

Congress of the United States
House of Representatives
Washington, DC 20515-5401

January 23, 2014

The President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

As you are aware, on November 6, 2012, the government of Puerto Rico held a plebiscite authorized by local law. The ballot consisted of two questions. On the first question, voters were asked whether they want Puerto Rico to remain a U.S. territory, and 54 percent said they do not. The second question asked voters to express their preference among the three legally valid alternatives to the current status—statehood, independence, or nationhood in a free association with the United States—and 61 percent of those who selected an option chose statehood. The number of votes for statehood on the second question exceeded the number of votes for continued territory status on the first question. In sum, a majority of my constituents reject territory status, a supermajority prefer statehood over nationhood, and more voters want Puerto Rico to become a state than to maintain the status quo.

On November 13, 2012, I wrote you a letter in which I conveyed these results, described their significance, and expressed “my hope and expectation that the White House will take appropriate and timely action in light of these results.” I wrote a similar letter to leaders in the House of Representatives and the Senate, urging “meaningful” action by Congress.

On December 4, 2012, White House spokesman Luis Miranda issued this statement regarding your administration’s interpretation of the plebiscite results:

[T]he results were clear, the people of Puerto Rico want the issue of status resolved, and a majority chose statehood in the second question. Now it is time for Congress to act and the administration will work with them on that effort, so that the people of Puerto Rico can determine their own future.¹

¹ See Byron Tau, “White House clarifies Puerto Rico stance,” *Politico*, December 4, 2012 (quoting White House spokesman).

Words were soon followed by action. After working closely with my office, your administration—as part of the Fiscal Year 2014 budget request transmitted to Congress on April 10, 2013—requested an appropriation to conduct the first status vote sponsored by the federal government in Puerto Rico’s history.

Specifically, of the total funding that the U.S. Department of Justice requested from Congress to administer the Byrne Memorial Justice Assistance Grant program, your administration sought \$2.5 million “for 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 Elections Commission of Puerto Rico.” Your administration proposed to condition the funding in the following manner:

Provided, That funds provided for the plebiscite under the previous proviso shall not be obligated until 45 days after the Attorney General notifies the Committees on Appropriations that he approves of an expenditure plan from the Commission for voter education and plebiscite administration, including approval of the plebiscite ballot; *Provided further*, That the notification shall include a finding that the voter education materials, plebiscite ballot, and related materials are not incompatible with the Constitution and laws and policies of the United States.²

On July 10, 2013, the House Appropriations Committee approved H.R. 2787, the *Commerce, Justice, Science, and Related Agencies Appropriations Act, 2014*. The bill—and its accompanying report, H. Rep. 113-171—adopted your administration’s Puerto Rico-related request in its entirety.³

In December 2013, Congress approved the *Bipartisan Budget Act of 2013*, which set overall discretionary spending for the current fiscal year at \$1.012 trillion. Once the budget agreement was reached, the leaders of the House and Senate Appropriations Committees developed—and, on January 13, 2014, introduced—the *Consolidated Appropriations Act, 2014*. I worked successfully to ensure that the specific language requested by your administration, and approved by the House Appropriations Committee, was included in the *Consolidated Appropriations Act*.⁴ I was joined in these advocacy efforts by Congressman José Serrano, House Minority Whip Steny Hoyer, and

² See The President’s Budget for Fiscal Year 2014, Appendix, page 735, available at <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2014/assets/appendix.pdf>.

³ See H.R. 2787, page 42; see also H. Rep. 113-71, page 53.

⁴ See H.R. 3547, page 57. The joint explanatory statement accompanying Division B of H.R. 3547 (Commerce, Justice, Science, and Related Agencies) states: “Report language included in House Report 113-171 . . . that is not changed by this explanatory statement or this Act is approved.” Because neither H.R. 3547 nor the joint explanatory statement modifies the language relevant to the \$2.5 million appropriation that was contained in H. Rep. 113-171, that language is adopted by reference.

Senate Energy and Natural Resources Committee Chairman Ron Wyden, among others. The *Consolidated Appropriations Act* was approved by the House on January 15th, by the Senate on January 16th, and you signed it into law on January 17th.

I believe that this provision of law, which is a direct response to the historic results of the November 6, 2012 plebiscite, is the most significant step that the federal government has ever taken to resolve Puerto Rico's political status. Success took time, tenacity and teamwork—and it was worth the effort. It is important to underscore that the provision is a “no-year” appropriation, meaning the federal funding will remain available until it is expended to conduct a valid plebiscite, rather than being returned to the U.S. treasury.⁵

Having reviewed how we arrived at this point, I would like to address the path forward. I, along with the party in Puerto Rico I am privileged to lead, believe that the federally-sponsored vote conducted pursuant to this appropriation should be a vote on Puerto Rico's admission as a state. The ballot should be substantially the same as the ballot proposed in H.R. 2000, the *Puerto Rico Status Resolution Act*, a bipartisan bill that outlines the rights and responsibilities of statehood, provides for a vote in Puerto Rico on the territory's admission as a state, and describes the steps that the federal government would take if a majority of voters favor admission.⁶ Specifically, the ballot should ask voters a single question:

Do you want Puerto Rico to be admitted as a State of the United States?

Yes__ No__.

A vote on Puerto Rico's admission as a state is the most logical, fair and appropriate way to proceed in light of the November 2012 plebiscite, given that statehood obtained the most votes in that plebiscite. Structuring the vote in this manner is entirely consistent with the language of the *Consolidated Appropriations Act*. The Act explicitly requires that the funding be used for a plebiscite—that is, a popular vote—as opposed to a constituent assembly or other procedural mechanism that would evade or manipulate the democratic process and that would undermine the sanctity of “one person, one vote.”

Furthermore, the Act is carefully worded; it provides that the federally-sponsored vote must be held among one or more options that would “resolve” Puerto Rico's status. Statehood would resolve the status issue because it is permanent and final. By contrast, as long as Puerto Rico remains a

⁵ See Congressional Research Service Memorandum to Rep. Pedro Pierluisi, “The Administration's FY2014 Request for the Edward Byrne Memorial Justice Assistance Grant (JAG) Program,” April 29, 2013 (on file with Rep. Pierluisi).

⁶ I introduced H.R. 2000 on May 15, 2013 and, to date, it has been cosponsored by 129 members from both parties.

territory, it still has the potential to become either a state or a sovereign nation. Because the current territory status does not—and cannot—resolve the issue, it should not appear as an option on the ballot, particularly since it was already soundly rejected by voters in the November 2012 plebiscite.

In addition, a vote on Puerto Rico’s admission as a state would satisfy the requirement that the ballot not contain any option that is “incompatible with the Constitution and laws and policies of the United States.” In contrast, a status proposal that has been put forward by one party in Puerto Rico—often called “enhanced commonwealth”—cannot meet this legal test. Your administration, like prior administrations, has rejected this proposal.⁷ So, too, have the leaders of the Senate and House committees with jurisdiction over this issue, who have observed that this proposal is unviable, confuses the debate, and therefore undermines efforts to resolve Puerto Rico’s status.⁸ A vote on the territory’s admission as a state is simple, straightforward, free of confusion or ambiguity, and would yield a definitive result.

Using the \$2.5 million to hold a vote on Puerto Rico’s admission as a state is consistent not only with the November 2012 plebiscite and the *Consolidated Appropriations Act*, but also with the procedures that led to Alaska and Hawaii evolving from territories to states. On August 26, 1958, a vote was held in Alaska on the yes-or-no question: “Shall Alaska immediately be admitted into the Union as a State?” Similarly, on June 27, 1959, a vote was held in Hawaii on the yes-or-no question: “Shall Hawaii immediately be admitted into the Union as a State?”⁹ In each case, the outcome of the vote led to prompt federal action resulting in statehood.

It is useful to step back and place the issue of Puerto Rico’s political status in a broader historical context. The Declaration of Independence and the U.S. Constitution stand for the principles that “all men are created equal” and that there is no such thing as second-class citizenship in this country. Few men have done more to vindicate these principles than Dr. Martin Luther King, Jr. In a speech honoring Dr. King’s legacy earlier this week, Vice President Biden noted that Dr. King regarded voting rights as the foundation of civil rights. The Vice President reaffirmed your administration’s support for the 1965 *Voting Rights Act*—whose passage Dr. King helped secure—and its opposition to state laws that make it more difficult for American citizens to vote.

⁷ See Report by the President’s Task Force on Puerto Rico’s Status, page 26 (March 2011).

⁸ See Letter from Chairman Ron Wyden and Ranking Member Lisa Murkowski of the Senate Committee on Energy and Natural Resources to Puerto Rico Political Leaders, December 13, 2013; Letter from Chairman Jeff Bingaman and Ranking Member Lisa Murkowski of the Senate Committee on Energy and Natural Resources to President Obama, December 1, 2010; House Report 111-94, accompanying H.R. 2499, the *Puerto Rico Democracy Act of 2009*, House Committee on Natural Resources, October 8, 2009.

⁹ See Congressional Research Service Memorandum to Rep. Pedro Pierluisi, “Alaska and Hawaii Statehood Admission Plebiscites,” May 31, 2013 (on file with Rep. Pierluisi).

The simple, inescapable fact is this: Puerto Rico's current status cannot be reconciled with the principles that Dr. King espoused. Puerto Rico has more U.S. citizens—3.6 million—than 21 states. The island's sons and daughters have served in the armed forces in large numbers from World War I to Afghanistan. Yet, my constituents cannot vote for their president and commander-in-chief, are not represented in the Senate, send a single nonvoting delegate to the House, and are treated unequally under key federal laws. This "lack of political and economic equality"—as distinguished former Puerto Rico Governor Carlos Romero Barceló has aptly described it—is the principal reason why Puerto Rico has long faced severe economic, social and demographic challenges. Moreover, as Chairman Wyden said in his opening statement at an August 1, 2013 Senate hearing:

The current relationship undermines the United States' moral standing in the world. For a nation founded on the principles of democracy and the consent of the governed, how much longer can America allow a condition to persist in which nearly four million U.S. citizens do not have a vote in the government that makes the national laws which affect their daily lives?¹⁰

In conclusion, Puerto Rico's current territory status—undemocratic, unequal and un-American—was rejected by a majority of voters in November 2012, and more voters expressed a preference for statehood than for any other status option. In recognition of the importance of that vote, your administration and Congress enacted legislation to enable the first federally-sponsored status vote in Puerto Rico's history. Having achieved so much, we must continue to press forward. In that spirit, I respectfully urge your administration to take an active and assertive role in helping to structure the federally-sponsored plebiscite as a vote on Puerto Rico's admission as a state.

Sincerely,



Pedro R. Pierluisi
Member of Congress

cc: The Hon. Eric H. Holder, Jr., United States Attorney General

The Hon. Tony West, Associate Attorney General, Co-Chair, The President's Task Force on Puerto Rico's Status

The Hon. David Agnew, Director of Intergovernmental Affairs, Co-Chair, The President's Task Force on Puerto Rico's Status

¹⁰ See Opening Statement of Chairman Ron Wyden, Senate Committee on Energy and Natural Resources, Hearing on "The Political Status of Puerto Rico," August 1, 2013, available at <http://www.energy.senate.gov/public/index.cfm/hearings-and-business-meetings?ID=c65e3706-46e4-40e0-b50e-51e52ac1f2dc>.