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Part 1

PUERTO RICO OVERSIGHT, MANAGEMENT, AND ECONOMIC STABILITY ACT

JUNE 3, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 5278]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 5278) to establish an Oversight Board to assist the Government of Puerto Rico, including instrumentalities, in managing its public finances, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Puerto Rico Oversight, Management, and Economic Stability Act" or "PROMESA".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Effective date.
Sec. 3. Severability.
Sec. 4. Supremacy.
Sec. 5. Definitions.
Sec. 6. Placement.
Sec. 7. Compliance with Federal laws.

TITLE I—ESTABLISHMENT AND ORGANIZATION OF OVERSIGHT BOARD

Sec. 101. Financial Oversight and Management Board.
Sec. 102. Location of Oversight Board.
Sec. 103. Executive Director and staff of Oversight Board.
Sec. 104. Powers of Oversight Board.
Sec. 105. Exemption from liability for claims.
Sec. 106. Treatment of actions arising from Act.
Sec. 107. Budget and funding for operation of Oversight Board.

ADDITIONAL VIEWS

As Puerto Rico's sole elected representative in Congress, I write separately to explain why I support H.R. 5278, the *Puerto Rico Oversight, Management, and Economic Stability Act*, or PROMESA. H.R. 5278 is exceptional insofar as it was negotiated in a painstakingly bipartisan manner at an intensely partisan time in American political life, and inasmuch as it has been successful to date despite a well-funded and often dishonest lobbying campaign against the bill. The bill is imperfect—as all compromises by definition are—but it is also indispensable for my constituents. Of this I have no doubt.

At the May 25, 2016 markup of H.R. 5278, a bipartisan coalition of Committee members remained united to defeat multiple amendments designed to kill or severely weaken the bill. Amendments that were adopted strengthen the bill or are purely technical in nature.

I am convinced there is no superior legislative alternative to H.R. 5278 that can obtain the bipartisan support necessary to become law. Wishing there were does not make it so. And my constituents are not helped one iota by wishful thinking. They need swift, concrete action.

Overview

After decades of profound inequality at the federal level and profound mismanagement at the local level, the Puerto Rico government is in crisis, unable to meet its obligations to citizens and creditors. My constituents are leaving for the states in historic numbers, in search of equality and economic opportunity. Those who remain on the island face grave challenges. Everywhere I go in Puerto Rico, I see the concern etched on their faces. They fear for their finances, for their family, and for their future.

In an emergency, the first step is to stabilize the situation. I believe PROMESA can accomplish this objective. It pairs a comprehensive debt restructuring mechanism endorsed by the experts at the United States Treasury Department with an independent and temporary oversight board (which is not a federal entity)—not a heavy-handed control board—to help ensure that the Puerto Rico government conducts itself in a responsible, transparent, and disciplined manner.

I want to begin by underscoring five broad points about the bill before I highlight some specific provisions in the bill.

First, this bill is necessary, but not sufficient. Many commentators, including some of my congressional colleagues, like to cite one cause of the crisis in Puerto Rico, namely mismanagement at the local level. But they ignore the other cause of the crisis, which is inequality at the federal level enabled by Puerto Rico's status as a territory—rather than a state—of the United States. It may give

such commentators comfort to blame everything on Puerto Rico, but it is a false comfort rooted in a flawed reading of history. The second-class treatment my constituents are subjected to, a consequence of our second-class status, must end. It will not happen in PROMESA, but I am confident it will happen soon.

Second, nobody is more dissatisfied than I am that the government of Puerto Rico has arrived at the point where an oversight board is being contemplated. The last thing I need is to be lectured to about the importance of democracy and dignity, particularly by those Puerto Rico politicians who prefer for Puerto Rico to remain a territory rather than to become a state or a sovereign nation, and who have therefore been complicit in the denial of democracy and dignity to the people of Puerto Rico. After all, I support statehood for Puerto Rico, because I want the 3.4 million American citizens I represent to have full democratic rights, not fewer democratic rights. Accepting a board is personally, not to mention politically, painful. But it is also the right and necessary thing to do. For those Puerto Rico politicians who seek broad debt restructuring authority but oppose an oversight board—this is not realistic. After intensive negotiations, the bill establishes a board that is robust but reasonable. Its powers are far less potent than the powers that Congress conferred upon the board that it established for the District of Columbia in Public Law 104–8, the *District of Columbia Financial Responsibility and Management Assistance Act of 1995*. This is appropriate because Puerto Rico and the District are different in key respects. (I would note that P.L. 104–8 was supported by the District's delegate in Congress, my colleague Rep. Eleanor Holmes Norton, and history has vindicated her actions.) The Puerto Rico government and the oversight board should work together as partners for prosperity, not as petty rivals for power. If the Puerto Rico government does its job well, the board will have a limited role and will cease to operate within a few years.

Third, I would never—under any circumstances—support this legislation if it authorized a court-supervised debt restructuring mechanism that is unfair to the over 330,000 workers and retirees in Puerto Rico's severely underfunded public pension systems. The real threat to pension plan participants in Puerto Rico does not come from congressional action on PROMESA, but rather from the lack of congressional action. Those who argue otherwise may be well-intentioned, but they are wrong.

Fourth, as discussed in further detail below, I oppose Section 403 of the bill, which authorizes the Puerto Rico government to allow island employers to pay certain younger workers—hired after the date of enactment—less than the federal minimum wage for a specified period of time while the oversight board is in existence. In an otherwise bipartisan bill, this is the only instance where ideology can be said to have trumped intelligence. Nevertheless, I do not anticipate that the Puerto Rico government will ever use this authority, so its practical impact will be zero. Therefore, it is not worth discarding the broader bill over this misguided, but ultimately meaningless, provision.

Fifth and finally, there is a genuine emergency in Puerto Rico. I respect those who have concerns with certain aspects of the bill, but urge them to look at the bill holistically. If they do, I think

they will find that its pros vastly outweigh its cons. Any public official who opposes this bill has the responsibility to articulate a superior alternative approach that can actually become law. As noted, I do not believe one exists. In my view, the choice is between this imperfect but indispensable bill and no bill at all. And no bill is the worst possible outcome for Puerto Rico and the United States as a whole.

Now I would like to discuss some discrete provisions of H.R. 5278 in additional detail.

The Powers and Responsibilities of the Oversight Board

In general, the oversight board, which is not a federal entity, will provide guardrails for the Puerto Rico government, but will not supplant or replace the territory's elected leaders, who will retain primary control over budgeting and fiscal policymaking.

As per Section 201, the governor of Puerto Rico will develop a long-term fiscal plan—covering at least five fiscal years—that meets broad standards set forth in the law. The fiscal plan must ensure the funding of essential public services, provide adequate funding for public pension systems, estimate revenues and expenditures in accordance with appropriate accounting standards, eliminate structural budget deficits, provide for a sustainable level of debt, improve fiscal governance, provide for capital expenditures that promote economic growth, and respect the relative priorities that different classes of bondholders have vis-à-vis one another under Puerto Rico law. The oversight board will be required to certify the fiscal plan, but the governor will have numerous opportunities to craft a fiscal plan that conforms to the law.

As per Section 202, once a fiscal plan is in place, the governor will prepare a proposed budget that complies with the certified fiscal plan. After the oversight board approves the proposed budget, the proposed budget will be transmitted to the Puerto Rico Legislative Assembly as normal. The governor will have numerous opportunities to craft a compliant budget, incorporating any feedback received from the board. Upon receiving the budget, the Legislative Assembly will retain its constitutional right to modify the budget as it sees fit, so long as the budget continues to be consistent with the certified fiscal plan. Once the board approves the budget adopted by the Legislative Assembly, the certified budget will take effect. Thus, the board would itself step in to craft a multi-year fiscal plan or annual budget only as a last resort, and only in the event that Puerto Rico's elected leaders utterly fail to do the jobs for which they are elected.

As per Section 203, at the end of each quarter during the Puerto Rico fiscal year, the governor will provide a report to the oversight board, describing the revenues, expenditures and cash flows for the preceding quarter, as compared to what was projected to be spent and received in the certified budget. Based on this report and other information available to the board, the board may determine that there is a material inconsistency between what was projected to occur in the certified budget and what actually occurred. If that is the case, the board may ask the Puerto Rico government for additional information to explain the inconsistency and, if the additional information is not sufficient to justify the inconsistency, the

board may advise the Puerto Rico government to address the inconsistency through whatever remedial action the Puerto Rico government deems appropriate (for example, reducing spending or increasing revenues). If the Puerto Rico government does not address the inconsistency after being given multiple opportunities to do so, only then will the board be authorized to step in and address the problem. Again, Puerto Rico's fate rests in the hands of its elected leaders, under the broad supervision of the board.

Section 204(a) warrants careful analysis. An earlier version of PROMESA, released as a "discussion draft" on March 29th, required the oversight board to review every legislative act enacted by the Puerto Rico government and to make a determination—in the board's sole discretion—about whether each act was consistent with the certified fiscal plan. If the board determined that the act was consistent with the fiscal plan, the act would be allowed to take effect. However, if the board determined that the act was significantly inconsistent with the fiscal plan, the board was required to declare the act "null and void." This was essentially the procedure in place for the District of Columbia under Public Law 104–8, the *District of Columbia Financial Responsibility and Management Assistance Act of 1995*.

In H.R. 5278, Section 204(a) has been substantially improved. Under the bill, the governor will send each legislative act to the board, but the board can opt not to require the governor to do so. Moreover, as long as the governor provides the board with (1) a "score" of the bill from the Puerto Rico Office of Management and Budget (OMB) or another appropriate entity estimating the impact of the act on expenditures and revenues, and (2) a certification from the Puerto Rico OMB or another appropriate entity that the law is not significantly inconsistent with the certified fiscal plan, then the act is insulated from board review. It would only be if the Puerto Rico government, after being given numerous opportunities, fails to transmit to the board the cost estimate or the certificate of "no significant inconsistency," or if the Puerto Rico government certifies that the law is significantly inconsistent but fails to provide a reasonable explanation for such inconsistency, that the board would even be authorized—rather than required—to prevent enforcement of the legislative act in question. In summary, as long as the Puerto Rico government adheres to the most basic requirements of responsible legislating, it is exceedingly unlikely that any legislative act will ever be reviewed by the board, much less reversed. This is a "good government" provision because the Puerto Rico government should not be enacting legislation without having a reasonable sense of what its fiscal impact will be.

Section 204(b) also requires precise description. The earlier version of PROMESA, released as a discussion draft on March 29th, mandated that the oversight board review every contract, other than "vendor contracts," proposed to be executed by the Puerto Rico government—and did not define the term "vendor contracts." Given that the Puerto Rico government executes over 100,000 contracts annually, this provision—apart from being objectionable as a policy matter—was infeasible as a practical matter.

Like Section 204(a), Section 204(b) has been substantially improved in H.R. 5287. First, it requires the oversight board to work

with the Puerto Rico Office of the Comptroller to ensure that government agencies and departments are complying with the existing Puerto Rico law that requires agencies and departments to maintain a registry of all contracts they have executed and to send a copy of those contracts to the Office of the Comptroller, who publishes those contracts in an online database searchable by the public. This is a positive, pro-transparency measure.

Second, Section 204(b) authorizes—but does not require—the board to establish a policy to review certain contracts before they can be executed by the Puerto Rico government to determine whether they are inconsistent with the certified fiscal plan, thereby giving the board the discretion to craft a smart, sensible policy. The bill includes a "Sense of Congress" provision expressing the view that any policy established by the board "should be designed to make the government contracting process more effective, to increase the public's faith in this process, to make appropriate use of the Oversight Board's time and resources, to make the territorial government a facilitator of and not a competitor to private enterprise, and to avoid creating any additional bureaucratic obstacles to efficient contracting." Compare this to Public Law 104–8, the *District of Columbia Financial Responsibility and Management Assistance Act of 1995*, which authorized the oversight board to prereview every contract proposed to be executed by the District of Columbia government.

Section 204(b) applies the same reasonable oversight board procedures applicable to contracts to rules, regulations and executive orders as well. This is a dramatic improvement over the March 29th discussion draft, which authorized the board to directly issue rules and regulations, binding upon the people of Puerto Rico, as if the board were the Puerto Rico government.

Section 205 has also been substantially improved from the March 29th discussion draft. The discussion draft, which was drawn more or less verbatim from Public Law 104–8, (1) authorized the oversight board to submit recommendations to the Puerto Rico government regarding steps the government could take to promote financial stability and management efficiency, (2) required the Puerto Rico government to respond in writing as to whether it supported or opposed those recommendations, and then (3) empowered the board to impose its recommendations over the objection of the Puerto Rico government so long as the board provided notice to Congress. Under H.R. 5287, the anti-democratic provision empowering the oversight board to impose its recommendations over the objection of the Puerto Rico government has been removed. The board is still authorized to make policy recommendations and to obtain a written response from the Puerto Rico government regarding whether it will, or will not, implement those recommendations. Section 201 does require the fiscal plan put forward by the Puerto Rico governor to "adopt appropriate recommendations" submitted by the oversight board under Section 205, but the term "appropriate" provides the governor with significant flexibility to adopt sound recommendations and to decline to adopt unsound recommendations. The goal is for the governor and the board to work together for the benefit of the people of Puerto Rico, not to have parallel governing structures.

Section 208 requires the oversight board to submit a report to federal and local officials after each Puerto Rico fiscal year describing what the board has accomplished, how it has spent its funds, and the improvements that Puerto Rico has made. This section also requires the governor to submit a report to the oversight board, which the board must keep confidential, regarding the discretionary tax abatement or tax waiver agreements that the Puerto Rico government has with certain companies doing business on the island, providing these companies with a tax rate lower than the statutory rate.

Section 209 pertains to the termination of the board. The March 29th discussion draft provided that the oversight board would terminate once certain conditions were met, but could "snap back" into operation if certain triggering events subsequently took place. Under H.R. 5287, there is no longer a "snap back" provision. The board will terminate, once and for all, when the specified conditions are met. In terms of those conditions, the earlier draft required the Puerto Rico government to (1) have a balanced budget for five consecutive years and (2) have regained access to the capital markets at reasonable interest rates. H.R. 5287 shortens the time period in (1) to four consecutive years, the same as was required of the District of Columbia in P.L. 104–8.

Section 211 provides that, if the oversight board determines that one of Puerto Rico's public pension systems is underfunded, the board shall conduct an analysis—prepared by an independent actuary retained by the board—of that pension system. The March 29th discussion draft contained a more ideologically-driven provision that required the Joint Board for the Enrollment of Actuaries to analyze Puerto Rico's public pension systems, but that was drafted in a way that appeared to encourage the Board's analysis to reach certain pre-determined conclusions. That language was removed and replaced with the current, impartial language of Section 211.

The debt restructuring framework

Taken together, the relevant provisions of H.R. 5278—including Section 104(i), Section 104(j), Section 201, Section 206, Title III, Section 405, and Title VI—authorize debt-issuing public entities in Puerto Rico to restructure their debts in a federal court-supervised process under certain terms and conditions, if good-faith efforts by an entity to reach a consensual debt-restructuring agreement with its creditors have not borne fruit.

Section 405 imposes a stay on all creditor litigation in order to create a more suitable environment in which debt restructuring negotiations can occur. The stay lasts from date of enactment through February 15, 2017 or six months after the date of enactment, whichever is later. The stay can be extended by up to 75 days if the oversight board determines such an extension is necessary for an entity to reach a consensual agreement with its creditors.

As per Section 206, in order for a debt-issuing entity to access a federal court-supervised restructuring under Title III, the oversight board must determine that (1) the entity has made good-faith efforts to reach a consensual restructuring agreement with creditors, and (2) the entity has made public draft financial statements and adopted procedures necessary to deliver timely audited finan-

cial statements. If 5 of the 7 members of the board determine that these criteria have been met, the board shall provide a certification and the debt-issuing entity can access Title III.

Good-faith efforts to reach a consensual restructuring agreement can take different forms, including—but not limited to—use of the "collective action clause" provisions of Title VI of PROMESA. Under this process, a debt-issuing entity can reach agreement with a critical mass of creditors in a particular class or pool (two-thirds of the owners of the outstanding principal in that pool), and that agreement can become binding—that is, enforceable by a court—on "holdout" creditors in the pool. This process will be mediated by the oversight board, called the "Administrative Supervisor" for purposes of Title VI. The debt-issuing entity can propose a particular modification to be voted on by creditors, or creditors can propose a modification that can be accepted by the board on behalf of the debt-issuing entity. But proposed modifications must meet certain standards before they can be voted on and accepted. Any voluntary agreement must be certified by the oversight board before it takes effect. In general, the board must determine that the debt restructuring agreement provides for a sustainable level of debt and that it is consistent with the certified fiscal plan.

Once a debt-issuing entity has accessed Title III, the oversight board—as the representative of the entity—will file the petition to adjust debts and file the plan of adjustment that proposes particular treatment for different classes of creditors (bondholders, government workers, retired government workers, vendors who have sold goods or services to the government). The board may only put forward a plan of adjustment that is consistent with the certified fiscal plan, meaning, among other things, that the plan of adjustment must provide "adequate finding" for public pension systems.

With limited exceptions, the provisions normally applicable in a proceeding under the federal bankruptcy code will apply to a Title III proceeding under PROMESA.

In order to confirm a plan of adjustment, the federal judge must determine, among other things, that the plan (1) is feasible and in the best interests of creditors (which is drawn verbatim from federal bankruptcy law); and (2) is consistent with the certified fiscal plan. The fiscal plan, in turn, is required to provide adequate funding for public pension systems and to "respect the relative lawful priorities or lawful liens, as applicable, in the constitution, other laws, or agreements" in effect in Puerto Rico prior to the date of enactment. This provision does not exempt any creditor from haircuts and simply memorializes what a federal judge would almost certainly do in any event—that is, look to relative payment priorities set forth in applicable state law when administering a debt restructuring process.

In sum, H.R. 5278 gives debt-issuing entities in Puerto Rico strong but fair tools to restructure their unsustainable debt, ideally through consensual, out-of-court agreements, but through a court-supervised process if necessary. It is important to emphasize that I do not view Puerto Rico and its creditors as adversaries engaged in a zero-sum conflict where one side's gain is another side's loss. Instead, I regard Puerto Rico and its creditors as passengers on the

same distressed ship. We are going to sail safely to shore together, or we are going to sink together.

Labor related provisions

Section 403 relates to the application of the federal minimum wage in Puerto Rico. This provision, which I oppose, has generated controversy, and so it is important to understand exactly what the provision does—and does not—do.

Current federal law allows employers throughout the United States to pay workers up to age 20, in the first 90 days of employment, less than the federal minimum wage of $7.25 per hour, but no less than $4.25 per hour. Section 403 authorizes the governor of Puerto Rico, with the permission of the oversight board, to allow island employers to extend the 90-day period to up to 4 years, but only for Puerto Rico employees hired after the date of enactment. If the governor does not opt in, this provision has no effect. Once the oversight board is terminated, this provision is rendered null and void.

The provision also amends federal law to allow Puerto Rico employers to extend the subminimum wage provision to workers up to age 25, rather than up to age 20. Again, this is only for workers hired after the date of enactment and, again, this provision becomes null and void upon the termination of the oversight board. The Puerto Rico government can simply override this provision by enacting legislation maintaining the age ceiling age at 20.

In short, if the Puerto Rico government does not want to pay workers of any age less than $7.25 per hour for any period of time, it is completely free to take action to ensure that result, by declining to opt in to one provision (extending the 90-day rule) and affirmatively opting out of the other provision (raising the 20-year-old age ceiling).

More generally, this is a deeply misguided provision, even if it will not have any practical effect in Puerto Rico. The people of Puerto Rico are American citizens. Puerto Rico's economy is part of the U.S. economy. As federal policymakers, our objective should be to close the gap between Puerto Rico and the states, not to widen it. The gap exists precisely because the federal government has treated Puerto Rico unequally and unfairly over the years, and so the last thing Congress should be doing is enacting more bills that treat my constituents unequally and unfairly.

As Sergio Marxuach, the policy director at a Puerto Rico-based think tank, the Center for a New Economy, explained in detail during his testimony before the Senate Committee on Energy and Natural Resources on October 22, 2015, the application of the federal minimum wage to Puerto Rico is not the cause of the U.S. territory's economic problems and exempting Puerto Rico from the federal minimum wage is likely to harm, rather than to help, the territory's economy.

The percentage of working-age individuals in Puerto Rico who are working or seeking work in the formal economy—known as the labor participation rate—is very low. It currently stands at under 40 percent, compared to a U.S. national average of over 60 percent. There is a large informal economy in Puerto Rico, meaning many individuals earn income, but do not pay payroll or income taxes on

that income and do not accrue benefits like Medicare and Social Security.

Given the specific situation in Puerto Rico, the goal of federal and local policymakers should be to enact policies that encourage island residents, whether they are unemployed or working in the informal economy, to obtain jobs in the formal economy. Authorizing employers in Puerto Rico to pay certain workers under the federal minimum wage would not help achieve this objective.

A recent report by the Puerto Rico Institute of Statistics compared the cost of living in Puerto Rico with approximately 325 urban areas in the United States, and concluded that the overall cost of living in Puerto Rico—encompassing gasoline, energy, food and housing—is 13 percent higher than in those jurisdictions. Residents of Puerto Rico are also required to pay an 11.5 percent sales tax on most purchases, which is the highest sales tax in the nation. It is difficult to see how a worker in Puerto Rico could earn under $7.25 an hour, pay taxes on that income, and still meet his or her most basic needs. The most likely result of exempting Puerto Rico from the federal minimum wage would be to discourage individuals from working in the formal economy, to encourage more individuals to work in the informal economy, to provide an additional incentive for individuals to rely upon government assistance programs rather than to work, and to increase the already-historic level of migration from Puerto Rico to the states. I am not aware of a single economist in Puerto Rico who has argued otherwise.

Rather than authorizing employers in Puerto Rico to pay workers a lower wage, a far more constructive course of action would be for Congress to include Puerto Rico in the federal earned income tax credit program and to fully extend the federal child tax credit program to the territory, as many economists in the states and Puerto Rico have proposed. Nearly every individual in the states who receives a refund check under the EITC and CTC programs does not earn enough to owe a single penny in federal income taxes, so there is no reasonable basis to argue that Puerto Rico residents should not be eligible for these programs because Congress has chosen to exempt territory residents from certain federal income taxes—the usual excuse given by policymakers for Puerto Rico's discriminatory treatment under the EITC and CTC programs.

Section 404 relates to the U.S. Department of Labor's (DOL's) administrative rule. This rule—which became final on May 18, 2016—increases the salary threshold above which an employee is exempt from the overtime provision of the Fair Labor Standards Act (FLSA), raising it from the current $455 per week ($23,660 per year) to $970 per week ($50,440 per year). Accordingly, executive, administrative, and professional employees making between $455 and $970 per week are now covered by the overtime provisions of the FLSA and entitled to overtime pay for hours worked in excess of 40 per week.

The final DOL rule applies to Puerto Rico employers, even though the Puerto Rico Secretary of Labor requested an exemption from this rule and I expressed concern about my inability to obtain a reasonable estimate about the potential impact of extending the higher salary threshold to Puerto Rico. My concern was rooted in the fact that the White House issued a document to members of

Congress that provides a state-by-state breakdown of how many workers in each jurisdiction are likely to be affected by the new rule. As is often the case, however, no breakdown was provided for Puerto Rico. This document was based on a statistical product called the Current Population Survey—jointly prepared by the U.S. Census Bureau and the Department of Labor—that is not conducted in Puerto Rico.

Section 404 will exempt Puerto Rico from the overtime rule. However, the provision requires the Government Accountability Office—within two years of the date of enactment—to prepare a report analyzing the economic impact of including Puerto Rico in the rule. Then, the Department of Labor, using the GAO report and other relevant information, can certify that including Puerto Rico in the rule will not have a negative impact on Puerto Rico's economy. Upon that certification, Puerto Rico will be included in the rule. If the certification is not provided, Puerto Rico will continue to be excluded.

At my request, the provision also includes a "Sense of Congress"" that the Census Bureau and the Department of Labor should conduct a study to determine the feasibility of extending the Current Population Survey to Puerto Rico and the other territories, and should request the funding from Congress necessary to conduct that study—about $194,000—if it cannot fund the study with current appropriations.

I support Section 404 in its current form.

Puerto Rico's Political Status

Section 402, included at my request, confirms that nothing in H.R. 5872 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."

This provision is of critical importance. The American public and their elected representatives must come to terms with a fundamental fact, which is that the main cause of Puerto Rico's economic, fiscal and demographic problems is its undemocratic and unequal political status. As then-Chairman Ron Wyden and then-Ranking Member Lisa Murkowski both recognized during their opening statements at an August 1, 2013 hearing held by the Senate Committee on Energy and Natural Resources, a clear majority of voters in Puerto Rico rejected this status in a locally-sponsored plebiscite held in November 2012. My constituents are now being governed under an arrangement to which they do not consent.

Puerto Rico's status as a territory is not an abstract or theoretical problem. It is a moral, social and political wrong with crushing practical consequences for the men, women and children I represent. There will always be some people and politicians who assert, despite overwhelming evidence to the contrary, that Puerto Rico's consistent underperformance relative to the 50 states over the course of many decades has nothing to do with the unequal treatment that Puerto Rico receives as a territory. There are even people and politicians who claim that Puerto Rico's status is an advantage rather than a disadvantage, though their voices have mostly gone silent in recent years. These people and politicians can always be counted on to find some reason why *now* is not the mo-

ment to address the issue of status. They are wrong on the merits, and they are on the wrong side of history. The time has come for my constituents to have equality in this union or to have independence outside of it. If Puerto Rico can be compared to a weak and fragile body, then territory status is its depleted heart. Puerto Rico has the potential to be strong and stable, but it needs a powerful new heart.

I look forward to the day when the U.S. citizens who reside in Puerto Rico, especially the hundreds of thousands of men and women who have served this nation in the armed forces, can vote for their national leaders and fully participate in debates over national policy that affect every aspect of their lives. I look forward to the day when Puerto Rico will be treated equally as a matter of right, and does not have to beg this Congress for fair treatment. I look forward to the day when my constituents have the exact same rights and responsibilities as my stateside colleagues' constituents—not better treatment, not worse treatment and not "special" treatment.

That new day is just over the horizon. As noted, in a 2012 local plebiscite, Puerto Rico voters rejected territory status. In that same plebiscite, more voters expressed a preference for statehood than for any other status option. Congress responded in January 2014 by enacting an historic law—P.L. 113–76, explicitly referenced in Section 402 of PROMESA—that authorizes, and appropriates $2.5 million in funding for, the first federally-sponsored status plebiscite in the 118 years that Puerto Rico has been a U.S. territory. It is my hope and expectation that, in 2017, the Puerto Rico government will use this authority to conduct a federally-sponsored, yes-or-no plebiscite on whether Puerto Rico should be admitted as a state. In the immediate term, there is much that the Puerto Rico government and the federal government should do to help the territory manage its economic crisis, including—most urgently—swiftly enacting PROMESA. However, for Puerto Rico to truly prosper, it must be treated equally. And to be treated equally, the territory should become a state.

PEDRO R. PIERLUISI.