

(S. B. 1467)

(No. 51-2020)

(Approved May 16, 2020)

AN ACT

To create the “Act to Define Puerto Rico’s Ultimate Political Status,” in order to establish the rules for the holding of a plebiscite on November 3, 2020 to resolve the century-old problem of Puerto Rico’s status as a territory of the United States of America; guarantee that the U.S. citizens of Puerto Rico exercise their right to self-determination and their right to demand the Federal Government for redress of grievances; provide the conditions for conducting this plebiscite pursuant to Public Law 113-76 of 2014 and the pertinent congressional reports, *House Report 113-171* and *House Report 116-101*; appropriate funds; and for other related purposes.

STATEMENT OF MOTIVES

“No man is good enough to govern another man, without the other’s consent.”

(Abraham Lincoln)

“I can’t believe that we can fight a war against fascist slavery, and at the same time not work to free people all over the world from a backward colonial policy.”

(Franklin D. Roosevelt reproach to Prime Minister Winston Churchill during their meeting in Argentia Bay, in the Canadian province of Newfoundland, in August, 1941.)

One hundred and twenty-two years of colonial inequality and disadvantages have been too long. Puerto Rico continues to be the oldest and most populous colonial territory in the world.

No democratic nation in the 21st century should continue to submit millions of its citizens to so many years to unequal rights; socioeconomic disadvantages; and

a lack of representation and voting power in the Federal Government that governs their lives.

Due to its nature and historical precedents, the colonial or territory status has always limited the socioeconomic development of peoples, thereby accentuating permanent crisis and poverty. Puerto Rico has not been the exception. Puerto Rico's prolonged colonial condition has resulted in the accumulation of significant socioeconomic problems. Under the U.S. flag and citizenship, finding real solutions and achieving a positive transformation would only be possible upon the recognition of equal rights and obligations for the U.S. citizens of Puerto Rico.

This positive transformation took place in all of the poor and disadvantaged former territories of the United States that achieved equality by becoming states of the Union. Their territory status kept them at a serious disadvantage, which they were able to overcome by becoming states of the Union. At present, they all enjoy quality of life and progress, thus strengthening our Nation.

Puerto Rico needs and has made electoral demands for these same opportunities, rights, and duties, for the past eight years. The permanent crisis shall persist as long as Puerto Rico continues in this vicious territorial cycle and no act of Congress shall be enough to remedy the problems that this Island has accumulated over the past 122 years. History undeniably supports this statement. No federal legislation, past or present, has prevented or remedied the disastrous effects the territory status has had on Puerto Rico. Ignoring the real solution is to perpetuate the problem.

One hundred and three (103) years ago, the Jones-Shafroth Act granted Puerto Ricans U.S. citizenship at birth. The difficulties the territory has faced have led to the mass migration of most of our population to the states in search of rights and opportunities they do not have on the territory. Most Puerto Ricans—over 5 million—are currently living in the states of the Union. Despite the mass migration,

our Island's currently diminished population of 3.2 million surpasses that of 21 states of the Union.

As a territory, Puerto Rico has had to survive surrounded by the rules and laws of one of the most developed economies in the world, but with huge political and economic disadvantages which severely harm its stability, development, and quality of life. Being U.S. citizens and having expressed, through a vote, our desire to assume the same responsibilities with equal rights, it would be unjust to continue to condemn the citizens who reside in Puerto Rico to survive in a colonial system that is in decline and on its way to the third world. Puerto Rico's situation can be fixed if we act now, with haste, to leave its territory status and permanent crisis in the past.

For example, had the Federal Government acted decidedly and conclusively by accepting the decision made by the majority of U.S. citizens of Puerto Rico in the Plebiscite of 2012, it would have dispelled the territorial uncertainties that, after 2014, led to the downgrading of the island's credit rating and other events that now represent great economic challenges which are insurmountable within this territory status.

The U.S. citizens of Puerto Rico have made significant contributions to the economic, commercial, industrial, military, scientific, technological, and cultural development of the Nation. In fact, reliable public opinion studies conducted at a national level in recent years confirm that an overwhelming majority of our fellow citizens in the states favor statehood for Puerto Rico. The number of federal, state and municipal officials that support equality for Puerto Rico grows each day. However, not having the right to vote in the federal elections nor the right to vote and equal representation in Congress as well as the unequal political and economic treatment of Puerto Rico from the Federal Government, contrasts with Puerto Rico's contributions to the development of our Nation.

Since Puerto Rico became a territory in 1898, more than 235,000 Puerto Ricans have served in the United States Armed Forces. Thousands of those service members have received awards and decorations of all sorts, including for courageous military service in the 20th and 21st centuries. Nine Puerto Rican service members have been awarded the Congressional Medal of Honor and many have been awarded the Distinguished Service Cross or the Navy Cross. The Puerto Rico 65th Infantry Regiment (known as the “Borinqueneers”) was awarded the Congressional Gold Medal for its contributions and sacrifices in the armed conflicts of the United States which include the World War I, World War II, and the Korean War. The memorial walls erected to commemorate the heroes who gave their lives for our Nation have the names of hundreds of our Island’s soldiers inscribed upon them.

Puerto Rico is prepared to be admitted as a state of the Union with rights and obligations equal to those of the other states. To place obstacles on the path to this inevitable destiny will needlessly prolong a colonial crisis that affects lives and impairs rights in Puerto Rico as well as inconvenience the Federal Government as it hopelessly tries to fix an unfixable territory status.

Despite Puerto Rico’s current economic condition, which is the result of the accumulated damage caused by 122 years of territorial disadvantages, our economy, infrastructure, commercial and industrial activity, and education system are, relative to its time and place, much stronger and better organized than those of any of the former territories prior to their annexation to the Union. In fact, none of the former territories had an economy that was equal or superior to that of any state at the time of their annexation. All former territories were poor and disadvantaged as a result of their territory status. Equal rights and obligations through statehood propelled them to the prosperity they now enjoy.

The U.S. Congress has never refused statehood to the territories that requested it. For example, in 1959, Congress granted statehood to an impoverished Hawaii

with an eligible voter turnout of 34%. Hawaii is currently a productive and developed state.

BACKGROUND ON OUR CURRENT STATUS AS A TERRITORY

1898: The sovereignty of the Federal Government over Puerto Rico was established in the Treaty of Paris signed by the United States and the Kingdom of Spain on December 10, 1898, after the Spanish-American War. The Island's inhabitants had no participation in this Treaty. Henceforth, all lives and rights in Puerto Rico are governed and limited by the laws promulgated by Congress through its absolute and unilateral power to establish rules by virtue of the Territory Clause, Article IV, Section 3, Clause 2, of the Constitution of the United States.

1901: Due to reasons mostly related to the Philippines, also ceded by Spain in the Treaty of Paris, the same justices of the Supreme Court of the United States who established the "separate, but equal" doctrine in *Plessy v. Ferguson*, 163 U.S. 537 (1896), also established the segregationist doctrine of "incorporated" and "unincorporated" territories in *Downes v. Bidwell*, 182 U.S. 244 (1901). After *Downes*, and in all subsequent related federal cases (Insular Cases), Puerto Rico is considered an "unincorporated territory" of the United States, and it is still considered as such. That outdated and prejudiced doctrine borne out of the racial prejudices of the 19th and 20th centuries still classifies Puerto Rico as a "property" of, but not part of the United States.

1917: In order to update federal relations with Puerto Rico, Congress enacted the Jones-Shafroth Act and also to grant U.S. citizenship to all persons born on the Island, which constituted a positive Congressional step towards Puerto Rico's eventual annexation to the Nation.

1922: In *Balzac v. Puerto Rico*, 258 U.S. 298 (1922), the Supreme Court of the United States held that certain provisions of the U.S. Constitution which protect

the citizens who reside in the states of the Union do not apply to the U.S. citizens who reside in the “unincorporated territory.” Therefore, they do not enjoy the “equal protection of the laws” approved by the U.S. Congress and which affect their lives.

1950: Facing the global pressure the United Nations (U.N.) was placing on the world powers that controlled “non-self-governing territories” and “unorganized territories,” Congress approved Public Law 81-600, known as the “Puerto Rico Federal Relations Act.” This federal Act, which is still in effect, amended the Jones-Shafroth Act of 1917 to adjust the manner in which the United States exercised its sovereignty over Puerto Rico thus meeting some of the U.N.’s demands. Public Law 600 was successful in appeasing the U.N. at the time and it is still the legal instrument that unilaterally defines the federal sovereignty over the Island. Furthermore, this federal Act authorized the drafting of a local Constitution so as to make the Island appear to be a “self-governing” and “organized” territory. Public Law 600 established that the final approval and effectiveness of this local Constitution were subject to amendment and ratification by Congress and the President, above the vote issued by the citizens of Puerto Rico.

At present, this is the local Constitution in effect that provides a republican form of government; is compatible with the United States Constitution; and is equivalent to the constitution of each state of the Union. It is important to clarify that this local Constitution is not what maintains the relationship between Puerto Rico and the United States. As we stated above, the Treaty of Paris of 1898, implemented through the Territory Clause of the U.S. Constitution and Pub. Law 81-600 of 1950, are what maintain and define this relationship of absolute federal sovereignty over Puerto Rico. The local Constitution only defines the structure of the territorial government, and the fundamental rights and obligations of the Island’s citizens with regards to that government.

1951: To validate this status before the U.N. and to project that the U.S. citizens of Puerto Rico had given their supposed electoral consent, the government of the United States included two matters in Public Law 600 which have caused great confusion:

1) it reaffirmed the unilateral and absolute sovereignty of the United States over Puerto Rico in accordance with the Treaty of Paris of 1898; and

2) it authorized the People of Puerto Rico to draft a Constitution which strictly addressed local matters that did not affect the sovereignty of the Federal Government.

With the collaboration of the local government at the time, which favored the territory status, the Federal Government promoted the holding of a Referendum to ratify Public Law 600 on June 4, 1951. The Public Law also limited the referendum specifically to that which pertained to the drafting and approval of a local Constitution that would not affect the unilateral sovereignty of the United States. The confusing question printed on the Referendum ballot was: “Do I agree with the approval of Public Law 600?” Voters were asked this question even though all of the provisions of this Public Law which pertained to the unilateral sovereignty of the Federal Government and the Island’s territory status had been approved a year before —on July 3, 1950— by Congress and the President. The territorial provisions of Act No. 600 were never consulted with the People of Puerto Rico. Thus, in 122 years, the United States government has never obtained the electoral consent of the U.S. citizens of Puerto Rico for the current territorial relationship. For decades, the Federal Government claimed, in national and international forums, that Puerto Rico had given its electoral consent to the territory status, “in the nature of a compact,” through the Referendum of 1951. The Federal Government stopped using this baseless claim years ago.

A majority of Puerto Rico's qualified voters, -50.3%-, voted against, did not vote, or voted a blank ballot in the Referendum to ratify Public Law 81-600.

1952: The United States government also promoted the holding of another referendum by the territorial government, held on March 3, 1952, in order to ratify the local Constitution authorized by Public Law 81-600. In this Referendum, a majority, that is, 57.5% of qualified voters, voted against, did not vote, or voted a blank ballot.

1980: Following the segregationist doctrine established by the Insular Cases of 1901, in *Harris v Rosario*, 446 U.S. 651 (1980), the Supreme Court of the United States reiterated that it was "legal" for Congress to discriminate against the U.S. citizens who reside in the territory of Puerto Rico when appropriating federal funds "if there is a rational basis for its actions."

2016 until present day: Recently, in *Puerto Rico v Sánchez Valle*, 579 U.S. (2016), the Supreme Court of the United States recently resolved, at the request of the Federal Government, that Puerto Rico also lacks "inherent sovereignty" as opposed to the states and Indian reservations. Party admission, waiver of evidence. This unequal and discriminatory status urgently demands we find a definitive solution; all the more so because it is unbearable and unsustainable by Puerto Rico's U.S. citizens. It diminishes their quality of life, and socioeconomic development opportunities to the bare minimum. It has also led to the largest migration of families to the United States in history.

2012 and 2017 PLEBISCITES

Puerto Rico has taken steps forward in the process of overcoming its territory status and it is now time to complete this process in order to achieve progress and permanent stability through statehood; our voters have so demanded in the two recent plebiscites.

A valid majority vote of the U.S. citizens of Puerto Rico demanded equal rights and obligations through statehood which permanently annexes us to the United States; directly rejected of the current territory status; and also rejected the options of independence with a treaty of free association and full independence.

These electoral expressions were made in the plebiscite conducted in Puerto Rico on November 6, 2012, and were reiterated by the voters in the Plebiscite of June 11, 2017.

Plebiscite of 2012

The ballot contained two (2) questions for voters:

First Question:

Do you agree that Puerto Rico should continue to have its present form of territorial status?

NO	53.97%
YES	46.03%

Second Question:

Please mark which of the following non-territorial options you would prefer.

STATEHOOD	61.16%
FREE ASSOCIATED SOVEREIGN STATE	33.34%
INDEPENDENCE	5.49%

The following definition for “STATEHOOD” was printed on the ballot:

Puerto Rico should be admitted as a state of the United States of America in order to provide the U.S. citizens who reside in Puerto Rico with rights, benefits, and responsibilities equal to those enjoyed by the citizens of the states of the Union, and be entitled to full representation in Congress and to participate in the Presidential elections, and the United States Congress would

be required to pass any necessary legislation to begin the transition into Statehood.

The following definition for “FREE ASSOCIATED SOVEREIGN STATE” was printed on the ballot:

Puerto Rico should adopt a status outside of the Territory Clause of the Constitution of the United States that recognizes the sovereignty of the People of Puerto Rico. The Free-Associated Sovereign State would be based on a free and voluntary political association, the specific terms of which shall be agreed upon between the United States and Puerto Rico as sovereign nations. Such agreement would provide the scope of the jurisdictional powers that the People of Puerto Rico agree to confer to the United States and retain all other jurisdictional powers and authorities.

The following definition for “INDEPENDENCE” was printed on the ballot:

Puerto Rico should become a sovereign nation, fully independent from the United States and the United States Congress would be required to pass any necessary legislation to begin the transition into the independent nation of Puerto Rico.

Plebiscite of 2017

Three (3) status options were provided for Voters:

STATEHOOD	97.13%
FREE ASSOCIATED SOVEREIGN STATE	1.52%
INDEPENDENCE	1.35%

The following definition for “STATEHOOD” was printed on the ballot:

With my vote, I reiterate my request to the Federal Government to immediately begin the process for the decolonization of Puerto Rico with the admission of Puerto Rico as a state of the United States of America. I am aware that the result of this request for Statehood would entail equal rights and duties as the other states; and the permanent union of Puerto Rico with the United States of America. I am also aware that my vote claiming Statehood means my support to all efforts towards the admission of Puerto Rico as a state of the Union, and to all state or federal legislation aimed at establishing equal conditions, Congressional Representation and the Presidential Vote for the American Citizens of Puerto Rico.

The following definition for “FREE ASSOCIATION/INDEPENDENCE” was printed on the ballot:

With my vote, I make the initial request to the Federal Government to begin the process of the decolonization through:

(1) “FREE ASSOCIATION”: Puerto Rico should adopt a status outside of the Territory Clause of the Constitution of the United States that recognizes the sovereignty of the People of Puerto Rico as a complete and unencumbered Independence. The Free Association would be based on a free and voluntary political association, the specific terms of which shall be agreed upon between the United States and Puerto Rico as sovereign nations. Such agreement would provide the scope of the jurisdictional powers that the People of Puerto Rico agree to confer to the United States and retain all other jurisdictional powers and authorities; or

(2) Proclamation of “INDEPENDENCE”: I demand that the United States Government, in the exercise of its power to dispose of territory,

recognize the national sovereignty of Puerto Rico as a completely independent nation and that the United States Congress enact the necessary legislation to initiate the negotiation and transition to the independent nation of Puerto Rico. My vote for Independence also represents my claim to the rights, duties, powers, and prerogatives of independent and democratic republics, my support of Puerto Rican citizenship, and a ‘Treaty of Friendship and Cooperation’ between Puerto Rico and the United States after the transition process.

The following definition for “CURRENT TERRITORIAL STATUS” was printed on the ballot:

With my vote, I express my wish that Puerto Rico remains, as it is today, subject to the powers of the Congress and subject to the Territory Clause of the United States Constitution that in the Article IV, Section 3 of the United States Constitution states: ‘The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

We stress that the direct rejection of our current territory status by voters in both of the recent plebiscites also constitutes a revocation of the consent to the territory status supposedly granted by the U.S. citizens of Puerto Rico to the government of the United States of America in the Referendum for Public Law 81-600 on June 4, 1951. Therefore, since the Plebiscite of 2012, the U.S. citizens of Puerto Rico have continued to suffer the inequalities and disadvantages of the territory status despite having rejected it through a vote and self-determination. The perpetuation of our current “unincorporated territory” status constitutes a grievance

that contradicts our Nation's values of equality and democracy. This unacceptable grievance demands prompt redress.

Voter turnout in the recent Plebiscites of 2012 and 2017 exceeded that of the Referendums held in 1951 and 1952, by hundreds of thousands of votes. In fact, the government of the United States of America validated the results of these earlier referendums of the 1950s in order to uphold the status of "unincorporated territory," which is still in effect to this day, despite the fact that less than half of qualified voters voted in its favor. Therefore, the electoral demands for equality through statehood made by the U.S. citizens of Puerto Rico as recently as in 2012 and 2017 must not be suppressed by the seventy-year old alleged consent to the territory status. The most basic principles of democracy repudiate this unacceptable suppression.

PUBLIC LAW 113-76 (2014)

After more than a century of being at a disadvantage due to our territory status, and after the conclusive result of the Plebiscite of 2012 in which the current status was rejected, Congress and the President approved an appropriation of \$2.5 million in the "Consolidated Appropriations Act," Pub. L. 113-76, 128 Stat. 5, 61 (2014), for the "objective, nonpartisan voter education about, and a plebiscite on, options that would resolve Puerto Rico's future political status, which shall be provided to the State Election Commission of Puerto Rico."

Evidently, the aforementioned Public Law was the U.S. government's reaction to the conclusive electoral rejection, in the Plebiscite of 2012, of the territory status imposed by the Treaty of Paris of 1898; and reaffirmed by Public Law 81-600 of 1950. The democratic values of the United States of America are inconsistent with continually forcing 3.2 million U.S. citizens to survive under territorial inequality against their will and self-determination. He who resorts to the weak allegation that the electoral rejection of the territory status, which began with the Plebiscite of 2012, is no longer effective, should explain how the suppression of that electoral

expression through the imposition of colonialism under the Treaty of Paris of 1898 and the territorial provisions of Public Law 81-600 of 1950 is democratically justified without the participation of the U.S. citizens of Puerto Rico.

With the appropriation of the \$2.5 million, the letter of the law, and the intent of Congress are made evident and are not subject to interpretation. The fundamental purpose thereof is to “resolve” the political status in order to break the vicious cycle of the one hundred-year-old territory status that has been rejected by a majority of voters. It is worth noting that the unsustainability of the current territory status, known as the Commonwealth, is such that the local political party which has promoted this status since 1951, in the Plebiscites of 1993, 1998, 2012, and 2017, chose to not defend this option thereby acknowledging that they do not have enough voter support to win. For the past 40 years, this political party has refused to submit a new definition for a non-territorial and non-colonial status because it is aware that its only legally and constitutionally viable option would be independence with a treaty of free association. The party has never reached an internal consensus with regards to that matter, but it employs any mechanism, except the vote, so as to maintain the status quo to the detriment of voters who vote freely and democratically.

In the Report of the Committee on Appropriations (House Report 113-171, at 54, 2014) on the aforementioned Act, Congress established the requirements for the transfer of the \$2.5 million to the Puerto Rico State Election Commission. The requirements are that the “voter education materials, plebiscite ballot, and related materials are not incompatible with the Constitution and the laws and policies of the United States.” This Act meets all of the aforementioned requirements.

Note that the ministerial duty of the Attorney General under this Act is to certify that the electoral processes and plebiscite options legislated in Puerto Rico, and implemented by the State Election Commission, comply with Public law 113-

76 (2014) and the requirements of House Report 113-171 and House Report 116-101, but only with the sole purpose of disbursing the \$2.5 million appropriated by Congress. Evidently, when approving the aforementioned Public Law, it was not the intent of Congress to limit, diminish, or delegitimize the right of the U.S. citizens of Puerto Rico to exercise their self-determination regardless of the enforcement of a federal plebiscite law. Logically, if the Attorney General considers any element to be “incompatible,” he should present his arguments so this Legislative Assembly can take them into consideration.

This Act provides a reasonable amount of time for the U.S. Attorney General to exercise his ministerial duty and issue the certification taking into consideration that:

(1) federal case law recognizes the power of the states and of Puerto Rico to provide the rules of their plebiscites and election processes through legislation, subject to their respective state laws and constitutions, as long as the fundamental federal rights of citizens are protected; and

(2) the case law and the laws of Puerto Rico require accuracy in the election processes, and specific periods of time to carry out certain transactions prior to the casting of votes to protect the fundamental rights of the voters.

If no deadline is provided by this local Act to serve as a guide for the U.S. Attorney General to perform his ministerial duties under Public Law 113-76 (2014), it would provoke uncertainty and all the electoral transactions prior to the election would be affected, including the terms for voters to register with the Voter Registry of Puerto Rico, requests for absentee ballots, the printing of election materials such as the ballots, and the education campaign. It is within this context of necessary accuracy that the appropriate deadline of June 30, 2020 is suggested to the U.S. Attorney General so as to not adversely affect these processes or the rights of the voters.

This Act also appropriates the state financial resources necessary to defray the expenses of the plebiscite herein directed and which may be combined with the \$2.5 million appropriated by Congress.

These state resources are excluded from the intervention and discretion of the Financial Oversight Board created under Public Law 114-187 of 2016, known as the “Puerto Rico Oversight, Management, and Economic Stability Act” (PROMESA).

When PROMESA was approved, its Section 402 recognized that the U.S. citizens of Puerto Rico are entitled to this democratic expression, and specifically, to self-determine the future political status of Puerto Rico without PROMESA or its Financial Oversight Board constituting obstacles for such purposes.

“Section 402. Right of Puerto Rico to determine its future political status: 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, 2014.”

After 122 long years, Puerto Rico continues to be a colonial territory in the most despicable sense of the term. All the federal laws imposed on Puerto Rico, the case law of the Supreme Court of the United States, all the policies promulgated by the President, all the reports and opinions of the technical offices of the White House in 2005, 2007, and 2011, of Congress, as well as of the U.S. Justice Department agree that Puerto Rico is a territory subject to the sovereignty, and unilateral powers of the Government of the United States of America.

U.S. HOUSE REPORT 116-101

The most recent report from Congress, House Report 116-101, contains transcendental statements on the resolution of Puerto Rico’s territory status. This report also directs the U.S. Department of Justice to act with regards to the plebiscite on Puerto Rico’s political status which Congress provided for in Public Law 113-76 (2014).

This report emphasizes that the current territory status, known as the Commonwealth, “should be excluded from any future plebiscite, since it fails to address key inequities.”

House Report 116-101 – Exact statement made by Congress on Puerto Rico’s political status:

In the Consolidated Appropriations Act, 2014 (Public Law 113-76), the Committee provided funding for the Department of Justice to help oversee and administer a plebiscite to `resolve Puerto Rico's future political status.

The Committee believes that to accomplish this goal, the current territorial/Commonwealth status should be excluded from any future plebiscite, since it fails to address key inequities.

Despite previous requests to use this funding to help administer such a plebiscite, the Department did not certify yet a plebiscite ballot to obligate this funding.

The Committee believes that the Department has a responsibility to address issues of democratic representation and equality in Puerto Rico and the other territories of the United States, including addressing questions of political status.

Therefore, the Committee instructs the Department to expeditiously act upon any request for this funding from the Puerto Rico State Elections Commission, and to notify the Committee of any requests for this funding.

The Committee instructs the Department, within 45 days of enactment of this Act, to provide the Committee, as well as the Puerto Rico State Elections Commission, with a report regarding the acceptable versions of voter education materials, plebiscite ballot formats, and related

materials that would allow the Department to obligate this funding for a future plebiscite.

2020 – PLEBISCITE, STATEHOOD YES OR NO

For 50 long years, between 1967 and 2017, five (5) plebiscites were held which included all possible political status options (Commonwealth or current status of “unincorporated territory,” statehood, independence with a treaty of free association, and full independence). Since statehood received the most votes in the two (2) most recent plebiscites —2012 and 2017— it is now time to make the final demand to Congress by posing the question: Statehood Yes or No. The main purpose of this Act is to use the same final voting mechanism employed in the former territories that became states of the Union which includes Alaska and Hawaii, the most recent states to be admitted.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

CHAPTER 1

GENERAL PROVISIONS

Section 1.1.- Title

This Act shall be known and may be cited as the “Act to Define Puerto Rico’s Ultimate Political Status.” The Act provides the rules for the holding of a plebiscite on November 3, 2020, simultaneously with the General Election so as to resolve the century-old problem of Puerto Rico’s status as a territory of the United States of America.

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Section 1.3.-	Declaration of Public Policy

(a) In the 122 years of the United States of America's unilateral sovereignty, the U.S. government has never held a plebiscite to ask the U.S. citizens of Puerto Rico whether they favored or rejected the unequal and disadvantaged status of "unincorporated territory." Despite the lack of such a plebiscite, the U.S. citizens

went to the polls and rejected the territory status in the recent Plebiscites of 2012 and 2017.

(b) For 50 years, Puerto Rico's local governments have held five (5) Plebiscites —1967, 1993, 1998, 2012 and 2017— in an attempt to resolve the difficulties posed by the century-old territory status. All possible options have been presented to voters in the aforementioned plebiscites. The U.S. government has never acted decidedly based on the results of these local plebiscites.

(c) The results of the most recent plebiscites, held on November 6, 2012, and June 11, 2017, constitute a direct rejection of the current territory status and a direct demand for equal rights and obligations through statehood and permanent annexation to the United States of America. Voters also rejected the non-territorial options which entailed separate sovereignties for Puerto Rico and United States through “independence with a treaty of free association” or “full independence” in both recent plebiscites.

(d) The expressions made in the most recent plebiscites still in effect and have never been revoked through a vote. Therefore, the demand for equal rights and obligations as U.S. citizens through statehood constitutes an electoral mandate of the sovereign peoples and it is Puerto Rico's current Public Policy.

(e) The direct and specific electoral rejection of the current status of “unincorporated territory” in both plebiscites also constituted the revocation, by the U.S. citizens of Puerto Rico, of the false consent granted to the government of the United States of America through the partial ratification of Public Law 81-600 of July 3, 1950 in the local Referendum of 1951.

Having rejected the current territory status in the Plebiscite of 2012, the U.S. citizens of Puerto Rico still suffer from the same inequalities and disadvantages in spite of such rejection and their self-determination. This grievance is inconsistent

with our Nation's values of democracy and inequality. It is an unacceptable grievance that demands prompt redress

(f) Voter turnout in the recent Plebiscites of 2012 and 2017 exceeded that of the Referendums held in 1951 and 1952 by hundreds of thousands of votes. In fact, the government of the United States of America validated the results of these earlier referendums in order to uphold the status of "unincorporated territory," which is still in effect to this day, despite the fact that less than half of qualified voters voted in its favor. Therefore, the electoral demands for equality through statehood made by the U.S. citizens of Puerto Rico as recently as in 2012 and 2017 must not be suppressed by the seventy-year old alleged and questionable consent to the territory status.

(g) Having completed the phase of asking voters about all the possible political status options (Commonwealth or current status as "unincorporated territory," statehood, separate sovereignty through independence with a treaty of free association, or full independence) over the past 50 years, between 1967 and 2017, and statehood being the alternative which received the most votes in the two most recent plebiscites, it is now time to make the final demand to Congress by asking, Statehood: Yes or No. The main purpose of this Act is to use the same final voting mechanism employed by some former territories that became states of the Union which includes Alaska and Hawaii, the most recent states to be admitted.

(h) After more than a century of being at a disadvantage due to our territorial status, and after the conclusive result of the Plebiscite of 2012 in which the current territorial status was rejected, Congress and the President approved an appropriation of \$2.5 million in the "Consolidated Appropriations Act," Pub. L. 113-76 (2014), for the "objective, nonpartisan voter education options that would resolve Puerto Rico's future political status." This "Act to Define Puerto Rico's Ultimate Political Status" is consistent with the parameters established by the aforementioned federal

Act and the statements made in congressional House Report 113-171 and House Report 116-101.

(i) Given the damage caused by the territorial status over the past 122 years, the purpose of the plebiscite herein provided is to ratify and enforce the electoral will expressed by the majority of the U.S. citizens of Puerto Rico in the Plebiscites of 2012 and 2017.

Therefore, it is hereby demanded that the governments of the United States of America and Puerto Rico act decidedly and promptly to recognize the democratic self-determination of the Island's U.S. citizens, and begin the process therefor, as soon as the results of the plebiscite herein provided are officially certified by the State Election Commission of Puerto Rico (CEE, Spanish acronym)

Section 1.4.- Definitions.

It shall be understood that any term in the singular form includes the plural form unless the context clearly indicates otherwise. Likewise, when usage so warrants, it shall be understood that any term in the masculine gender includes the feminine gender and vice versa.

For purposes of this Act, the following words and phrases shall have the meaning stated below:

(a) "Legislative Assembly" - means the House of Representatives and Senate of Puerto Rico as a whole.

(b) "Registration Deadline" - the last date, before the holding of the plebiscite, in which a voter may be included, excluded, activated or deactivated; voter information may be updated or changed; and voter transactions and applications for registration, transfers or relocations in the Puerto Rico General Voter Registry may be conducted. The "deadline" shall never be earlier than fifty (50) days before the holding of the plebiscite.

(c) “Citizen” - Any natural person who is recognized by the laws of the United States of America as a U.S. citizen, either at birth or by naturalization.

(d) “Election Code” - The law in effect approved by the Legislative Assembly of Puerto Rico to govern election processes as authorized by law.

(e) “Commission” or “State Election Commission” - the agency of the Government of Puerto Rico created by law that coordinates the election processes provided in this Act. It is the only competent authority to certify election results.

(f) “Congress” - the House of Representatives and Senate of the United States of America as a whole.

(g) “Election Comptroller” – The chief executive officer of the Office of the Election Comptroller of Puerto Rico, in accordance with Act No. 222-2011, as amended, known as the “Puerto Rico Political Campaign Financing Oversight Act.”

(h) “General Election” – The voter’s direct voting process held every four (4) years as provided in the Constitution and the law to elect the officials that shall hold elective public offices at the state, federal, municipal, and legislative levels.

(i) “Voter,” “Qualified Voter” “Active Voter” or “Registered Voter” – any citizen who has met the requirements of this Act and the Election Code to vote and whose personal information appears in the Puerto Rico General Voter Registry. Said person must be at least a United States citizen, be 18 years old on or before the day of the Plebiscite provided for in this this Act, and meet the Puerto Rico electoral domicile requirements provided in the Election Code.

(j) “Governor” - The Governor of Puerto Rico.

(k) “State Government” or “Government of Puerto Rico” – All of the agencies that compose the Executive, Legislative, and Judicial Branches of Puerto Rico, including public corporations and municipal governments.

(l) “Federal Government” - Any public authority of the Government of the United States of America, as well as the President, Congress, and Supreme Court, as a whole or individually, according to the context in which the term is used.

(m) “Mark” - Any trace of affirmative expression made by the voter on the ballot at the time of voting that is expressed in accordance with the specifications set forth in the Election Code of Puerto Rico and the regulations thereunder.

(n) “Valid Mark on the Ballot” - A trace not smaller than four (4) square millimeters made by the voter within the mark recognition area on the ballot. Any mark made outside the mark recognition area shall be rendered invalid and deemed to be not made and, therefore, inconsequential. In order for a vote to be recognized, it must meet the valid mark requirements and specifications.

(o) “Ballot” or “Voting Ballot” - a paper document or electronic medium designed and made available by the Commission, on which the voter shall cast his vote in accordance with the provisions of law.

(p) “Ballots with no Adjudication Value” - “blank,” “overvoted,” “undervote,” and “void” ballots. Such ballots shall not be considered when computing the percentages of the voting results. Said ballots may only be counted as a group on the plebiscite’s Tally Sheets for tallying purposes at all Polling Places and not as part of the certification of the results of the voting. Ballots with no Adjudication Value, without a valid expression of the voter’s intent: “in no way may be counted for purposes of influencing or affecting the results of an election, referendum, or Plebiscite, among other Voting events” *Suarez-Cáceres v. CEE*, 176 D.P.R. 31, 73-74 (2009).

(q) “Plebiscite” or “Referendum” – A vote or ballot in which voters are provided with one or more options to resolve Puerto Rico’s political status or a question of a constitutional, public, judicial, or political matter. Both terms shall be used interchangeably. The counting of votes and the certification of results shall be

carried out in accordance with the holding of the Supreme Court of Puerto Rico in *Suarez-Cáceres v. Comisión Estatal de Elecciones, supra*.

(r) “President” – the President of the United States of America.

(s) “Chair of the Commission” – The chief executive officer, nonpartisan figure and chief representative of the public interest in the Puerto Rico State Election Commission.

(t) “Secretary”- the Attorney General of the U.S. Department of Justice.

(u) “Valid Vote” or “Adjudicated Vote” – means the ballots voted correctly in accordance with the provisions of this Act, adjudicated to one of the options printed on each ballot, pursuant to the holding of the Supreme Court of Puerto Rico in *Suarez-Cáceres v. State Election Commission, supra*.

Section 1.5.- Supplemental Laws.

For the purposes of enabling the plebiscite ordered herein, the provisions of the Puerto Rico Election Code and the “Puerto Rico Political Campaign Financing Oversight Act,” including the regulations adopted thereunder, shall be supplemental to this Act, in those matters that are not preempted by or consistent with this Act.

CHAPTER II

CALL

Section 2.1.- Call.

A Plebiscite is hereby called to be held on Tuesday, November 3, 2020, simultaneously with the General Election for the purposes of conducting an objective, educational, just, broad, transparent, and democratic process that allows the People to state whether they wish that Puerto Rico be admitted into permanent union with the United States of America with equal rights and obligations of all other states.

The State Election Commission shall announce the Plebiscite through a Proclamation to be published not later than ten (10) calendar days from the approval

of this Act in three (3) newspapers of general circulation in Puerto Rico, in both Spanish and English; and in one (1) newspaper of general circulation in the United States, in English. In addition to the institutional logo and the name of the State Election Commission of Puerto Rico, the heading of the proclamation shall include the date and the title “Act to Define Puerto Rico’s Ultimate Political Status.”

Section 2.2.- Proclamation.

The text of the Proclamation shall read as follows:

The Legislative Assembly and the Governor of Puerto Rico approved Act No. ____-____ known as an “Act to Define Puerto Rico’s Ultimate Political Status,” which provides for the holding of a plebiscite simultaneously with the General Elections. Act No. ____-____ provides that any citizen who meets the requirements of this Act and the Puerto Rico Election Code shall be considered qualified voters: be a citizen of the United States of America and a legal resident of the jurisdiction of Puerto Rico; be eighteen (18) years of age by the date of the Plebiscite; be duly qualified as such before the holding of the plebiscite, and not have been declared mentally incompetent by a Court. Interested citizens, including new voters, who need to carry out any transaction in the General Voter Registry before the registration deadline, shall have up to fifty (50) days before the holding of the plebiscite to update their voting status, restore their registration, or register to vote in the Plebiscite. Furthermore, if needed, the aforementioned date shall be the deadline for voters to request transfers, or relocations, as well as request Absentee Ballot, Early Voting, or Accessible Polling Place. The Permanent Registration Boards (JIP) of the State Election Commission shall be open to the public to conduct all of these transactions during regular business hours. The State Election Commission, in the discharge of the duties conferred thereto by the Law, hereby proclaims that:

FIRST: Date of Plebiscite.

On Tuesday, November 3, 2020, a plebiscite to define Puerto Rico's Ultimate Political Status shall be held in every election precinct, and all qualified voters are hereby called to participate therein.

SECOND: Voting Hours.

The voting process shall be conducted simultaneously with the General Election in "open polling places" from nine o'clock in the morning (9:00 am) to five o'clock in the afternoon (5:00 p.m.). The "Dry Law" shall only apply only during the aforementioned hours and with the exceptions provided in the Puerto Rico Election Code.

THIRD: Ballot.

Just as the plebiscites held in Alaska and Hawaii, the last two territories annexed as states of the Union, in this Puerto Rico plebiscite, there shall be a single ballot with the options Statehood: Yes or No. The following ballot question shall be submitted to voters: "Should Puerto Rico be admitted immediately into the Union as a State? Voters may only vote for one (1) of the two (2) options printed on the ballot: "Yes" or "No."

Once the results of this Plebiscite are certified by the State Election Commission:

Should the Statehood "Yes" option be favored by a majority vote, a transition process shall begin forthwith to admit Puerto Rico into the Union, as described in the Act.

FOURTH: Certification of Results.

The counting of ballots and the certification of the results by the State Election Commission shall only be carried out pursuant to the doctrine of the Supreme Court of Puerto Rico in *Suarez-Cáceres v. Com. Estatal Elecciones*, 176 DPR 31, 73-74 (2009). A vote not cast and any blank ballot cast and lacking a clear expression of the voter's intent "in no way may be counted for purposes of influencing or affecting

the results of an election, referendum, or Plebiscite, among other voting events.” Therefore, any interpretation of the results of this plebiscite shall be subject to a valid vote for one of the options printed on the ballot. The absence of voters in the election or void or blank ballots cast shall never be used to suppress the intent of voters who democratically, voluntarily and validly exercised their right.

FIFTH: Vote Counting System.

The same electronic vote counting system used in the General Election as provided in Resolution CEE-RS-1 5-21 approved on October, 30, 2015, shall be used in this Plebiscite. Said system shall be capable of tallying votes easily, securely, and reliably with security and auditing mechanisms that ensure the transparency of the voting process.

SIXTH: Identification of Voters.

In order to vote at the polling places, voters shall be required to provide their Voter Identification Card issued by the State Election Commission, regardless of the expiration date thereof, or any other valid identification card authorized by the Puerto Rico Election Code. In addition, one of the voter’s finger shall be inked after casting his vote.

SEVENTH:

Absentee and Early Voting.

In accordance with the Election Code, the Commission shall guarantee the right to apply for an Absentee Ballot and Early Voting of all voters domiciled in Puerto Rico who qualify therefor and have made such request on or before fifty (50) days prior to holding of the plebiscite, that is, the registration deadline.

EIGHTH: Right to Vote Guaranteed.

The State Election Commission shall prescribe measures and remedies in order to guarantee the right to vote of any voter who, by reasons beyond his control, was unduly omitted from the General Voter Registry of Puerto Rico.

Pursuant to the Election Code, the Commission shall also implement mechanisms to allow bedridden voters whether at hospitals and at home, as well as voters with disabilities, residing in nursing homes, or confined in correctional institutions to vote.

Moreover, pursuant to the Election Code, no public or private employer shall prevent employees from exercising their right to vote.

NINTH: Education and Disclosure

As part of the continuous efforts to educate and inform citizens and voters of the scope of the Act enabling this plebiscite and the electoral processes related to this proclamation, not later than forty-five (45) days from the approval of this Act, the Chair of the State Election Commission shall publish and continually update in the Agency's website, a prominent space entitled "Act to Define Puerto Rico's Ultimate Political Status" with the contents of this Act, this proclamation, and all of the official and information material pertaining to this plebiscite.

TENTH: Supplemental Laws

In order to electorally enable this plebiscite, the provisions of the Puerto Rico Election Code and the "Puerto Rico Political Campaign Financing Oversight Act," including the regulations adopted thereunder, shall be supplemental to this Act, in those matters that are not preempted by, or inconsistent with this Act.

CHAPTER III

PRE-PLEBISCITE PROCEDURES

Section 3.1.- Deadline for Ensuring the Accuracy and Purity of the Process and Safeguarding the Rights of Voters.

To safeguard the exercise of the right to vote; the right protected under the First Amendment; and Puerto Rico legal and constitutional terms, which are procedural requirements prior to any voting event, June 30, 2020 is hereby

established as the deadline for completing any transaction, certification, and disbursement related to the holding of this plebiscite.

Section 3.2.- Duties of the Chair of the State Election Commission.

The Governor shall be the chief official representative of Puerto Rico before the United States Attorney General and other agencies of the federal executive branch in all that pertains to the matters related to this Act. However, the Chair of the State Election Commission, as a nonpartisan figure and the chief legal and administrative representative of the public interest in the electoral affairs of Puerto Rico, shall act as coordinator with the United States Attorney General and other federal authorities in all that pertains to the processes required under Public Law 113-76- of 2014, and the coordination of the educational and electoral aspects of the plebiscite.

Not later than thirty (30) days after the approval of this Act, the Chair of the Commission shall deliver to the U. S. Attorney General certified copies of the following documents:

(a) The draft of the November 3, 2020 plebiscite ballot, as designed in this Act, and according to the results of the public drawing to determine the order in which the options shall appear on the ballot.

(b) Copies of the Puerto Rico Election Code and the “Puerto Rico Political Campaign Financing Oversight Act,” in effect; and a copy of the Plebiscite proclamation as described in Section 2.2 of this Act.

(c) A draft of the plebiscite rules.

(d) An “objective and nonpartisan” bill or proposal for the general design of the massive voter education campaign for the November 3, 2020 plebiscite. The total budget for this education campaign shall not exceed two million dollars (\$2,000,000).

(e) A budget plan for all other expenditures of the plebiscite, which shall not exceed one million five hundred thousand dollars (\$1,500,000) for ballot printing costs and any other expense related to the plebiscite.

(f) The text in Public Law 113-76 (2014) pertaining to the plebiscite and the requirements set forth in the Report of the Committee on Appropriations (2014), House Report 113-171.

(g) The following quote on the plebiscite and the political Status of Puerto Rico from House Report 116-101:

In the Consolidated Appropriations Act, 2014 (Public Law 113-76), the Committee provided funding for the Department of Justice to help oversee and administer a plebiscite to resolve Puerto Rico's future political status.

The Committee believes that to accomplish this goal, the current territorial/Commonwealth status should be excluded from any future plebiscite, since it fails to address key inequities.

Despite previous requests to use this funding to help administer such a plebiscite, the Department has yet to certify a plebiscite ballot to obligate this funding.

The Committee believes that the Department has a responsibility to address issues of democratic representation and equality in Puerto Rico and the other territories of the United States, including addressing questions of political status.

Therefore, the Committee instructs the Department to expeditiously act upon any request for this funding from the Puerto Rico State Elections Commission, and to notify the Committee of any requests for this funding.

The Committee instructs the Department, within 45 days of enactment of this Act, to provide the Committee, as well as the Puerto Rico State Elections Commission, with a report regarding the acceptable versions of voter education materials, plebiscite ballot, and related materials that would allow the Department to obligate this funding for a future plebiscite.

(h) Section 402 of Public Law 114-187 (2016), Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA).

Section 3.3.- Communications from the Chair of the Commission.

When delivering any communications to the U.S. Attorney General, the Chair of the Commission shall always include the following statement: “These documents are submitted to the U. S. Attorney General as required by the “Act to Define Puerto Rico’s Ultimate Political Status”; Public Law 113-76 (2014), and related congressional reports, namely House Report 113-171 and House Report 116-101. Moreover, they are submitted sufficiently in advance of the date of the plebiscite to safeguard the right to vote; the right protected under the First Amendment; and Puerto Rico’s legal and constitutional terms, which guarantee the accuracy and purity of the process and safeguard the voters’ rights. If any process, certification and disbursement related to Public Law 113-79 (2014) is not completed on or before June 30, 2020, the mechanisms to guarantee the aforementioned periods are provided in this Act provides to protect the rights of voters.

Section 3.4.- Disclosure and Education.

Not later than forty-five (45) days after the approval of this Act, the Chair of the Commission shall post on and continually update in the Agency’s website, a prominent space entitled “Act to Define Puerto Rico’s Ultimate Political Status” containing all official communications sent or received regarding this Act and any

other document or information deemed relevant for an objective, nonpartisan education and orientation of voters.

Section 3.5.- Follow-Up.

The Governor of Puerto Rico, the Resident Commissioner of Puerto Rico in Washington D.C., and the Chair of the Commission shall follow up on the timely completion of the procedures herein provided and shall keep the President of the United States, the Presiding Officers of Congress, and the Presiding Officers of the Legislative Assembly up to date on the status of such procedures.

CHAPTER IV

NOVEMBER 3, 2020 PLEBISCITE

Section 4.1.- Options on the Ballot.

Just as in the plebiscites held in Alaska and Hawaii, the last two territories annexed as states of the Union, in this Puerto Rico plebiscite, there shall be a single ballot with the following question: “Should Puerto Rico be admitted immediately into the Union as a State?” The answer options printed on the ballot shall be: Statehood: “Yes” or “No.” Voters may only vote for one (1) of these options printed on the ballot.

Section 4.2.- Statehood: “Yes”

(a) Should the Statehood “Yes” option be favored by a majority vote, a transition process shall begin forthwith to admit Puerto Rico into the Union, as described in Section 4.3 of this Act. This transition process, whether or not through the “incorporated territory” mechanism, shall be implemented as soon as possible, but not later than one year after November 3, 2020.

Section 4.3.- Implementation of Statehood “Yes”

The transition process shall be led by the Governor and the Resident Commissioner of Puerto Rico, who shall represent the Island in any matter or negotiation related to a “Transition Plan.” Not later than thirty (30) days after the

certification of the results of the plebiscite, the Governor and the Resident Commissioner, with the advice of the Equality Commission shall draft the Transition Plan with an appropriate timetable that asserts the People of Puerto Rico's democratic and majority expression for "self-determination." The Transition Plan shall be delivered to the Congress leadership of both national political parties and to the President of the United States for the purpose of implementing the transition process as promptly as the People of Puerto Rico warrant.

The Resident Commissioner of Puerto Rico in Washington, DC, shall introduce the appropriate federal legislation and the Equality Commission shall advocate for its approval in Congress.

Section 4.4.- Ballot Design.

The State Election Commission, in strict compliance with the provisions of this Section, and without being subject to any other law or regulation, shall design and print the ballot to be used, which shall be of a solid color other than those used by political parties in Puerto Rico, a standard size, and printed in black ink with the text in both English and Spanish, in thick paper, in such a manner that the text printed thereon does not show through the back of the sheet so it can be tallied by the electronic vote counting system.

Not later than fifteen (15) days after the approval of this Act, the Chair of the State Election Commission shall hold a public drawing to determine the emblems, and the order in which the option columns shall appear on the November 3, 2020 Plebiscite ballots. The emblems to be drawn are the geometric shapes of a circle and a triangle. For this public drawing, the Chair of the Commission shall invite the press, the general public, and at least two judges of the Court of First Instance of Puerto Rico to serve as witnesses. The process and the public drawing results shall be certified by a notary public.

(a) The header of the ballot shall contain the intuitional logo and the name of the State Election Commission, including the date of Tuesday, November 3, 2020, and the words “Plebiscite to Define Puerto Rico’s Ultimate Political Status” and the words “Official Ballot.”

(b) Only in the event the U.S. Attorney General has issued the certification provided in Public Law 113-76 of 2014, below that heading, the following text shall appear in a bold black ink and a thick font: “Plebiscite promoted and supported by the Government of the United States of America with the funds appropriated under Public Law 113-76 of 2014”

(c) Below the preceding text, or on the back of the ballot, as the design allows, the following instructions for the voter shall be included:

“INSTRUCTIONS FOR THE VOTER

The voter can only choose and mark one (1) option from among those printed on this ballot. You must make a valid mark inside the blank box that appears below the geometric shape which represents the option of your preference. Ballots that fail to state the clear or specific intent of the voter on one of the options printed on the ballot: with more than one (1) option marked, not voted, blank, or with some other symbol or writing outside of any of the blank boxes, shall not be accounted for in the official results certified by the State Elections Commission, according to the case law of the Supreme Court of Puerto Rico.”

(d) Below this heading or the instructions for the voter, the following question to voters shall appear, in bold black ink and in the largest possible font: “Should Puerto Rico be admitted immediately into the Union as a State?” If the design of the ballot determines that the instructions for voters provided in subsection (c) of this Section should be printed on the back of the ballot, then the following text shall be included below the question to voters: “In order for the vote to be counted,

the voter must choose and make a valid mark on one (1) of the options printed below on this ballot.”

(e) Below the question to voters, only two (2) columns of equal size, shall appear side by side, one column for each of the options for Statehood: Yes or No, in the position determined by the public drawing in bold text.

(f) The upper part of each column shall feature the geometric shape (triangle or circle) of equal size and in the largest possible font, which has been designated through a public drawing, as the emblem for each of the options.

(g) Below the geometric shape of each option, there shall be a blank box equal in size and in the largest possible size, so the voter can make a valid mark.

(h) The two (2) options to answer the question: “Yes” and “No” shall appear below each blank box where the voter shall make his mark. Both options shall be of equal size and in the largest possible font.

Section 4.5.- Education Campaign.

(a) A strictly objective and nonpartisan mass voter education campaign on the plebiscite shall be conducted.

(b) The education campaign activities shall include:

i. Sending a sample ballot to the mass media and providing information about its contents and how to cast a valid vote. This presentation of the ballot through the mass media shall begin not later than July 1, 2020 and be repeated as frequently as possible until the day before the plebiscite.

ii. The electoral and legal consequences of not casting a valid vote.

iii. The deadline for voters to register in the General Voter Registry, update their information therein, and request Absentee or Early Voting.

(c) For this education campaign, the State Election Commission shall employ all communications media and any available public broadcasting techniques, including electronic media.

CHAPTER V

VOTING

Section 5.1 Date of the Plebiscite.

On Tuesday, November 3, 2020, a “Plebiscite to Define Puerto Rico’s Ultimate Political Status” shall be held in every Election precinct of Puerto Rico, in which all qualified Voters may participate.

Section 5.2.- Voting Hours.

The voting process for this plebiscite shall be conducted simultaneously with the General Elections in an open polling place from 9:00 am until 5:00 pm. The “Dry Law” shall only apply during the aforementioned hours and with the exceptions provided in the Puerto Rico Election Code.

Section 5.3.- Purity and Secrecy.

(a) The Local Commissions of each Precinct, Electoral Unit Boards, and Polling Centers shall ascertain the identity of each voter; that electoral process are conducted in a timely manner and in strict compliance with the provisions of this Act; that each voter receives a blank ballot initialized on the back by the appropriate polling place officials; that the voter is duly informed in an unbiased manner; and that the voter cast his vote secretly and freely, and that his intent upon casting a ballot for either option is honored.

(b) Before 8:30 am on the day of the plebiscite, posters of sample ballots of the largest possible size shall be posted in all polling centers readily visible and accessible, but outside of the polling places.

Section 5.4.- Requirements to be Acknowledged as a Qualified Voter.

A qualified voter shall be any citizen of the United States of America domiciled in Puerto Rico, who, on the date of the Plebiscite has attained eighteen (18) years of age; has an active status in the Puerto Rico General Voter Registry

pursuant to this Act, the Election Code, and the regulations thereunder; and has not been declared mentally incompetent by a court of law.

Said person must meet all the registration requirements and have his information updated in the General Voter Registry.

Moreover, said person shall cast a vote at the polling center designated by the State Election Commission according to the last domicile reported by the voter in the Voter Registry. If for any reason, a qualified voter with active status needs to cast a provisional vote outside of his electoral domicile, the vote cast for the option of his preference shall be adjudicated during the General Canvass.

Section 5.5.- Identification of Voters.

In order to vote at the polling places, voters shall be required to provide their Voter Identification Card issued by the State Election Commission, regardless of the expiration date thereof, or any other valid identification card authorized by the Puerto Rico Election Code. In addition, one of the voter's fingers shall be inked after casting a vote.

Section 5.6.- Vote Counting System.

The same electronic vote counting system used in the General Election, as provided in Resolution CEE-RS-1 5-21 approved on October, 30, 2015, shall be used in this Plebiscite, which system is capable of tallying votes easily, securely, and reliably with security and auditing mechanisms that ensure the transparency of the voting process.

Section 5.7.- Absentee and Early Voting.

In accordance with the Puerto Rico Election Code, the Commission shall guarantee the right to request an Absentee Ballot or Early Ballot to all voters domiciled in Puerto Rico who qualify therefor and have made such request on or before the voter registration deadline, which shall never exceed fifty (50) days before the holding the plebiscite.

Section 5.8.- Guaranteed Right to Vote.

The State Election Commission shall prescribe measures and remedies in order to guarantee the right to vote of any voter who, by reasons beyond his control, was unduly omitted from the printed Puerto Rico General Voter Registry.

Pursuant to the Election Code, the Commission shall also implement mechanisms to allow bedridden voters, whether at hospitals or at home, as well as voters with physical disabilities, residing in nursing homes, or confined in correctional institutions to vote.

No public or private employer shall prevent employees from exercising their right to vote. Such employers shall establish appropriate and reasonable conditions, in terms of time and location, to allow their employees to exercise their right to vote; otherwise, said employer shall be found guilty of an election offense.

Section 5.9.- Certification and Publication of Results.

(a) The status option printed on the ballot that is favored by a majority of one hundred percent (100%) of the votes defined as “Adjudicated Ballots” shall be certified by the Commission as the winning option and the legitimate expression of self-determination of a majority of voters to resolve Puerto Rico’s territorial status.

(b) The counting of votes, the recording thereof on tally sheets, and the certification of results by the State Election Commission shall be carried out in accordance with the holding of the Supreme Court of Puerto Rico in *Suarez-Cáceres v. Comisión Estatal de Elecciones*, 176 DPR 31, (2009). A vote not cast, spoiled and unmarked ballots, or ballots lacking a clear expression of the voter’s intent “in no way may be counted for purposes of influencing or affecting the results of an election, referendum, or plebiscite, among other voting events.” Therefore, any interpretation of the results of this plebiscite shall be subject to a valid vote for one of the options printed on the ballot. The absence of voters in the election or void or

unmarked ballots cast shall never be used to suppress the intent of voters who exercised their right legally, democratically, voluntarily and validly.

(c) Only “Adjudicated Ballots” may be considered as part of the certification of the results.

(d) “Ballots with no Adjudication Value,” may only be counted as a group on the tally sheets of each polling place for tallying purposes and not as part of the certification of the results.

(e) The State Election Commission shall issue the final certification of the results, in Spanish and English, including the number of valid votes and the percentage obtained by each one of the options printed on the ballot.

(f) Not later than forty-eight (48) hours after completing the General Canvass of the plebiscite, the Chair of the State Election Commission shall send the certification of the results to the Governor, the Resident Commissioner of Puerto Rico in Washington, D.C., the presiding officers of the Legislative Assembly, the U.S. President, the presiding officers of Congress, and the U.S. Attorney General.

(g) Not later than five (5) days after the results of the plebiscite have been certified, the Chair of the State Election Commission shall publish said results in local and national media outlets.

(h) Not later than five (5) days after the results of the plebiscite have been certified, the Governor shall deliver a copy of the certification to each member of Congress.

Section 5.10.- Duties of the Commission in Connection with the Voting.

(a) The provisions and purposes of this Act notwithstanding, of the duties specifically delegated to its Chair, and in those matters that are not preempted by or inconsistent with this Act, the Commission shall have the duties imposed thereto by the Puerto Rico Election Code to guarantee the right to vote, organize, direct, implement, supervise, and issue certifications.

(b) When no unanimity is reached by the voting members of the Commission regarding a plebiscite-related matter, the Chair shall make the final decision that best serves the public interest and the provisions of this Act. No partisan, ideological, or sectarian consideration shall be used to impair or undermine the purposes and rights protected by this Act.

(c) The Commission shall promptly and diligently adopt and implement regulations, certifications, or resolutions as are necessary to attain the purposes of this Act efficiently and equitably.

(d) Shall adopt plebiscite rules not later than twenty (20) days after the approval of this Act. The amendments to these rules, if necessary, shall be made in accordance with the Election Code.

(e) A “Special Polling Place for Provisional Voting” shall be established in every electoral unit or polling center for voters who have not been included in the voters’ lists and claim their right to vote. The Commission shall prescribe by regulations the requirements and procedures for this special polling place where voters claim that they do not appear on the voters’ list of their polling center due to administrative errors attributable to the Commission.

(f) An “Accessible Polling Place” shall be established in every electoral unit or polling center to facilitate the voting process for voters with disabilities.

(g) Voters who are bedridden due to any medical condition, whether at a hospital or at home, whose conditions shall remain thus for the Election Day, shall be entitled to early voting at the hospital or at their homes, as the case may be. The Local Commission of each precinct shall constitute Voting Boards as are necessary to assist these voters. Votes thus cast shall be adjudicated during the General Canvass, following the provisional voting process.

(h) Vote-by-Telephone - The Commission may establish an accessible voting system for voters with disabilities, so that said voters may cast their votes

secretly and independently. The system shall have the same notification functions as the Electronic Canvassing system.

(i) The Commission shall keep all ballots and tally sheets of the plebiscite for a term of not less than twelve (12) months, after the final certification of the results. Once said term elapses, ballots and tally sheets may be destroyed unless any judicial or administrative proceeding is pending, in which case, said ballots and tally sheets shall be kept until said proceeding concludes or until the Court's decision becomes final and binding.

(j) The Commission shall be required to strictly comply with all the dates and the timetable provided in this Act.

CHAPTER VI

REPRESENTATION OF OPTIONS ON THE BALLOT

Section 6.1.- Certification to Represent an Option.

(a) As the first priority, the State Election Commission shall certify only one political party or party by petition certified to participate in the 2020 General Election as the main representative for each one of the options printed on the plebiscite's ballot. Each party may only represent one of the options. The request for designation as main representative shall be notified in writing to the Commission not later than at noon within twenty (20) calendar days from the approval of this Act. The foregoing constitutes a non-extendable term. The notice must state that the request for designation as main representative was approved by a majority of the voting members of the central governing body of the organization. The organization shall describe its public track record advocating for the requested option or opposing the non-requested option to justify its request for designation as main representative. After submitting their request to the Commission, the requesting party must meet all of the requirements set forth in this Act, not later than at noon within thirty (30) calendar days from the approval of this Act. The foregoing constitutes a non-

extendable term. No political party that has failed to meet all of the requirements within said term shall be certified.

(b) As a second priority, any citizen group or political action committee duly registered by natural persons, and whose operating, advertising, staff, material, or equipment expenditures are neither operationally nor financially related to juridical persons may request designation as main representative of one of the two (2) options printed on the plebiscite's ballot. The same terms and requirements set forth in subsection (a) of this Section for political parties shall apply to any request for designation as main representative; however, the certification of a citizen group or political action committee shall be contingent on another's political party's notice and compliance with all of the certification requirements to be designated as the main representative of the option the citizen group or political action committee is seeking to represent.

(c) Upon expiration of the non-extendable term of twenty (20) calendar days described in subsection (a) of this Section, no alliance or coalition may request, or be recognized or certified as main representative, alliance, or coalition for any of the options printed on the plebiscite's ballot, even if no certification for representation, alliance, or coalition of any kind has been issued. In this case, it shall be recognized as a vacant option for all purposes.

(d) Upon expiration of the non-extendable term of thirty (30) calendar days after the approval of this Act, the Commission shall issue the corresponding certifications in the order of priority set forth in subsections (a) and (b) of this Section. In the event that a dispute or tie arises in relation to the date and time of submission of the notice and compliance with the requirements for designation as main representative, the Commission shall certify as the main representative the political party or organization, as appropriate, that has been the registered and recognized supporter of the requested option for the longest period of time.

(e) Any party, citizen group, or political action committee not certified as the main representative of one of the options printed on the plebiscite's ballot, may form an alliance or coalition with the party certified as main representative. Such fact shall be notified in writing to the Commission and to the Office of the Election Comptroller.

(f) No organization that has failed to meet the requirements of this Act, the Commission, and the Office of the Election Comptroller created by Act No. 222-2011, as amended, known as the "Puerto Rico Political Campaign Financing Oversight Act", shall be certified as main representative of an option.

(g) The State Election Commission shall certify only one political party, party by petition, or in default thereof, only one citizen group, or political action committee as the main representative of each option printed on the plebiscite's ballot. None of the options printed on the plebiscite's ballot shall have more than one certified representative.

(h) The Commission shall adopt the rules that shall govern all that pertains to the requests, forms, and procedures that shall be followed to implement all that pertains to the certification as main representative, including alliances or coalitions.

(i) Any political party or party by petition, citizen group, and political action committee that has failed to notify and meet the requirements to be designated as main representative, alliance, or coalition within the terms provided in this Section, shall not be entitled to be considered as main representative, or as part of an alliance, or coalition

(j) Any political party, party by petition, citizen group, political action committee, and natural or juridical person, whether or not certified as main representative or alliance member of any of the options printed on the ballot, which receives or uses contributions that, in the aggregate, exceed five hundred dollars (\$500) and and/or incurs campaign expenditures of any kind in support or against

any of the options on the plebiscite's ballot, including, to promote abstention, any type of voting expression modality, or any other status option shall submit a Declaration of Organization to the Office of the Election Comptroller, file the reports required by Act No. 222-2011, as amended, known as the "Puerto Rico Political Campaign Financing Oversight Act," and at least the chair and the treasurer of each organization must have attended a workshop on Act No. 222, *supra*, administered by the Office of the Comptroller as a requirement prior its certification in the Commission. Those who have attended said workshop after October 2018, shall be exempt from said requirement.

(k) No political party, party by petition, citizen group, or political action committee that has failed to meet the certification and reporting requirements provided in the subsection (j) above may assign, donate, and/or lend financial or in-kind resources, to any political party, party by petition, citizen group or political action committee certified as main representative or that is part of an alliance.

(l) Any natural or juridical person who fraudulently violates any of the provisions of this Section or who being required hereunder, voluntarily fails or refuses to comply therewith, shall be guilty of an election offense and, upon conviction, shall be punished by imprisonment for a term not to exceed two (2) years or by a fine not to exceed ten thousand dollars (\$10,000) for every violation, or both penalties, at the discretion of the Court.

Section 6.2.- Certification Requirements to Represent an Option.

(a) Prior to the Commission's certification, any political party, party by petition, citizen group, or political action committee shall provide proof of registration as required by Act No. 222-2011, known as the "Puerto Rico Political Campaign Financing Oversight Act," regardless of whether these shall participate individually, as a main representative, an alliance, or as a coalition.

(b) Any such political party, party by petition, citizen group, or political action committee shall also notify the Commission, in its request for certification: the names, addresses, personal information, and positions of all the members of the governing body of the organization; if the organization existed prior to the approval of this Act and had a proven track record advocating for the option it is interested in representing, or if the central governing body thereof is composed of persons affiliated with a political party, group, organization, or entities that existed prior to the request and had a proven track record advocating for the status option they are promoting; or that even if it had not existed prior to the effective date of this Act or as of the filing date of the request for certification, a substantial number of the members thereof has a proven track record advocating for the option it intends to represent in the plebiscite. Upon filing its request, it shall also notify the Commission whether it intends to represent said option individually or as an organization, or it shall identify the alliance or coalition under which it shall be participating. Moreover, it shall also notify whether the only purpose of the certification is to favor or oppose any of the options printed on the ballots, or to promote abstention, any type of voting expression modality, or any other status option. The Office of the Election Comptroller may request a copy of the request for certification and the Commission shall furnish it on paper or electronic format.

(c) The names of the members of the governing body of the political party, group, or committee that is ultimately certified, shall appear on the certification to be issued by the State Election Commission, if approved.

(d) Any natural or juridical person who fraudulently violates any of the provisions of this Section or who being duly required hereunder, voluntarily fails or refuses to comply therewith shall be guilty of an election offense and, upon conviction, shall be punished by imprisonment for a term not to exceed two (2) years,

or by a fine not to exceed ten thousand dollars (\$10,000) for every violation, or both penalties, at the discretion of the Court.

Section 6.3.- Polling Place Boards, Electoral Unit Boards, and Precinct Local Commissions.-

(a) Polling place boards, electoral unit boards, and local commissions shall be composed of the election officials of each political party certified by the State Election Commission that same day, as provided in the Puerto Rico Election Code, and they shall ensure the purity and transparency of plebiscite-related matters and the plebiscite's ballot.

CHAPTER VII

FUNDRAISERS AND CAMPAIGN EXPENDITURES

Section 7.1.- Lack of Public Funding and Obligations.

(a) Every political party, party by petition, citizen group, political action committee, and natural or juridical person that participates in canvassing activities during the plebiscite's campaign shall defray campaign expenditures from their own financial resources. However, any of the foregoing requesting, receiving or using contributions that, in the aggregate, exceed five hundred dollars (\$500), and/or incurring campaign expenditures of any kind in support or against any of the options on the plebiscite's ballot, including, to promote abstention, any type of voting expression modality, or any other status option, shall meet the financial reporting requirements set forth by the Office of the Election Comptroller by virtue of Act No. 222-2011, known as the "Puerto Rico Political Campaign Financing Oversight Act."

(b) In the absence of public campaign funding, the limitations on expenditures provided by law for primaries, general elections, and other similar voting events shall not apply, except for the limitations or conditions that may arise from applicable federal and state case law.

(c) Contributions collected for the plebiscite campaign provided herein shall be deposited in a separate account for such purposes and shall be used solely to defray the plebiscite's campaign expenditures. Once the plebiscite is held and all of the accounts and expenditures related to the voting event are paid, contributions received and not used for the purposes described herein shall be remitted to the Secretary of the Treasury.

(d) Every contribution in cash or in kind for purposes of the plebiscite's campaign shall be for a maximum of two thousand eight hundred dollars (\$2,800) per natural person. This maximum contribution shall be independent from that authorized by law for political parties and candidates in the General Election year. Such limitation shall apply to contributions made to political parties certified as main representatives of each of the two (2) options, as provided in Section 6.1(a) of this Act. Entities regulated by federal statutes and/or regulations, which are not under the jurisdiction of Act No. 222-2011, *supra*, shall adhere to said federal statutes and/or regulations, the limitations imposed herein notwithstanding. Violations of this Section under the applicable state laws and regulations, shall be punished as an election offense and penalties equal to those provided by law for unlawful or excess contributions in General Election campaigns shall be imposed.

Section 7.2.- Rulemaking Authority.

Not later than twenty (20) days after the approval of this Act, the Office of the Election Comptroller shall draft and adopt regulations, documents, and forms as are necessary for the implementation of the provisions of this Section.

CHAPTER VIII

OTHER PROVISIONS

Section 8.1.- Fund Appropriation.

(a) The Governor, the Executive Director of the Office of Management and Budget (OMB), the Secretary of the Treasury, and the Executive Director of the

Puerto Rico Fiscal Agency and Financial Advisory Authority shall be have the ministerial duty to prioritize, identify, and make available the state financial resources appropriated hereunder to attain the purposes of this Act according to the timetable provided herein, whether or not federal funding is allocated for the holding of the plebiscite.

(b) No general or special legal provision, regulation, executive, or administrative order, or plan may be invoked to alter or postpone budget transfers and the necessary appropriations to enable the Commission to timely achieve all the purposes of this Act. Disbursements of budget transfers and appropriations to allow the Commission to timely achieve these purposes shall never exceed thirty (30) calendar days from the filing of the petition by the Chair of the Commission.

(c) By virtue of Section 402 of Public Law 114-187 (2016), known as the “Puerto Rico Oversight, Management, and Economic Stability Act” (PROMESA), the state financial resources required to implement this Act shall be completely excluded from the scope and the provisions of said federal Law and from any objection from its Financial Oversight Board.

Section 8.2.- Offenses and Prohibitions.

Prohibitions and offenses relating to this Act shall be governed by those established herein, if not preempted, by the provisions of the “Puerto Rico Election Code,” and Act No. 222-2011, as amended, known as the “Puerto Rico Political Campaign Financing Oversight Act.”

Section 8.3.- Legal Actions.

(a) Any dispute, complaint, action, or challenge related to this Act heard in a court of law, shall be processed and considered under the terms and conditions of the Puerto Rico Election Code. Any challenge, dispute, or legal action directly raises, or entails among its consequences, the stay of proceedings involving the holding of

the plebiscite on date time and date provided in this Act, shall be considered and resolved directly by the Supreme Court of Puerto Rico.

(b) In order to prevent disputes or actions related to the procurement or contracting of goods and services that are necessary for the holding of this plebiscite, from hindering the planning, coordination, timetable, and holding thereof, the Commission shall directly evaluate and decide on said disputes or actions in its best judgment. If no unanimity is reached by the voting members of the Commission, the Chair shall make the final decision. No complaint or action filed with a court of law shall stay the determination or administrative adjudication of the Commission, unless the Order, Decision, or Judgment becomes final and binding.

Section 8.4.- No Applicability.

No law, part of a law, regulations, plan, executive or administrative order that is inconsistent with the purposes of this Act shall be applied, used, or construed.

This Act and the regulations thereunder shall also be excluded from the application of Act No. 38-2017, as amended, known as the “Government of Puerto Rico Uniform Administrative Procedure Act.”

Section 8.5.- Protection of the Rights of the U.S. Citizens of Puerto Rico.

The right to self-determination of the U.S. citizens of Puerto Rico to resolve the territorial and colonial status is a human, natural, and inalienable right that is not dependent on any legal, constitutional, or institutional authority’s action or inaction other than those lawfully adopted and elected by the people of Puerto Rico.

No omission, disagreement, or noncompliance, whether or not malicious, by any state or federal public official, shall be used to hinder the free and democratic expression of self-determination of the United States citizens of Puerto Rico, to finally resolve the current territorial status in the plebiscite, and on the date provided in this Act. In the event of any omission, disagreement, or noncompliance related to this Act or the implementation of Public Law 113-76 (2014), the remedies and

financial resources of the Government of Puerto Rico that are necessary to protect the rights of the U.S. citizens of Puerto Rico to vote freely, voluntarily, and democratically in the plebiscite, as required by the Chair of the Puerto Rico State Election Commission, are hereby directed. The foregoing constitutes a ministerial duty of the Chair of the Commission.

Section 8.6.- Severability Clause.

If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect, impair, or invalidate the remainder of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act thus held to be null or unconstitutional.

If the application to a person or a circumstance of any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect or invalidate the application of the remainder of this Act to such persons or circumstances where it may be validly applied.

It is the express and unequivocal will of this Legislative Assembly that the courts enforce the provisions and application thereof to the greatest extent possible, even if it renders ineffective, nullifies, invalidates, impairs, or holds to be unconstitutional any part thereof, or even if it renders ineffective, invalidates, or holds to be unconstitutional the application thereof to any person or circumstance.

Section 8.7.- Effectiveness.

This Act shall take effect immediately after its approval.

