 20 percent match. This makes it difficult for NGOs to meet the requirements necessary when applying for federal grants like those in the EDA. In addition, most federal funds are through reimbursements creating a need for largest amount of working capital and cash flow than most local NGOs can afford.

It is common to hear in the news that Puerto Rico has been given billions of dollars in federal recovery funds, however, these dollars are barely utilized due to the large match requirement. The Secretary of Commerce has the discretion to issue a directive waiving the matching requirements for EDA grants. The Foundation for Puerto recommends the Committee request that the Secretary consider waiving matching funds for a few years, for example 3 years, to help jumpstart the flow of federally allocated dollars.

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Mr. SOTO. Thank you, Ms. Mayol.

Next we recognize Dr. Ortíz-García. Thanks for being here.

## STATEMENT OF CECILIO ORTÍZ-GARCÍA, SENIOR FELLOW, THE NATIONAL COUNCIL FOR SCIENCE AND THE ENVIRONMENT

Dr. ORTÍZ-GARCÍA. Thank you, Mr. Chairman. Good afternoon to you and to the members of this Committee.

My name is Cecilio Ortíz-García and I appear in front of you today as Senior RISE Fellow at the National Council for Science and the Environment here in Washington, DC. I hold a PhD in Public Policy and Administration from the Arizona State University and for the last 15 years I have been involved in numerous research projects, programs and policy-making activities related to the sustainable transition of Puerto Rico's electrical system.

My remarks today will circumscribe to the figure of the Recovery Coordinator for PREPA, and I have the following points to offer, which I hope will get us into a deeper conversation about this.

No. 1, we recommend the figure of the Recovery Coordinator for PREPA. Recent studies on recovery and reconstruction processes suggest that having such a figure might help decrease the length of the recovery and reconstruction process and also increase the quality on the outcomes that could emerge from a better governance and decision-making model. It is important to frame this Recovery Coordinator in the context of deconcentrating the current power structure, and second of all, the decentralization of energy

decision making. This is going to be crucial for its success in Puerto Rico.

No. 2, the RC, as I call it, also needs to be mindful about the extreme operating environment that he or she is dropping into. Because of the extreme complexity of Puerto Rico's post-Maria recovery and reconstruction process, extreme care should be given to determine: (a) how the interaction between the RC and PREPA's internal and external communities will be framed; and (b) most importantly, what role will the RC play in the overall planning of Puerto Rico's electric system from here thereon.

No. 3, the RC must be perceived as an agent of Puerto Rican society and not as an agent of Congress, PREPA, or the state governmental institutions in Puerto Rico, whether state or local.

While this amendment visualizes the RC as a supervisor, controller and overseer of PREPA operations—and we agree that those are important objectives—the people of Puerto Rico need to have confidence in the RC's abilities to open PREPA's governance black box. Integrating the RC figure in a framework of conflict would only exacerbate the climate of acrimonious fighting and could, in fact, lengthen the recovery and reconstruction process of the island's electric system.

In fact, the RC should help the people of Puerto Rico to reach its vision for a sustainable, resilient, prosperous, just, equitable, democratic, sustainable electrical system as expressed in the Energy Stakeholder Forum vision document in the past.

No. 4, ultimately, the RC needs a tool to help him or her achieve these boundary-spanning objectives. That body should be the Technical Advisory Committee composed by local expertise, local scientific and non-scientific knowledge, with connections nationwide to filling the gaps and legitimize their work.

The National Institute for Energy and Island Sustainability is, as the DOE has stated in the reconstruction report, the best resource equipped to help the RC achieve this. The Technical Advisory Committee is absolutely necessary as a boundary-spanning tool to assist the RC in effectively engaging with different sectors of Puerto Rican society, capturing and internalizing their values, perceptions, attitudes, not only as PREPA customers, but also as electricity users in Puerto Rico.

And No. 5, effectively co-producing the knowledge necessary to transform not only the agency but the electric system in general.

In closing, Puerto Rico is right now the quintessential canary in the mine, not only because of its island condition but geographical location in the path of possible and more frequent and stronger weather events.

Also, and more importantly, because of its current colonial condition, this makes Puerto Rico perhaps the greatest experiment in democracy in the hands of the United States.

Thank you and I remain available for your questions.

[The prepared statement of Dr. Ortíz-García follows:]

PREPARED STATEMENT OF CECILIO ORTÍZ GARCÍA, SENIOR RISE FELLOW, NATIONAL COUNCIL FOR SCIENCE AND THE ENVIRONMENT, WASHINGTON, DC

Good morning Honorable Chairman and members of the Committee. My name is Cecilio Ortíz García and I appear in front of you today as Senior RISE Fellow at the National Council for Science and the Environment in Washington, DC. I am currently in residence at the Institutes for Energy and the Environment at Penn State University. I hold a PhD in Public Policy and Administration from The Arizona State University and for the last 15 years I have been involved in numerous research projects, programs and policy-making activities related to the sustainable transition of Puerto Rico's electrical system. Also, since my arrival at NCSE, I have been involved in the design, construction and operation of the RISE Network.

My remarks today will circumscribe to the issue of the proposed Monitor for the reconstruction of PREPA and will lead to the formation of a Technical Advisory Committee to those ends. We believe that the amendment to introduce the proposed Revitalization Coordinator (RC) for the Puerto Rico Electric Power Authority (PREPA) is warranted. However, because of the extreme complexity of Puerto Rico's post-Maria recovery and reconstruction process, extreme care should be given to determine: (a) what will frame the interactions of the RC with internal actors inside PREPA?; (b) what would frame the RC interactions with stakeholders outside of PREPA?; and (c) what role would the RC play in the overall planning of the electric system from here on after? These questions are important because recovery processes are complex, not only about speed but also about the quality of the decision-making process. Although speed is necessary (if agencies do not act quickly, many victims will begin to rebuild where they have access to and how they can afford), it is also vital to take the time to plan post-disaster reconstruction. The amendment, as currently written only visualizes an RC to supervise, control and oversee PREPA operations, but doesn't contemplate the RC having a role in opening up what has up until now being considered PREPA's black box. We would argue that integrating the RC figure in a framework of conflict will only exacerbate the climate of acrimonious fighting and could in fact lengthen the recovery and reconstruction process of the island electric system.

Due to the time constraints, I will concentrate on the following three main points:

1. The current extreme operating environment in Puerto Rico after hurricane Maria is extremely complex and the proposed monitor will have to face and embrace that complexity.
2. His or her success will require, more than technological innovation, governance innovation.
3. And ultimately, I would like to offer the Committee a glimpse or a vision of the possible opportunities these amendments to PROMESA could bring both to the people of Puerto Rico and to the rest of the Nation.

*1. The current extreme operating environment in Puerto Rico after hurricane Maria is extremely complex and the proposed monitor will have to face and embrace that complexity—*

Platt (2017) has recently studied the factors affecting the speed and quality of post disaster recovery and resilience. Interestingly, the most important factors that influence the speed and quality of the recovery are endogenous like the characteristics of decision-making processes. Exogenous factors like the size of impact, population demographics and economic factors seem to have little or no impact. He argues that "The relationship between post-disaster decision making and the quality of recovery in terms of whether crucial aspects of the society and economy are 'built back better' is striking." Among the experiences presented by Platt the case of Chile after the Maule Earthquake in 2010, provides us with few lessons. The Chilean government appointed a national coordinator to develop a reconstruction plan. The plan was based on the premise that "the State is unable to reconstruct everything or even control de process of recovery centrally from Santiago. With the support of the State it is the responsibility of each region, town council and community, to develop its own plan." The distinctive aspect about the Chilean example is the quality of the participation process that involved the communities in decision making and kept them informed about the progress. The client of the RC is the people of PR, not PREPA, not the PR Government. This example shows that framing the RC in the context of deconcentration of power and decentralization of energy decision making is crucial to its success in PR.

Several decision-making bodies continue to fight over PREPA's future and that of the electric system. Moreover, due to the now admitted shortcomings by FEMA and other Federal agencies in the handling of Puerto Rico's post-Maria recovery process,

we are now looking at a 10- to 15-year window for reconstruction. Last, we stand now in front of an ill designed "*two-teared electrical system*" that promises to become an energy planning nightmare at multiple levels. Let me explain. According to the solar map of Puerto Rico, and anecdotal evidence from NGOs that are actively engaged in the installation of these types of systems, there are about 200 renegade decentralized renewable systems, including micro grids and individual installations.

*2. His or her success will require, more than technological innovation, governance innovation—*

Puerto Rico's energy governance remains extremely concentrated, extremely hierarchical, extremely centralized and completely devoid of spaces for active participation of all energy stakeholders in the archipelago. This is so, despite (a) the enactment of executive orders declaring energy emergencies in the island, two in the past two decades, (b) the passage of Law 57 in 2014, (c) the actions of Alix Partners to restructure PREPA's debts after the bankruptcy, and (d) the emergence of an incipient yet promising renewable energy industry and market in Puerto Rico. If Hurricane Maria showed us anything, it was that the lack of effective participation of communities, mayors, civic organizations, professional associations and even the University of Puerto Rico, became our Achilles' heel at a time of crises. Therefore, while we support the intervention of the RC, we believe it must go beyond just monitoring, receiving or generally inspecting PREPA. There is a need for this figure to become a boundary spanning agent between the needs of these stakeholders and the future shape that PREPAs organization takes. In other words, this figure needs to be an agent of Puerto Rican society to educate the way PREPA is transformed to be able to transition Puerto Rico into a sustainable energy future.

Currently, the internal organizational environment of PREPA is toxic. There are three main reasons for this assessment. The first one is that the political capture of every single aspect of PREPA's decision making and operational structure continues even after the resignation of Governor Rossello. Second, the current board of governors of PREPA is an insult to the people of Puerto Rico. For the sake of professionalizing PREPA's board we have now open its door to energy speculators and marketing agents of outside fossil fuel interests with little or no knowledge of the geographical, cultural, socio-economic and political realities of the archipelago. I want to give you one example: Robert G. Poe. A well-known figure in Alaskan politics having run for governor in past elections and well connected in the U.S. Senate, he now figures as one of PREPA board members, having barely arrived to the Island of Vieques after the hurricane. While this has happened, the number of representatives on behalf of costumer on PREPA's Board has been cut to 50 percent, going down to one. As recent accounts in Puerto Rico's media, this representative has been consistently blocked to effectively represent PREPA's costumers in deliberations dealing with electricity rates and subcontracting. In other words, we cannot sacrifice representation for professionalization. This is an incorrect dichotomy that furthers alienates PREPA from the current realities of energy insecurity, high energy burden and low levels of energy democracy existent today. The third reason is that internal voices inside of PREPA's organizational structure still do not talk to each other and operate in an environment of conflict and very little collaboration toward a common goal, whatever it is. PREPA continues to achieve its mission and goals despite of its most valuable assets and not with their collaboration.

The innovation necessary to tackle these governance shortcoming is the formation of a Technical Advisory Committee (TAC) composed by local expertise. The TAC is absolutely necessary as a boundary spanning tool to assist the RC in (1) effectively engaging with different sectors with Puerto Rican society; (2) capturing and internalizing the values, perceptions and attitudes not only of PREPA's costumers but all electricity users in PR; and (3) effectively co-producing the knowledge necessary to transform not only the agency but the electric system in general. There is a proposal by the National Institute for Energy and Island Sustainability to assist this committee in the formation of the TAC. Furthermore, the National Council for Science and the Environment, a non-partisan, non-governmental organization with the affiliation of more than 700 universities and colleges nationwide, is involved in the creation of the RISE Network in collaboration with the National Institute for Energy and Island Sustainability. The RISE Network would provide support to the TAC in areas that might go beyond the existing capabilities of Puerto Rico's technical, scientific and non-scientific expertise. Regarding the role that institutions of higher education can play in recovery and reconstruction processes, Platt (2017) argues that "Universities are uniquely positioned to provide opportunities to lower not only the speed of recovery, but as a consequence the levels of deaths, ecosystem damage and economic disruption, in other words Sustainable Recovery and Reconstruction."

More than 90 percent of the reconstruction contracts so far have been awarded to external contractors and consultants. Sadly, these contractors, come back to Puerto Rican experts under the guise of collegiality further colonizing the knowledge and expertise already existent in our scientific community. Therefore, we feel that the composition of the Technical Advisory Committee needs to be specifically composed by local Puerto Rican experts in all areas of the social and natural sciences, engineering, public health, arts and the humanities, etc. Furthermore, the Technical Advisory Committee will be structured as an inter and transdisciplinary platform to open the way for contributions by communities and other non-academic sectors that bring sector to our energy decision-making processes. Ultimately the TAC will engage in collaborative partnerships by means of a network-of-networks, to fill the knowledge gaps and fulfill its responsibilities to the new proposed figure.

*3. A glimpse or a vision of the possible opportunities these amendments to PROMESA could bring—*

Now, imagine with me an electrical system for Puerto Rico that is resilient, prosperous, just, equitable, democratic, sustainable, and that becomes the instrument to achieve happiness in our society; that maximizes the use of free, renewable and local energy sources; it is innovative and adaptive to social, climatic, consumption needs and economic changes; and its decision-making processes are transparent, participatory, inclusive, integrative, ample and effective regarding all societal sectors. Imagine an electric system that can integrate the knowledge that Minnesotan and Alaskan communities have on electric coops. Imagine an electric system that learns from the experiences of Sonoma County and its wildfires, Arizona and its integration of renewable solar energy, as well as from the myriad of experiences across the Nation and the world. Imagine a Puerto Rico electric system that can serve as a learning platform for other islands. We don't come to you with the hubris of complete knowledge and expertise about electric systems or Puerto Rico's. But we most recognized that Puerto Rican local expertise is central to a better understanding of our island condition and that this understanding can then serve the rest of the world in the co-production of new knowledge that can serve others as well.

Let me finish Mr. Chairman by saying that Puerto Rico is right now the quintessential "canary in the mine," not only because of its island condition and geographical location in the path of possible more frequent and stronger extreme weather events, but also because its current colonial condition. This makes Puerto Rico an unequal partner in perhaps the greatest experiment in democracy. Let's end the governance aberration known as PROMESA by collaboratively enabling processes that guarantee equity and justice not only in energy decisions but all aspects of Puerto Rican life. The people of Puerto Rico have a right to it, and the world is looking at us and the way we handle this delicate issue. Thank you and I remain available to your questions.

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QUESTIONS SUBMITTED FOR THE RECORD BY REP. GRIJALVA TO MR. CECILIO ORTÍZ-GARCÍA, SENIOR FELLOW, NATIONAL COUNCIL FOR SCIENCE AND THE ENVIRONMENT

**Mr. Ortíz-García did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.**

*Question 1. You propose a Technical Advisory Committee to increase participation of local experts in the transformation of PREPA. Please share what sectors—in your view—should be represented in the Technical Advisory Committee. Could this Committee assist the PREPA Revitalization Coordinator proposed in the Discussion Draft?*

*Question 2. Groups like the Institute for Energy Economics and Financial Analysis (IEEFA), UTIER, and other local organizations support the establishment of an Independent Private Sector Inspector General (IPSIG) for PREPA. The IPSIG would be responsible for creating personnel hiring regulations, overseeing procurements, supervising fiscal and accounting activities, and providing regulatory oversight for PREPA.*

*Do you support this proposal? Would an IPSIG have positive impact in PREPA's current operating environment?*

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Mr. SOTO. Thank you, Dr. Ortíz-García, for your testimony.

As a reminder, I thank the panel for their testimony and remind Members that Committee Rule 3(d) imposes a 5-minute limit on questions.

I will now recognize myself for 5 minutes.

First, I want to thank you all for coming. We find ourselves here—the last panel was probably more PROMESA-focused—but we find ourselves here also because Congress allocated $42.5 billion back in February 2018, and it has been over a year and a half since then and 2 years since the storm, and the money just is not flowing. Less than half of it has been flowing.

So, our Committee is doing our best to try to break that logjam that has held that money here in Washington for so long. And I can appreciate the quandary of having these coordinators. There is already PROMESA. There is already a layer of Federal Government that is now facing the people of Puerto Rico, so to add another Federal Coordinator obviously is something that we all have to work through. It did work for Louisiana quite well, and I think that is where a lot of folks are coming from on that.

I want to start with Ms. Martínez. You had mentioned the civic society task force. You will notice in our audit provision, which we are not going to go into, there is a multi-sectoral commission that kind of does a similar thing. Local input is key from the community. What assurances could we have if we did something like this that it wouldn't slow down the funding flowing even more?

Ms. MARTÍNEZ. Thank you for the question. Right now, the bottlenecks in the centralization are the reasons why the funds are taking so long to be disbursed and to reach the people that really need them. So, for us, in order to solve those bottlenecks you have to have direct incidence of the civil society sectors that have already done recovery work with very little resources that they have been able to get.

So, having a work group that can facilitate those participation instances and raising the red flags when there are bottlenecks, and also ensuring that the contracts that are made and the decisions that are taken by the government and the agencies are really attending to the needs of the people is not going to make it slow for our results to be better, it is going to make it more agile.

Mr. SOTO. Thank you, Ms. Martínez.

And to Ms. Mayol, I know you all awarded a $30-plus million contract and you have, what, $16,000 so far I think I was briefed the other day by my staff. Do you think a coordinator would help with our NGOs and with our local governments getting this money down quicker, or would it be another layer of government that would make it tougher? Help us with this quandary.

Ms. MAYOL. The importance is the coordinator has the authority to make sure to look at how to find ways to expedite the process. One of the things that we talk about is the Federal Government needs to find ways to facilitate, not hinder, the process, ensuring Federal compliance, but at the same time ensuring coordination and new ways that can be implemented.

You mentioned Louisiana, for example. The Federal Government and the Federal agencies have experience of things that have worked and haven't worked in other states, and I think that having a Federal facilitator—their job is to make sure, I say they are

herding the cats. It is just to make sure the process is moving forward and that, in fact, the agencies are becoming facilitators and not just hinderers.

I think the key here with your question also is that the delay of reimbursements of funds are creating a liquidity issue and it is making it impossible to be accessible. But that also is one of the reasons why we talk about bringing more people to the table and the importance of diversifying the distribution of funds through other areas like NGOs.

Mr. SOTO. Thank you, Ms. Mayol.

Dr. Ortíz-García, we face a similar quandary here with a Revitalization Coordinator. Obviously, having a Technical Advisory Committee may spread around at least community input. Do you think that this would help us with the $2 billion we are trying to get down for renewables and some of this other HUD funding that hasn't gotten to PREPA yet?

Dr. ORTÍZ-GARCÍA. Congressman, I think it would, but the devil is always in the details. How we frame the intervention of this figure really will determine the kind of perception all other actors and stakeholders will have of him or her, and as a consequence, it might facilitate the flow not only of information but of trust.

We don't necessarily have a lack of technical information about our system, while we could certainly have more if we opened the black box, but we have a lack of trust. So, in framing that figure of the Recovery Coordinator for PREPA, that is the key element that could make this quicker. Yes.

Mr. SOTO. Thank you, Dr. Ortíz-García. My time is expired.

First, before we recognize the Ranking Member, I ask for unanimous consent that the gentleman from Illinois, Mr. García, be allowed to sit on the dais and question witnesses from today's hearing. Without objection, so ordered.

Now we recognize the acting Ranking Member, Mr. Webster, my fellow central Floridian.

Mr. WEBSTER. Thank you, Mr. Chairman. Thank you all for appearing.

Ms. Martínez, you have mentioned a lot of issues here for us. We are here, you are there. It is real hard to sort through it.

If you were to pick out the biggest root problem, would it be the debt, or would it be unemployment, or would it be a lack of direction, or is it corruption? Or is there a word that would say, OK, here is the biggest one? It is not the solve-all, what is the biggest root problem?

Ms. MARTÍNEZ. With the administration of Federal recovery funds, I think the word would be bottlenecks. There is one type of bottleneck in the Federal level, which is the mistrust about concerns about capacity and corruption. And then there are the bottlenecks in the local level, which pertain to capacity and to contracts and a special interest being attended to first and then the ones of people that need the most.

So, those bottlenecks are what concerns us, and that is why we sustain that in order to solve those in those two sectors, you have to have the people that are actually doing the work on the ground to be direct participants to break those bottlenecks.

Mr. WEBSTER. OK, so the bottleneck—is it you are talking about flow of money?

Ms. MARTÍNEZ. Flow of money and for them to get to the people that really need them, the programs to work for the people that really need them, the most vulnerable.

Mr. WEBSTER. So, there is not a process by which the money could get to the right people? Is that true?

Ms. MARTÍNEZ. The collaborators and organizations that we work with in Puerto Rico have constantly tried since the beginning to have more incidence in the creation of the programs in Puerto Rico and trying to help the government to get things get done. And it hasn't worked that way.

Mr. WEBSTER. Is corruption a part of the problem then of these bottlenecks? Let us say the money is not released, is not released because there is some kind of distrust. Is that it?

Ms. MARTÍNEZ. From the Federal level?

Mr. WEBSTER. Yes.

Ms. MARTÍNEZ. Yes. And that was completely revealed by HUD in the hearings last week when they said that they had two options, to release the funds fast or hold them for them to be safeguarded. That is one.

But over in Puerto Rico, I would say that there are special interests that are being taken care of that are not the ones of the people.

Mr. WEBSTER. OK. And that is in the government itself?

Ms. MARTÍNEZ. The government, the agencies, the private contractors, et cetera. And you have non-governmental organizations that are ready to do the work and they have all these blockades in order to do it because of the reimbursement requirements, it is the auditing, the constant intervention of consultants. It is really hard for non-government organizations that are actually doing the work in the field to do it effectively.

Mr. WEBSTER. So, what would be your solution to it? OK, the biggest problem is the bottleneck, so what would you do to solve that problem?

Ms. MARTÍNEZ. For us, any type of instance of coordination of Federal funds has to be done with a team, a team from the people on the ground that includes community leaders, includes non-profit organizations, philanthropy, municipalities that have suffered also a lot, and businesses. That team can be able to really tell the agencies—HUD, FEMA, COR3 and Vivienda—get over your bottlenecks and this is what needs to be done.

Mr. WEBSTER. Ms. Mayol, do you have the same thought, that these bottlenecks are a big problem?

Ms. MAYOL. I want to add a comment to a question you asked. I think the important thing is in the fact of distrust. With the case of Federal CDBG-DR, which is the one that we have been working with directly in HUD, I think that distrust is unfounded. There are no findings and no issues of corruption with regards to the use of CDBG-DR funding right now.

I do 100 percent agree with Ms. Martínez that when you centralize $19 billion into one agency to be able to manage all of the programs, you have to find ways to be able to bring other players to support you in that bottleneck.

So, with regards to the work we are doing, we are one of those people at the table and we are asking the government—both Federal and state, because the Federal also opposes a lot of people coming to the table—bring more players into the mix so that there is more oversight as well as better implementation, and more agile.

So, bringing more NGOs like Foundation for Puerto Rico to participate in the action plan of CDBG-DR is an answer to making sure that the funding is well used, you don't have issues of distrust and corruption, but at the same time the movement is quicker.

Mr. WEBSTER. OK. I am out of time. Thank you. I yield back.

Mr. SOTO. Next, we recognize the gentleman from Illinois, Mr. García.

Mr. GARCÍA. Thank you, Mr. Chairman and Mr. Ranking Member, for the privilege of coming before this Committee and the opportunity to both hear the testimonies and engage the panelists. I apologize for my tardiness. Quite a hectic day around here. All the committees seem to be meeting.

I would like to ask a question of Ms. Martínez. For months, I have been focused on the Trump administration's delays and obstruction in disbursing hurricane relief to Puerto Rico. Of course, that is my opinion. More than 2 years after Hurricane Maria, there are still thousands of people in Puerto Rico living under tarps for shelter. Yet, we have seen the Trump administration throw up new obstacles to delivering aid and even threaten to divert relief funding to pay for a border wall. This is, of course, unacceptable.

Disaster relief in Puerto Rico deserves to be treated as an urgent priority, not used as a negotiating tool for unrelated purposes. You testified that Federal recovery funds should not be in any way thought of as a way to pay creditors and/or inflate economic prospects for the fiscal plans. Can you elaborate on your concern that relief is tied to PROMESA and issues related to Puerto Rico's debt restructuring?

Ms. MARTÍNEZ. Thank you so much for the question, Mr. García. Definitely, there is a big concern to have them both in the same text, even because, as you say, many times those funds, the Federal recovery funds, have been talked about by Mr. Trump and others from his administration as a—that it is going to be used to pay creditors when that is not true.

Also, it has been used—and this was testified by our previous colleagues—as a way to inflate economic prospects for the fiscal plans in the restructuring of the debt, and that is also a bad thing for Puerto Rico and, of course, for the Federal recovery process.

The urgency, though, as you say, lies in the people of Puerto Rico needing this to get done and needing recovery from the situation, being in harm's way from hurricanes. So, our legislative attempts here in Congress should be to try to pass this in a fast way without being tangled in the PROMESA controversies, because those, as we have seen in previous statements here in this room, are more difficult and are probably going to face much rejection in the House and the Senate.

We think it is more important to solve recovery in Puerto Rico in an urgent way, so we have to separate them. Thank you.

Mr. GARCÍA. Thank you. You have mentioned in previous conversations I have had with you, and I think it was part of your

testimony, that Oxfam's proposal for a civil society task force would be preferable to coordinate recovery funds because, in your view, it is not a single hierarchical, centralized approach to it.

Can you talk about why that approach, the more centralized approach, is problematic and why you think that a decentralized approach to having the aid become more impactful might be preferable?

Ms. MARTÍNEZ. Yes. And for the record, I have to clarify. The proposal is a development of a concept that has been done with organizations in Puerto Rico, so we don't call it Oxfam's proposal for that reason. It is that there is a consensus in Puerto Rico that a centralized figure will not have the knowledge or the means to be able to solve the problems, the bottlenecks.

You need a team. You need a team that meets where the needs lie, and where you can make more effective the plans that have already been laid out by the government agencies.

There are problems of transparency in the local level, but there are also problems of transparency and efficiency in the Federal level. So, this team of local stakeholders that are the ones that have been ensuring true recovery would be the ones that have the knowledge and the capacity to do those actions and to tell what has to be done to get the money to the right hands.

Mr. GARCÍA. Thank you.

Mr. SOTO. Thank you, and the gentleman's time is expired.

By agreement with the acting Ranking Member, Mr. Webster, we are going to go into a second round of questions. First, I recognize myself again.

Ms. Martínez, how do you envision the civic society task force would influence the decision-making process of Federal and local agencies that play a role in the reconstruction process? Essentially, how would they interact and what would their authority be?

Ms. MARTÍNEZ. I appreciate very much the question. Yes. For this, we have envisioned that that team of locally elected representatives of the civil society will nominate candidates to work in each of the agencies as special advisors. You would have one in COR3, one in Vivienda, one in HUD, and one in FEMA that would be special advisors and would report back to the civil society task force to be able to execute the duties of the task force inside the agencies.

So, they would have—we call it civil society representatives within the agencies that would meet monthly with this working group from the civil society of Puerto Rico to be able to communicate what the red flags are, where the bottlenecks are, what needs to be done, and execute it in the agencies.

Mr. SOTO. Thank you, Ms. Martínez.

Ms. Mayol, you mentioned that NGOs can play a game-changing role in healing the distrust between the local and Federal Governments. How can this be done and what would be helpful to have other NGOs participating as sub-recipients in the reconstruction process?

Ms. MAYOL. Thank you. As mentioned before, NGOs were a key player in the relief and recovery, and they continue to be leaders in the recovery process of Puerto Rico. Because of long history in

working in communities, NGOs have experience, capacity and trust, and they get to the hardest places.

When you think about government structures around the Nation, there are areas that are very hard to reach for any of the government, even if they have the intention. But the NGOs work directly with those communities. During disaster recovery efforts, those are the communities that we have to make sure are sitting at the table.

One of the things that NGOs have is they have been managing Federal funds. They have contracts with Federal agencies directly, like we do and others. We have organizations like the Fundación Comunitaria of Puerto Rico, the Puerto Rico Community Foundation, that has been working in putting together energy grids in the mountains. We have the Ricky Martin Foundation working in recovering homes in Loiza, and many of them work with Federal agencies. They have experience. They have capacity.

And at the end of the day, they are not tied to political and private interests, so they have to go abide by the Federal 501(c)(3) requirements. They have a board. So, I think the structure that the NGOs provide has been effective in other states—Florida is an example that has amazing NGOs that have participated in programs of impact of economic development and of impact of disaster recovery.

So, bringing more of those NGOs into the work I think is the solution.

Mr. SOTO. Thank you, Ms. Mayol.

Dr. Ortíz, groups like the Institute of Energy Economics and Financial Analysis, UTIER, and other local organizations support the establishment of an Independent Private Sector Inspector General for PREPA. The IPS IG would be responsible for creating personnel hiring regulations, overseeing procurements, supervising fiscal and accounting activities, and providing regulatory oversight for PREPA.

Would you support a proposal like that and would an IPS IG have a positive impact on PREPA's current operating environment?

Dr. ORTÍZ-GARCÍA. Thank you, Congressman. Again, the context is everything. If the figure you institute inside our energy policy process is simply going to be inserted into the current organizational structure of PREPA and will serve you just as an auditor, let's say as an opener of black boxes, that is certainly an improvement but it doesn't get us where we need to get with our electric system.

To use the example my colleagues are bringing here, NGOs are now installing—whether it is micro grids or personal systems in the island—to the tune of over 100 of those systems. If you add the systems that the Red Cross is also putting together, you might go over 200 of those decentralized systems. That is creating the risk of a planning catastrophe in terms of energy in Puerto Rico. You are developing a two-tier system that does not talk to each other and are not coordinating.

So, we see the figure of the IPS IG as the possible boundary spanner that could come in and help bridge those gaps that are right now taking us in the wrong direction.

Mr. SOTO. Thank you, Dr. Ortíz. My time is expired.

Next, we recognize the acting Ranking Member, Mr. Webster.

Mr. WEBSTER. Thank you, Mr. Chair.

OK, I didn't get to you, Doctor. Do you believe in the bottleneck problem as being the biggest problem?

Dr. ORTÍZ-GARCÍA. If not the biggest, it is certainly one of the biggest, sir.

Mr. WEBSTER. Do you have a solution for that?

Dr. ORTÍZ-GARCÍA. There are really no silver bullets to wicked problems, but I will take a shot at it.

The bottleneck problem is a symptom of a much bigger problem, which is the small amount of spaces, if I may call them that way, that Puerto Rican society, Federal Government, all the different stakeholders in the island have to actually do this that we are doing here today.

The more centralized decision-making processes are and the less connected they are, the more of a probability of bottlenecks being created you foster. It is just a matter of that concentration of power and decision making not being dispersed throughout all of those that are actually affected by the problem.

Mr. WEBSTER. OK, I think it was Ms. Martínez, or was it you that mentioned that there was a person in each one of these agencies that would sort of be the person that put the stent in so the flow would go? Like you said, FEMA and other places.

Ms. MARTÍNEZ. Yes.

Mr. WEBSTER. Would those people, in your mind, be elected officials or appointed officials or would they——

Ms. MARTÍNEZ. As the language has developed, we have suggested that those people would be nominated by the civil society task force group. They would give the options to three professionals with the qualifications already lined out, like it has to be three professionals and the agency can recruit out of those three, and that they would work for 1 year.

The reason for that is to have them answer to the groups that they are working for so there is some sort of answerability to what they are doing. And we call them the embedded civil society representatives because they would be executing the duties of the task force that would also be really well defined in the text.

Mr. WEBSTER. Do you think in 1 year——

Ms. MARTÍNEZ. If they can be renewed, they can keep going if they are unanimously approved by the task force. It is just that they would have to renew their work.

Mr. WEBSTER. I think we are going to see improvements, so do you think we could turn the corner in a year? Do you think that is possible?

Ms. MARTÍNEZ. I think that what we need are people that really answer to the people of Puerto Rico and their needs. In that sense, the requirements of the temporality and for them to pass muster each year is to make sure that they are doing their job.

Mr. WEBSTER. Ms. Mayol, anything to add?

Ms. MAYOL. I think the Foundation for Puerto Rico supports Oxfam's proposition of bringing civil society and making sure that they have the expertise in the area but are connected somehow to what is happening in Puerto Rico. But I think the point is, as you stated, at the end of the day, finding more people to be at the table.

One of the things is working in the models with the Federal Government. I think they have models like mentioned before in Louisiana. What are the models that have worked of bringing people to the table in the decision-making process?

For us, we are at the table in all government. Sometimes when we are sitting at the table, we are the only non-government entity sitting at the table with the Federal Government and the local government. And just making them realize the challenges that other sectors face by decisions they make—fiscal challenges, operational challenges that they are not aware of because they don't have to face them themselves as government agencies.

I think that is the key in making the right decisions in a more agile way. We support Oxfam's policy. The details of how to implement them, I think those are very good questions that still have to be addressed.

Mr. WEBSTER. OK. I yield back. Thank you.

Mr. SOTO. The gentleman yields back. I now recognize the gentleman from Illinois, Mr. García. And please note votes have been called, but we will stay as long as we need to, Mr. García.

Mr. GARCÍA. Thank you, Mr. Chairman. I will be brief.

I would like to ask Dr. Ortíz-García and Ms. Mayol the following question: Given the 2-year delay, what has that done for the people of Puerto Rico, the NGOs in particular, over that period of time about deep thinking about the best ways to rebuild the island for the long haul, with greater resiliency, et cetera, et cetera? And has that enabled groups to acquire more capacity and are there more hands ready to implement the aid and to make sure that the reconstruction is done in an effective manner?

For example, one of the more recent difficulties and learnings that people have had, I am sure, has been the political tumult that the people of the island have experienced. So, I am wondering, what is different about 2 years ago after Maria and today in all of the frustrations and all of the thinking that obviously has gone on and part of the reason that you are here today?

Ms. MAYOL. Three things have happened in the last 2 years. One, as mentioned, not-for-profits have had to start working on projects through other sources of funding—private funding and working on the projects in the community, making sure they are sitting at the community and they have to make sure the community is being taken care of. So, they are doing projects disconnected to an overall plan that the government has presented to Congress. They are working toward, in silos in order to make sure that things are addressed as quickly as possible through private funding, whether it is philanthropy from the United States, whether it is other Federal funds.

However, on the other hand, those that have put together really good strategies and can really help in the long run implement sustainable economic development strategies that are going to have an impact, and avoid having to have another debt and go back and really help the fact of the debt in Puerto Rico and create a common growth—they are sitting waiting to see how they can participate in this process.

One of the biggest—getting capital for the not-for-profit sector in Puerto Rico has always been an amazing challenge. Fundraising is

very difficult. Private capital does not come to Puerto Rico for the not-for-profit sector as it does for the United States. And many people—we were able to get some private capital because of the concern of the hurricane, but we had to use it right away because the government couldn't help in the immediate relief.

Right now, in our case specifically, we are being challenged in liquidity. So, for example, we have a $37 million grant. We have only gotten .02 percent of that reimbursement in the period of 6 months, or actually 10 months. Where do we have to go? Get a line of credit. So, the liquidity issue is impacting as well.

Mr. GARCÍA. And, Dr. Ortíz-García, you have a minute and 50 seconds.

Dr. ORTÍZ-GARCÍA. The variable of time is the most important variable I believe in Puerto Rico's case. We have had two impacts, the impact of our bankruptcy plus the impact of a hurricane. If one looks like it is going to take a long time—our debt, take care of our debt. FEMA is now saying that they are going to be in Puerto Rico in recovery and reconstruction for the next 10 to 15 years.

So, when you look at Puerto Rico's timeline, unfortunately, more things remain the same than have evolved. And those that have evolved are evolving in negative trends. This is a red flag that I want to raise here. The more we wait—this is a function of time and doing things right. We do not want to rush things and then create planning problems for the future, but at the same time to get it right you need all voices represented on the table as soon as possible.

Whether we have different ideas of how to do it, we can sit down and resolve those. But I think all at this table are pulling toward the same side, to tell you that to deal with wicked problems like this, you need extended peer communities that look at each other in a level playing base and that feel that they can trust each other as they inch forward toward progress.

Mr. GARCÍA. Thank you. I yield back, Mr. Chairman.

Mr. SOTO. The gentleman yields back. I ask for unanimous consent to enter into the record statements from the United Auto Workers of Puerto Rico, the Center for a New Economy, and Espacios Abiertos.

Seeing no objection, that is approved.

I thank the witnesses for their valuable testimony and the Members for their questions. The members of the Committee may have some additional questions for the witnesses, and we will ask you to respond to these in writing under Committee Rule 3(o). Members of the Committee must submit witness questions within 3 business days following the hearing, and the hearing record will be held open for 10 business days for these responses.

If there is no further business, without objection, the Committee stands adjourned.

[Whereupon, at 4:19 p.m., the Committee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

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

We are here today for the second day of hearings on legislation I am considering to make amendments to PROMESA—the Puerto Rico Oversight, Management and Economic Stability Act.

I continue to believe this Federal law relies on austerity measures that severely impact the quality of life of ordinary Puerto Ricans, to achieve its goals of debt reduction and balanced budgets. For this reason, I wrote the amendments to PROMESA that are part of the "Discussion Draft" we will be discussing today.

The purpose of the hearing is to receive feedback from all stakeholders on the draft's provisions, which include defining essential public services, assigning Federal funding for the operation of the Oversight Board, reducing conflicts of interests, and auditing the debt. The draft also includes provisions to address Puerto Rico's disaster recovery challenges.

Last week, we received opinions and proposals from officials of the government of Puerto Rico to address PROMESA and a Federal disaster recovery process plagued by inequity toward the residents of the Island. Today, we will hear from witnesses representing academia, non-profit organizations, and the labor and business sectors. I want to encourage anyone who is not able to be a witness to submit comments for the record.

We have already received reactions both in favor and opposition to some of the provisions in the Discussion Draft. You will hear many of those comments from our witnesses today. I want to caution again those who raise objections to the provisions, to also offer alternatives to accomplish their goals.

There are two points I would like to emphasize. First, although the Ranking Member has expressed opposition to this effort, it is my responsibility and the responsibility of my colleagues to identify areas of consensus that may have the potential of moving forward. And, if that is not the case in the short-term, to lay the foundation for making improvements in the future.

Second, I recognize that it is impossible to discuss PROMESA without discussing the subordinate political relationship of Puerto Rico with the United States, and the need for new measures to foster economic development in Puerto Rico. As I have expressed before, I remain committed to having that discussion here after introducing legislation to address the shortfalls of PROMESA and disaster recovery efforts in the Island.

Although it is not a priority for the President and the leadership in the Senate, I acknowledge that discussing the political status of Puerto Rico is a priority for the political leaders of the Island, and most importantly for the people of Puerto Rico. Therefore, it should also be a priority for this Congress to hear from representatives of all political ideologies—their visions and plans for the political future of the Island.

In closing, I want to welcome our witnesses and thank them for traveling from Puerto Rico to be with us today. I look forward to receiving your testimony and working with each of you on improving the lives of the residents of Puerto Rico.

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[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE COMMITTEE'S OFFICIAL FILES]

## Submissions for the Record by Reps. Grijalva and Soto

— Center for a New Economy, Statement by Rosanna Torres, Director, Washington, DC Office, dated October 30, 2019.

— Daniel Santamaría Ots, Senior Public Policy Analyst, Espacios Abiertos, Letter to Chair Grijalva, dated October 28, 2019.

— United Auto Workers, Statement by Beverley Brakeman, Director, dated October 30, 2019.

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