

THE STATE OF THE U.S. TERRITORIES

HEARING
BEFORE THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

FEBRUARY 9, 2023



Printed for the use of the
Committee on Energy and Natural Resources

Available via the World Wide Web: <http://www.govinfo.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

51-459

WASHINGTON : 2024

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CONTENTS

OPENING STATEMENTS

	Page
Manchin III, Hon. Joe, Chairman and a U.S. Senator from West Virginia	1
Barrasso, Hon. John, Ranking Member and a U.S. Senator from Wyoming	3

WITNESSES

Bryan, Jr., Hon. Albert, Governor, U.S. Virgin Islands	4
Guerrero, Hon. Lourdes Leon, Governor, Guam	18
Mauga, Hon. Lemanu P.S., Governor, American Samoa	24
Palacios, Hon. Arnold I., Governor, Commonwealth of the Northern Mariana Islands	35
Pierluisi, Hon. Pedro R., Governor, Puerto Rico	46

ALPHABETICAL LISTING AND APPENDIX MATERIAL SUBMITTED

Barrasso, Hon. John:	
Opening Statement	3
Bryan, Jr., Hon. Albert:	
Opening Statement	4
Written Testimony	7
Responses to Questions for the Record	92
Garffer, Art:	
Statement for the Record	119
González-Colón, Hon. Jenniffer:	
Statement for the Record	122
Guerrero, Hon. Lourdes Leon:	
Opening Statement	18
Written Testimony	20
Responses to Questions for the Record	95
Manchin III, Hon. Joe:	
Opening Statement	1
Márquez, Joaquín:	
Statement for the Record	126
Mauga, Hon. Lemanu P.S.:	
Opening Statement	24
Written Testimony	26
Responses to Questions for the Record	101
Medicaid and Medicare Advantage Products Association of Puerto Rico:	
Statement for the Record	140
Palacios, Hon. Arnold I.:	
Opening Statement	35
Written Testimony	37
Responses to Questions for the Record	106
Pierluisi, Hon. Pedro R.:	
Opening Statement with attached letter addressed to Congressional leaders, dated January 27, 2023	46
Written Testimony	48
Responses to Questions for the Record	109
Puerto Rico Statehood Council:	
Statement for the Record	148

IV

	Page
Ramos Andujar, Hector:	
Statement for the Record	152
Rosselló Nevares, Ricardo:	
Statement for the Record	153
Weare, Neil:	
Letter for the Record	156

THE STATE OF THE U.S. TERRITORIES

THURSDAY, FEBRUARY 9, 2023

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The Committee met, pursuant to notice, at 10:10 a.m. in Room SD-366, Dirksen Senate Office Building, Hon. Joe Manchin III, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOE MANCHIN III, U.S. SENATOR FROM WEST VIRGINIA

The CHAIRMAN. The Committee will come to order.

Just as soon as we have 11, we are going to go right to our business order, real quick, to make sure that we get that out of the way.

But right now, I would like to welcome everybody and thank you all for making such a committed effort to being with us. We appreciate every year when you come in and tell us exactly what is going on and how we can all be helpful and work together for all of our citizens.

Speaking first to the markup on the agenda's amendment to our Committee rules for the 118th Congress and the Committee's funding resolution for the 118th Congress, the rule change will reduce the number of Senators who need to be physically present to report matters from the Committee from 11 to 10, in keeping with the reduction in the total number of our members from 20 to 19. The funding resolution is something the Rules of the Senate require us to report to fund the Committee's operating expenses for the next two years. The spending levels in the resolution have been preapproved and given to us by the Rules Committee and will be bundled with those of other committees and approved by the Senate later this month. I know several committees are planning to do the same this morning, so our members have competing schedules and we are all supposed to be at different places at the same time. So as soon as we have a reporting quorum, we are going to go right to the vote.

Now, turning to the hearing today, I would like to extend a warm welcome to the territorial governors, who are all joining us in person.

We have Governor Bryan of the U.S. Virgin Islands. Thank you, Governor, for being here.

We have Governor Guerrero of Guam.

We have Governor Lemanu of American Samoa.

We have Governor Palacios of the Northern Mariana Islands.

And Governor Pierluisi of Puerto Rico.

I know it is not an easy trip to make and I appreciate you all making this effort. As many of my colleagues know, this Committee has longstanding jurisdiction of territorial policy and insular affairs, and I look forward to learning about the opportunities and challenges facing your communities. I would like to start by acknowledging that American Samoa, Guam, and the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands are an integral part of our history, economy, and the culture of the United States, and that each territory is unique with its own set of pressing issues and priorities. This past year, the world has seen heightened geopolitical tensions following Putin's invasion of Ukraine. I am also concerned about the Chinese Communist Party's malicious influence and predatory economic policies leading to potential for conflict in the Pacific, as I am sure the people of Guam, American Samoa, and the Northern Mariana Islands are very much aware of.

We must not turn a blind eye to the severe consequences of China's continued aggression toward Taiwan and the Indo-Pacific region at large. The territories and the Freely Associated States in the Pacific are a vital part of our national security. Guam has long hosted American military bases and American Samoa yields the highest rate of military enlistment of any U.S. state or territory. As we face those global challenges, the United States cannot ignore the concern of the territories and must prioritize maintaining peace and security in the region.

There are many challenges facing the territories today. I do not need to remind any of you about the impact that the global pandemic has had on our communities and our economies. The pandemic's challenges were compounded in the territories given the ongoing recovery from the devastating natural disasters in both the Caribbean and the Pacific. I applaud each government for quickly and effectively responding to the pandemic and prioritizing power and water restoration in the wake of these natural disasters. Now, however, we are turning a new page and focusing on economic recovery and how best to move forward.

In Puerto Rico, this recovery is powered by a reliable and affordable energy grid. It is clear that hurricanes will continue to deliver setbacks to grid reconstruction, as we saw with Hurricane Fiona last fall. But power restoration to the majority of the island in days or weeks is an improvement over months, as we saw after the 2017 hurricanes. I am frustrated by the slow progress, but I am hopeful that the change in operation and management of PREPA's generation and transmission assets will bring transparency, modernization, and cost savings. I look forward to hearing from you today about where the recovery stands. It is critical that investments made can deliver real benefits today and tomorrow, and there is a capacity on the ground to maintain this infrastructure going forward.

There are many, many pressing issues impacting the territories that we will discuss today, from workforce, infrastructure, inflation, and supply chain difficulties to the different treatment of taxes and federal assistance programs. Underlying many of these challenges are questions of economic development and fiscal stability. Again, I would like to thank each of you for your time today and sharing

your priorities and discussing how Congress can support economic opportunity and improve the quality of life of individuals living and working in the territories for generations to come. As I have said before, the sun never sets on the jurisdiction of the Energy and Natural Resources Committee, and I would like to recognize those who are watching this hearing from the territories in the Pacific. I know it is very early right now where some of you live.

With that, I am going to turn it over to my friend, Senator Barrasso, for his opening remarks.

**OPENING STATEMENT OF HON. JOHN BARRASSO,
U.S. SENATOR FROM WYOMING**

Senator BARRASSO. Well, thanks so much, Mr. Chairman.

And with regard to the business meeting, I look forward to supporting each of the measures that you are bringing forward and I would agree that we should hold an en bloc vote—voice vote—as soon as a quorum arrives.

Also, before returning to my remarks for today's hearing, I would like to take a minute to recognize our Chief Counsel, Matt Leggett. I want to thank him for his work on this Committee and his work on behalf of the people of Wyoming. His unwavering commitment to public service is so admirable. Matt's been with me for ten years. He has served as Chief Counsel on the Energy and Natural Resources Committee for the last two years. He also held the same position at the Environment and Public Works Committee while I was Chairman there. Before that, Matt served as Policy Counsel for the Senate Republican Policy Committee. He also spent a number of years across the street in the House of Representatives. He started his career here in the year 2000 as a Capitol Hill legislative correspondent. So his departure from the Senate does leave big shoes to fill. I just want to thank Matt for all that he has done during his time here. He is going to be greatly missed and we wish him every success in his next chapter.

[Applause.]

Senator BARRASSO. Now, Mr. Chairman, let me turn to the hearing.

Thank you to all of the governors for being here with us today. Today's hearing gives us a great opportunity to discuss the importance of the territories. The territories in the Pacific are the front lines of Chinese aggression. As I have said before, Chinese aggression in the Indo-Pacific is a serious and growing threat. Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa are not only vital to our national security interests, they are also home to American citizens and nationals. Their security is more important now than ever.

Guam is also home to several United States military installations. It is key to maintaining our military power in the region. Over time, China has ramped up its military threats against Guam. It has conducted drills near the territory and has developed missiles that are capable of reaching the island. The Commonwealth of the Northern Mariana Islands is home to thousands of Americans. This chain of islands, known for its rich history and beautiful beaches, is also important to our national security because of its proximity to East Asia. Our partnership with Guam

and the Northern Mariana Islands benefits not only the people of the territories, but also the nation as a whole. During a time when China is working to expand its economic and military influence, we must maintain a strong presence in the region.

China's illegal global fishing operation has also impacted other territories in the Pacific. The people of American Samoa regularly face this illegal assault. They have suffered serious economic setbacks as a result of China's fishing practices. I look forward to hearing how they are responding to these illegal activities. I am also interested to hear about the effectiveness of the U.S. Coast Guard, which now regularly patrols the waters of the Western Pacific. The Freely Associated States and the corresponding Compacts of Free Association are also integral to the security of our territories and our strategic interests in the region. These agreements are a central part of preserving international maritime security, maintaining geopolitical stability, and countering Chinese hostility.

A number of the Compacts will expire this year. Mr. Chairman, I look forward to working with you and other members of this Committee on that issue going forward. I think it is important to acknowledge that the governors before us today represent territories that are home to patriotic Americans who enlist in our armed services at very high rates and who serve with distinction. We owe them a debt of gratitude.

Thank you, Mr. Chairman, and thank you to the governors for being here to testify.

The CHAIRMAN. Thank you, Senator Barrasso.

Now, I would like to turn to the governors of the territories for their opening statements, and we will begin with Governor Bryan of the U.S. Virgin Islands.

**STATEMENT OF HON. ALBERT BRYAN, JR.,
GOVERNOR, U.S. VIRGIN ISLANDS**

Mr. BRYAN. Good morning, Chairman Manchin, Ranking Member Barrasso, and members of the Committee. On behalf of the people of the U.S. Virgin Islands, I would like to sincerely thank you all in this body for the opportunity to appear before you today to discuss the state of the United States Virgin Islands and the territory's focal points in 2023. Chairman Manchin, you have been a stalwart friend of the Virgin Islands for as long as I can remember and I want to thank you personally for your friendship with the U.S. Virgin Islands and your support. I also want to thank this Committee, broadly, along with Congress at large for the support you gave the territory in 2022. Thank you, all.

This past year, the territory began to bounce back from the devastating effects of COVID-19, and continued on rebuilding efforts from a deluge of national disasters. We are making great strides rebuilding. Our overall revenues are up. Our debt burden is down. We have restructured our struggling government employee retirement pension system, which has been a drag on our fiscal situation for decades. We are rebuilding our housing and infrastructure, and tourism in the territory is rebounding and is leading the Caribbean. I am proud to say that we are laying the foundation for a stable, sustainable prosperity for the people of the U.S. Virgin Islands.

But I am going to keep asking you for your support. Virgin Islanders deserve it. We are Americans, and as Governor of the U.S. Virgin Islands, I will continue to demand equality until we are treated like every other American. All too often, the territories are subjected to disparate treatment, afforded unequal funding, provided poor infrastructure, and treated as, frankly, an afterthought.

Our health care system and hospitals, still reeling from natural disasters, do not receive equal funding guaranteed to those on the mainland. Our energy is the most expensive and the least reliable in the country. The “GILTI” tax treats us Virgin Islanders like a foreign country, crippling our access to the tax incentive programs Congress created to spur American investment in the territory. The U.S. Supreme Court recently held that as Americans who are residents of a territory, we, along with my fellow governors, do not have the right to equal protection under the law and must turn to Congress to demand fundamental social welfare benefits guaranteed to our fellow citizens residing on the mainland. Still, we lack equal representation in Congress. We make strides toward equality every year, but we are not there yet.

We face enough challenges inherent to our island, such as geographic isolation, lack of natural resources, and the prevalence of natural disasters that we, as a U.S. territory, should not be facing—challenges rooted in discriminatory federal policies and second-class infrastructure that Congress has the power to change. I come before you today expecting action on some long-overdue needs.

First, we need assistance in meeting the local cost-share requirements as we continue to cope with the financial challenges of the hurricanes, which were exacerbated by the pandemic. Just to put that in perspective for you, \$1.2 billion is what our match is now at ten percent. That is our annual budget. That is what we must come up with. All of the agencies have the right—FEMA has a right to waive this—and we are asking Congress to make sure that instead of having the possibility to do it, that they actually do it and waive this for the territories.

Second, we need Congress to address immediately the shortfall for our rum excise tax covered over into the territory. Since our country acquired the territory over a century ago, federal excise taxes on rum manufactured in the Virgin Islands and Puerto Rico are returned or covered over to the Virgin Islands. It is essential that we get this, as this is a revenue source we use to stabilize our pension system and bring much-needed revenue into our territory. It has been codified as a tax extender that we come for every couple of years, but at this point, we just need it to be extended so we can cover our expenses from last year as well as making it permanent.

Third, we need to address inequitable treatment of health care in the territory. While we are eternally grateful for the 2023 Consolidated Appropriations Act, which addressed the longstanding discrimination in the application of the Federal Medicaid Assistance Program, our Medicaid funding for the territory is subject to an arbitrarily low hard cap. I want to thank you sincerely for making sure that now we are permanently matched at 83 percent to the Virgin Islands’ 17 percent, something that it took decades to

do. But the cap ensures that we cannot go further than \$135 million. This year we will surpass that cap in terms of providing health care to our citizens. This cap is not instituted anywhere else for any state. But strangely, the territories are under that. We already have problems getting care, as we are isolated, and it is expensive to come to the mainland. So we want to make sure that we have that possibility.

Fourth, our territory's economic problems have been compounded by aggressive federal environmental regulators at the EPA who have shut down our refinery once again. This accounts for 20 percent of our employment. If we cannot get the refinery up, we cannot be sustainable. The EPA took an extremely aggressive stance and used something that they have only enacted twice in the last 30 years. We are fighting with the EPA just for equal treatment, just like any other state, to have that chance to restart our refinery and keep our growth going through the sustainability that it provides.

Lastly—energy, energy, energy. The Governor of Puerto Rico is here today. We would love to have a Caribbean energy grid. They are doing incredible things to secure their energy future. By the end of the next two years, we will have more renewable energy in the Virgin Islands than we actually need. So we will have over 105 megawatts of daytime energy, even though at peak we are only at 85, an incredible win for the Virgin Islands.

I want to thank you all for all that you have done. And as you continue to help us, we have the money to do it, it has already been allotted and allocated. We just need cooperation between our Federal Government divisions. Thank you, again, for your attention to all the challenges and incredible support that we have had over the last four years. I know it is going to get better, and the Virgin Islands is proof that this body and the entire Congress is doing things that really work for the people of the territories.

[The prepared statement of Mr. Bryan follows:]



THE UNITED STATES VIRGIN ISLANDS
OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE
Charlotte Amalie, V.I. 00802
340-774-0001

Written Testimony of
Governor Albert Bryan Jr. of the United States Virgin Islands
Before the
Senate Committee on Energy and Natural Resources
February 9, 2023

Good morning Chairman Manchin, Ranking Member Barrasso, and members of the Committee:

On behalf of the people of the U.S. Virgin Islands, thank you all for the opportunity to appear before you today to discuss the state of the United States Virgin Islands and the Territory's focal points in 2023. Chairman Manchin, you have been stalwart friend of the Virgin Islands for as long as I can remember. I thank you personally for your friendship with the U.S. Virgin Islands.

I also thank this Committee broadly, along with Congress at large, for the support you gave the Territory in 2022. Thanks to you all. This past year, the Territory began to bounce back from the devastating effects of COVID-19 and continued our rebuilding efforts from a deluge of national disasters. We are making great strides rebuilding. Our overall revenues are up, and our debt burden is down. We have restructured our struggling government employee retirement system, which has been a drag on our fiscal situation for decades. We are rebuilding our housing and infrastructure, and tourism in the Territory is rebounding. I am proud to say that we are laying the foundation for a stable, sustainable prosperity for the people of the U.S. Virgin Islands.

I am going to keep asking you for your support. Virgin Islanders deserve it. We are Americans, and as Governor of the U.S. Virgin Islands I will continue to demand equality until we are treated like every other American. All too often, the Territories are subjected to disparate treatment, afforded unequal funding, provided poor infrastructure, and treated as an afterthought. Our health care system and hospitals, still reeling from natural disaster, do not receive equal funding guaranteed to those on the mainland. Our energy is the most expensive and least reliable in the nation. The “GILTI” tax treats the U.S. Virgin Islands like a foreign country, crippling our access to the tax incentive programs Congress created to spur American investment in the Territory. The U.S. Supreme Court recently held that as Americans who are residents of a Territory, we do not have the right to equal protection under the law and must turn to Congress to demand fundamental social welfare benefits guaranteed to our fellow citizens residing on the mainland. Still, we lack equal representation in Congress. We make strides toward equality every year, but we are not there yet. We face enough challenges inherent to our islands, such as geographic isolation, lack of natural resources, and the prevalence of natural disasters that we, as a U.S. Territory, should not be facing challenges rooted in discriminatory Federal policies and second-class infrastructure that Congress has the power to change. I come before you, expecting action for long overdue change.

Social Programs and Health Care

First, I would like to recognize the monumental step towards social equity Congress did provide the Territory this past year. Historically, Federal law limited the Federal Medicaid Assistance Percentage (“FMAP”) to 55%—far less than what would be guaranteed to the Virgin Islands if it were a State. Since the 2017 hurricanes ravaged the Territory, Congress has temporarily extended the FMAP to 83% from time to time, leaving the Territory facing uncertain funding and chronic “fiscal cliffs” in

Medicare funding. Not anymore. The 2023 Consolidated Appropriations Act (“CAA”) provided the Territory a provision permanently fixing FMAP matching at 83%. The permanent fix is much more representative of the aid we would receive if we were subject to the same rules as a State, and we greatly appreciate Congress righting this historic wrong.

Of course, there is still much work to be done in the sphere of health care and social programs. As you know, the U.S. Supreme Court last year handed down the *Vaello Madero*¹ decision, holding that citizens of the Territories cannot invoke the Constitution’s promise of equal protection under the law to receive Supplemental Security Income or other benefits guaranteed to Americans resident in the States regardless of geographic location or payment of taxes. An American citizen who moves from West Virginia or Wyoming to the Virgin Islands will lose these life-saving benefits. While we believe the decision is wrong, at least we know where we stand now: We have no right to equal protection under the Constitution and no avenue for relief other than through Congress. Therefore, we urge Congress to do what is right. Expand Supplemental Security Income to the remaining Territories, including the Virgin Islands. Principles of simple equity require that result.

Unlike in the 50 states and D.C., annual Federal funding for Medicaid in the U.S. Virgin Islands is subject to an arbitrary statutory cap known as the Section 1108 allotment. Once a Territory exhausts its capped Federal funds, it no longer receives Federal financial support for its Medicaid program during that fiscal year. This funding arrangement is unlike Federal Medicaid funding for states that are treated like an entitlement where Federal dollars are uncapped. With the Territories’ Medicaid funding being capped arbitrarily, Americans in the Territories are denied much-needed Medicaid funds just because they choose to stay home instead of moving to the mainland. This limits our ability to access the

¹ *United States v. Vaello Madero*, No. 20-303, 2022 WL 1177499 (U.S. Apr. 21, 2022).

increased FMAP funding made available in the CAA. Without an accompanying change to the statutory cap, the intent of Congress to assist the Virgin Islands and other Territories' Medicaid programs through the permanent fix to the FMAP made available in the CAA will be offset by the statutory cap on Federal funding. We therefore urge Congress to remove the statutory cap on Federal funding for the Territories' Medicaid programs so that the ability for Medicaid enrollees to access health care services is not threatened.

Hospitals in the Virgin Islands also face disparate treatment under Medicare. Whereas hospitals on the mainland and in Puerto Rico are compensated under the modern Medicare Inpatient Prospect Payment System ("IPPS"), the USVI's two hospitals are paid by Medicare on an outdated payment system called TEFRA. The TEFRA payment system for Territories' hospitals utilizes a reasonable cost payment methodology that is based on a hospital's costs in a given year. The intent is for the hospital's reasonable costs to be periodically rebased so that the payments made under TEFRA for Medicare patients are aligned with the costs a hospital in the Territory incurs in providing that care. However, Roy Lester Schneider Hospital has not had its payments rebased by the Centers for Medicare & Medicaid Services in 41 years and Gov. Juan F. Luis Hospital has not had its payments rebased in 27 years. This anachronism causes the hospitals to lose significant amounts of money in providing essential health care services to Medicare patients and results in much lower levels of compensation for reimbursement compared to hospitals throughout America. We are geographically isolated and our people need first-class local care. We are not second-class citizens. We must address these disparities and provide Virgin Islanders the same access to quality health care their fellow Americans get on the mainland.

Caribbean Energy Grid

We propose bold new thinking around a Caribbean energy grid linking Puerto Rico and the U.S. Virgin Islands. For too long, the people of Puerto Rico and the Virgin Islands have been plagued by extremely expensive and unreliable power. Today, each of the Caribbean Territories faces an acute crisis in power generation and transmission. Problems in power generation and transmission directly impact the quality of life and the safety of Americans living in the Territories. Chronically unreliable and costly power also stifles investment and economic development in the Territories. Americans living on the mainland have reliable power for their hospitals, schools, homes, and businesses. Americans in the Territories deserve the same guarantee of basic services. As the nation looks toward rebuilding aging infrastructure, we ask that Congress join us in bold solutions, linking Puerto Rico and the Virgin Islands together in a new Caribbean energy grid promising increased reliability and lower costs achievable through economies of scale, decreased duplication, and clean, renewable energy.

Reconciling Environmental Protection and Economic Development

Sadly, not much has changed in regard to our oil refinery in St. Croix since this time last year, when I asked for congressional assistance getting the refinery reopened. Nearly our entire industrial economy turns on the refinery. The refinery provided up to \$70 million in annual tax revenues, and without it, the Territory suffers \$633 million in reduced GDP. Additionally, the refinery was one of the largest employers in the Territory, providing skilled jobs, job training, and community development. However, after a two-billion-dollar private investment overhauling the refinery, the U.S. Environmental Protection Agency (“EPA”) shut it down in 2021. It remains closed today.

One of the largest in the Western Hemisphere, the refinery is important for our national energy security. Last year, Putin’s war highlighted the fragility of both national and global energy markets.

Gas prices spiked, and access to winter heating fuel was put in jeopardy. Making matters worse, we face a national shortage in refining capacity, propelled by years of uncertain policy toward fossil fuels that has dampened the investment climate in capital-intensive refining assets. While we are fully supportive of the green revolution and moving aggressively as a Territory and a nation to diversify into renewables, we still need fossil fuel to keep the lights on reliably. We need refining capacity. The refinery on St. Croix can provide the nation with much-needed energy security. The refinery can also provide the U.S. Virgin Islands with much-needed local energy security and economic opportunity and presents the opportunity of a local lifeline to Puerto Rico, which is facing an energy crisis of its own.

My administration has been working very closely with the refinery's owners and the EPA toward reopening the refinery. At the very least, we need to get to a low-risk, limited "topping operation" reopening. This will demonstrate the refinery's viability to investors and demonstrate the refinery's safety to regulators. But at every turn, we have met with resistance. Just a month ago, the EPA ordered that the refinery cannot start its limited topping operation until it gets another permit that will take 18 months to two years. This is too long. We cannot weather another bankruptcy at the refinery. We need a compromise approach that provides both environmental justice and economic opportunity. We therefore ask for your help getting this national asset back online for our Territory and for our Nation's energy security.

Rum Cover-Over

The rum cover-over has defined the political and tax relationship between the U.S. Virgin Islands and the United States since our country acquired the Territory over a century ago. Under this longstanding arrangement, Federal excise taxes on rum manufactured in the Virgin Islands are returned,

or “covered over,” to the Virgin Islands treasury to finance essential public services, pay debt service on the Virgin Islands’ bonds, and facilitate the Territory’s future access to the capital markets.

Decades ago, Congress increased the excise tax on rum from \$10.50 per proof gallon to \$13.50 per proof gallon. However, Congress only extended the cover-over rate to \$13.25 under temporary law. As a consequence, the Territory is short-paid the excise taxes collected and regularly faces a “fiscal cliff,” usually with each “tax extenders” package. The rum cover-over extender expired December 31, 2021 when Congress failed to pass any tax extenders package, abruptly reducing the amounts covered over to the Virgin Islands by more than 20%. The devastating impact on our finances is now unfolding and the situation will rapidly deteriorate unless action is taken by Congress to honor our longstanding cover-over arrangement.

We cannot responsibly plan for our people lurching from one jury-rigged extender to the next. We need permanent and reliable revenue from the taxes collected, consistent with the longstanding bargain struck when the United States acquired the U.S. Virgin Islands. We therefore request that Congress make permanent the rum cover-over at the full \$13.50 rate of excise tax collected and act immediately to restore the cover-over short-paid since December 31, 2021.

General Bond Guarantee

When I appeared before you last year, members of this Committee expressed support for updating the Federal guarantee of certain debt obligations of the Territory. Thank you for working with us on this proposal. This concept has firm precedent under 48 U.S.C. §§ 1574a and 1574b, which provide for a Federal guarantee of U.S. Virgin Islands bonds subject to terms and conditions set by the Departments of Treasury and Interior.

Our proposal would expand and update the existing statutory authority, streamlining and facilitating our access to capital markets, while providing Federal oversight under supervision of Treasury. This would enable the Territory to make cost-effective capital and infrastructure improvements, facilitate our recovery from the hurricanes, reduce debt service costs, and reduce the need for additional Federal aid—all while ensuring prudent financial management under Treasury's oversight.

Over the last year, we have encountered continued enthusiasm among members of this Committee, and we look forward to working with you to refine and advance the proposal in the 118th Congress.

Not GILTI

The perverse application of the Global Intangible Low-Taxed Income (“GILTI”) is another oversight that harms the Territory. GILTI is meant to keep American companies from stashing profits in tax havens like the Cayman Islands, Ireland, and the Isle of Jersey. However, through oversight, GILTI has been applied to the U.S. Virgin Islands as if it were a foreign country. We are not a foreign country. We are American. In fact, as a “mirror code” jurisdiction, the Territory is governed by the U.S. Internal Revenue Code and we have no power to change that.

We are grateful that Congress enacted Section 934 of the Internal Revenue Code, which allows us to offer tax incentives designed by Congress for the express purpose of *encouraging* U.S. investment in the Territory. However, the misapplication of GILTI takes away what Congress gave in Section 934. We understand that GILTI was not intended to punish the U.S. Virgin Islands, but nevertheless its

treatment guts the Territory's economic development programs.² These programs have been successful in attracting much-needed investment to the U.S. Virgin Islands and are one hundred percent consistent with Congress's longstanding treatment of the USVI under the tax code. Therefore, we request that Congress amend the law to stop treating businesses in the Territory as "foreign" and give us a chance to lift ourselves up by promoting American investment in our beloved Virgin Islands.

Cost-Share Waiver under the Insular Act

Congress acted admirably in appropriating funds for disaster recovery and COVID mitigation in the U.S. Virgin Islands and we are grateful for that. However, much of this funding remains stalled and inaccessible to the Territory because of labyrinthine regulatory requirements, burdensome Federal bureaucracy, and unrealistic local match requirements. Those local match requirements, which typically range from 10% to 25% of project costs, present formidable obstacles to our ability to timely access appropriated funds.

It is the policy of Congress, expressed by statute in 48 U.S.C. § 1469a, that "the administering authority of any department or agency, in its discretion, may waive any requirement for matching funds otherwise required by law to be provided by the Insular Area involved." In practice, however, that authority is rarely used. The policy reasons for the waiver are obvious. While the Insular Areas are in great need of Federal funding, they do not have the resources available to come up with the local match in order to access those funds. I understand the agencies' desire for the Territory to have "skin in the

²A report by the accounting firm EY, attached to this statement as Appendix I, sets forth the economic consequences of the GILT regime for Virgin Islands investment.

game,” but where that desire effectively forecloses the Territory’s ability to use critically needed Federal funds, it does not serve an appropriate public purpose and contravenes the will of Congress.

I respectfully urge the Committee to require Federal agencies to exercise the authority provided in 48 U.S.C. § 1469a by amending it to provide that each department or agency “shall waive any requirement for matching funds otherwise required by law to be provided by the Insular Area involved.” In so doing, the Territories would be freed from local match requirements that exceed our limited ability to pay and appropriated funds would be allowed to flow as this body intends.

Territorial Highway Program

Before 2012, Congress allocated \$50 million annually to the small Territories through the “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” (“SAFETEA-LU”) program under the Territorial Highway Program. This funding was in addition to amounts equivalent to the funding for High Priority Projects in the Territories. However, in July 2012, the Moving Ahead for Progress in the 21st Century Act (“MAP-21”) cut the Territorial Highway Program funding by 20%. Notably, this Act maintained highway funding levels for the States, the District of Columbia, and Puerto Rico. The small Territories were left out—another example of Americans receiving poorer treatment simply because of where in the United States they live. We urge Congress to correct this inequity.

* * *

In closing, I would like to thank you again for your time and your attention to the challenges facing our Territory. The U.S. Virgin Islands is my home, and I am so grateful to live there. I am an American, and proud to be one.

We are thankful for the partnership we have with this Committee and the Congress. We are thankful to be Americans, and we want to be treated as equals to all Americans, afforded the same rights, benefits, opportunities, and obligations. Too often, the U.S. Virgin Islands and the other Territories get second-class treatment and get left behind. The U.S. Supreme Court has held that Americans in the Territories cannot rely upon the Constitution's guarantee of equal protection under the law and that they must look to Congress for equal treatment—but we do not have equal representation in Congress either.

Virgin Islanders should not have to move to the mainland to achieve the same benefits and protections afforded other Americans. I call upon each of you and upon Congress to broadly rebalance the relationship with the Territories, with the goal of equal treatment for all Americans regardless of where they call home in our great Nation.

Thank you for considering this testimony and for your support of your fellow Americans in the U.S. Virgin Islands.

The CHAIRMAN. Thank you, Governor Bryan. We appreciate it.

And let me just say to all of our members, we are going to meet off the floor when we have a vote to have our organizational—basically, our rules to be changed so we are able to operate. So I want to thank all of you. I know everyone is—we are going to continue with this, with our meeting here, but we want to thank all of you.

So I am going to turn to Governor Guerrero from Guam.
Governor Guerrero.

**STATEMENT OF HON. LOURDES LEON GUERRERO,
GOVERNOR, GUAM**

Ms. GUERRERO. Hafa Adai, Mr. Chairman and members of the Committee. Thank you for the opportunity to appear before this Committee.

In previous hearings, both myself and my predecessors, as Governors of Guam, have testified on a range of concerns for which Guam is seeking federal action. These include Compact-Impact reimbursement, relief from regulations, including the Jones Act, expansion of the Radiation Exposure Compensation Act to include Guam, lifting of the Medicaid caps, climate change assistance, and inclusion in the SSI program. Foremost of these concerns is our request for \$700 million in federal support for the construction of a new hospital. In my written testimony, I will go into further details about these issues and others. At the outset, I did want to speak to one aspect of my community circumstances, which I believe not only places our concerns in context, but adds urgency to actually addressing them.

I am referring to the growing military threat from China and the prospect of Guam being on the front lines should our shared fears of a military conflict be realized. Since its acquisition by the U.S. in 1898, Guam has always been a host for U.S. military bases. Of course, these bases have benefited our community and our economy, but have also brought with them risk, as was starkly demonstrated in 1941 when our island was invaded and suffered three years of brutal foreign occupation before our liberation by American forces. Although peace has been maintained in the post-war years, the risk to our community continued through the Cold War and beyond. Our people have long known that such risks are the price we pay for our freedom as Americans, and we take pride in the contribution of our island to the nation's security. It is broadly recognized that American bases on Guam will be a main target in any conflict with China. Although behind the fence line, the military bases which dot our island from north to south are very much part of our larger community, and any scenario involving the targeting of these bases will have serious implications for our civilian health care facilities, infrastructure, and resilience.

In a visit to Guam last month, Marine Corps Commandant, General David Berger, remarked that it is not always fully appreciated how intertwined are both Guam's military bases and the civilian community. For example, these bases are served by the local Guam Power Authority and other civilian utilities. There is a naval hospital in Guam situated behind the fence line, but if that is damaged in a military conflict, the backup will naturally be the island's civilian hospital facilities, thus underscoring the need for federal

support and investment for a new hospital. Indeed, but for the limitation of time, I could present further examples of how our community's road network, ports of entry, and public service factor into the resilience and effectiveness of our island if it is called upon to play a front-line role in any conflict with China. I raise this prospect, not to be an alarmist, but to emphasize that any federal support or investment in Guam's hospital facilities, infrastructure, and resilience also serves under the nation's security interest.

In addition to a new hospital, one way in which our community can be supported is in addressing some of the adverse impacts of existing federal policy. This brings me to a subject with which I am sure you are very familiar, namely, the adverse impact of the Compact of Free Association on Guam's education, health care, and public safety services, as well as our infrastructure. Specifically, we seek full reimbursement for Compact-Impact expenses either by direct funding or offset against local match requirements in federal grant programs. Another area in which we seek relief is with respect to the restrictions on the importation of skilled labor, which is important to our economic recovery, but also to the planned military construction program. We appreciate the efforts of Congress in supporting our efforts to find a resolution to the skilled worker shortage, which is largely mitigated by the H-2B program. To diversify and strengthen our economy, broader access to skilled labor is needed if our economic diversification strategies are to be realized.

We propose two solutions—one, short-term relief: the Guam NDAA H-2B exemption expires in 2024, and estimates for ongoing military construction extend to 2029. Therefore, we ask that the exemption be extended to 2029. Long-term resolution: establish a "Guam-Only" temporary need criteria within the H-2B program which would include "other qualified need" to be determined by the Governor of Guam.

I appreciate your attention to my requests and look forward to working with the Committee on solutions to these matters. Thank you and Si Yu'os Ma'ase.

[The prepared statement of Ms. Guerrero follows:]

The Honorable Lou Leon Guerrero
Governor of Guam
Office of the Governor

Dear Mr. Chairman,

Thank you for the opportunity to present Guam's views on federal-territorial policy particularly as it relates to my community. In previous meetings, you have heard both previous Governors of Guam and myself provide testimony on a range of concerns for which we are seeking federal action and support. These include Compact Impact reimbursement, relief from federal regulations including the Jones Act, lifting of the Medicaid caps, inclusion in the SSI program as well as support to build a new hospital and to address the increasing challenge of climate change.

In my testimony today, I will go into further detail about these issues, and others, which are at the forefront of my island's concerns. At the outset, I did want to speak to one aspect of my community's circumstances, which I believe not only places our concerns in different contexts, but adds urgency to actually addressing them.

I am referring to the growing concerns about the military threat from China and all that it portends for the future of my people. Since its acquisition by the US, as a consequence of the Spanish-American war, Guam has always been a host for US military bases at varying levels of activity. Of course, these bases have benefited our economy, however, these benefits have come at risks, as was starkly demonstrated in 1941 when our island was invaded and suffered 3 years of brutal foreign occupation before our liberation by American forces in 1944. Although peace has been maintained in the post war years, the risks to our community continued through the Cold War and the onset of North Korean missile launches targeting our region. Our people have long known that such risks are the price we pay for our freedom as Americans and, indeed, we take pride in the contribution of our island in the US National Security strategy and as a forward projection of power in the region.

We are also aware that we have entered into a new period of heightened risk with the increased prospect of war with China over Taiwan in the coming years. It is, of course, broadly recognized that should conflict occur, American military bases on Guam will be a main target by China. While behind the fence line, the military bases which dot our island from north to south are very much part of our larger community, and any scenario involving the targeting of these bases will have serious implications for our civilian health care facilities, infrastructure, and resilience. One needs to look no further than the current war in Ukraine, for example, of how a military conflict can impact civilian infrastructure and facilities. As a matter of fact, the US military bases are a customer of the local Guam Power Authority, and it has not escaped us that these power generation facilities would be impacted as they are in Ukraine. There is a naval hospital on Guam sited in its own base behind the fence line. But if that is damaged, the task of aiding casualties would naturally fall on the island's civilian hospital facilities, thus underscoring the need for federal support for a new civilian hospital. Guam requests \$700 million in federal grants for funding for the new hospital, which will serve veterans and as a secondary facility for military personnel. The island's main naval base is sited on one side of Apra Harbor and our civilian commercial port, which handles a high volume of military cargo, sits on the other side. Indeed, but for the limitation of time, I could present further examples of how our community's facilities, and services factor into the resilience and effectiveness of our island if it is called upon to play a frontline role in any conflict with China.

I raise the possibility of a future conflict with China, not to be alarmist, but to emphasize that any federal investment or support of Guam's health care facilities, infrastructure, and resilience also serves the national interest, especially with respect to national security.

One way in which our community can be supported is addressing some of the adverse impacts of existing federal policy. This brings to a subject which I am sure you are well familiar with which is the impact of the Compacts of Free Association (COFA). In 2023 and 2024, certain financial provisions in the COFA treaties with the Freely Associated States (FAS) are expiring. While Guam remains supportive of a US-FAS relationship, it is important to recognize and mitigate the adverse effects that the current stipulations of the COFA agreements continue to have on Guam's infrastructure and social services. The current appropriation to offset the costs associated with the Compact is \$30 million, which is allocated to affected areas, including Guam, the CNMI, Hawaii, and American Samoa. This appropriation is then distributed based on a ratio allocation using the most recent enumeration. While the costs of unmitigated migration have increased, this appropriation has not. The annual impact to the Government of Guam alone is estimated to be \$148 million, but Guam only receives an annual reimbursement of \$14 million from the federal government.

As Guam's governor, I ask that the congressional committees to which the treaties are referred to include the following provisions in the amended agreements:

1. Full reimbursement for future Compact Impact expenses with a sufficient and dedicated funding source. The University of Guam is currently conducting a methodological analysis for validating past and future Compact Impact costs through a grant awarded to the Guam Bureau of Statistics and Plans by the Department of Interior (DOI).
2. Debt relief of past unreimbursed, validated, compact impact expenses and annual matching funds, to offset debt the federal government owes to the government of Guam. To include annual government of Guam debt service to the Dept. of Housing and Urban Development (HUD) for loans to build a regional medical complex. Guam Dept. of Education's (GDOE) most defensible figures of compact impact date from 2004 and in 2022 total \$955 million of unreimbursed impact to Guam's public school system. Preliminary screenings of FAS citizens before arrival in Guam will ensure the purposes of migration are in adherence with conditions indicated in the compact agreement.
3. Extending Medicaid coverage to all FAS citizens in their home nations to strengthen FAS health systems and reduce the need for FAS residents to migrate to Guam, the CNMI, Hawaii, and other affected states.
4. Expansion of Low-Income Housing Tax Credits (LIHTC) to developers on Guam, as an incentive for the construction of affordable housing, to stabilize critical housing shortages for more than 4,000 individuals currently on the waiting list.

These proposed solutions would help stabilize Guam's economy and social infrastructure. While this list is not conclusive, I request that the respective congressional committees consider adding such amendments to the treaties.

Another area in which we seek relief is with respect to the restrictions on the importation of skilled labor. We appreciate the efforts of members of Congress who supported our efforts to find a resolution to the skilled worker shortages, which are largely mitigated by the H-2B program. However, more work must be done as the NDAA H-2B exemption only helps the construction sector of Guam's economy. As my administration works on economic diversification, we anticipate the need to import skilled workers in non-construction industries as the island develops needed expertise and skill sets for these new business ventures. We make

this request as we do all we can to reskill our workforce, reduce barriers to workforce participation, support impacted businesses, and create a diverse economic environment.

We ask for Congress for the following solutions:

- Short Term Relief: The Guam NDAA H-2B exemption expires in 2024, and estimates for ongoing military construction extend to 2029. Therefore, we ask that the exemption be extended to 2029 to accommodate that need and align with the current H-2B visa cap exemption, which is already in statute until 2029. Failure to pass an extension would harm the current military build-up program and Guam's economy.
- Long Term Resolution: Establish a Guam Only temporary need criteria within the H-2B program which would include "other qualified need" to be determined by the Governor of Guam. In this proposal, USCIS would still adjudicate an H-2B petition but would examine a temporary need based on criteria that fit the unique needs of Guam. We have already drafted legislation introduced in a previous Congress, which we believe may work. As you may know, Guam was given special designations with regards to visas in the past, with the Guam Only Visitors Visa that was issued for Korea and Taiwan to facilitate tourism.

I wish to also raise an issue which I believe is a shared concern of many members of this Committee --- namely the proposed expansion of the Radiation Exposure Compensation Act (RECA) to include downwind communities in New Mexico, Arizona, Colorado, Montana, Nevada, Utah, and Guam. In the previous Congress, this legislation received bi-partisan support, and I am hopeful and certainly urge action by Congress on this measure. It is my understanding that Senator Ben Ray Lujan will be re-introducing this legislation in the next few weeks, and a companion bill is expected to also be shortly introduced in the House of Representatives.

This has long been a major concern of our community spearheaded for more than two decades by grassroots organizations, such as the Pacific Association of Radiation Survivors (PARS). Guam's Governors, Legislatures, and Delegates to the House of Representatives, have consistently advocated for action over these many years to address this concern. This matter is now more urgent than ever as the existing Radiation Exposure Compensation Act is set to expire next year.

In 2005, the National Research Council released a report, stating that "Guam did receive measurable fallout from atmospheric testing of nuclear weapons in the Pacific." It is clear, that although not technically included in the original statute, those Guam residents who suffered radiation exposure from nuclear tests, certainly meet the standards and spirit of the existing statute. As is the case with so many other issues that remained unresolved, action to address this need will strengthen our resilience as a community.

One concern we have is with respect to broadband funding as provided for in the Bipartisan Infrastructure Law. Funding allocations from the Broadband Equity Access and Deployment Grant will be driven by the FCC-produced Broadband maps for the states and territories. The initial map for Guam left out 70% of served locations, and we have filed a challenge with FCC in this regard. It is unclear to us though whether we will have the opportunity to challenge the final map for Guam before it is used to determine our broadband funding in June.

Central to our community's progress and to support Guam's military mission is an upgraded road network system. We are therefore seeking an increase in funding amount for the Territorial Highway Program (THP) and authorization for the redistribution of lapsed funds back into the THP. Furthermore, there are a number of road projects that we believe meet the criteria of the Defense Access Program (DAR). It is our hope to have them included in the next National Defense Authorization Act (NDAA).

The DAR program provides a means by which the federal government may pay its fair share of the cost of highway improvements needed for service to defense and defense-related installations; new highways to replace those which must be closed to permit establishment or expansion of defense installations; repair damage to highways caused by major military maneuvers and missile routes to ensure continued ability to support missile transporter vehicles. The final environmental impact statement associated with the Guam and Commonwealth of the Northern Mariana Islands (CNMI) Military relocation identified the following roads in Guam, which were proposed for improvements:

Route 1	Route 9	Route 25
Route 2A	Route 10	Route 26
Route 3	Route 11	Route 27
Route 5	Route 12	Route 28
Route 8	Route 15	Chalan Lujuna
Route 8A	Route 16	

Based on official updates to the government of Guam, not all roads identified were funded. It is our hope that Congress will concur on the merit of these road projects and provide the necessary authorization to fund additional DAR projects in the next NDAA.

A perennial issue you may also be familiar with is that unlike the states, for which federal Medicaid spending is open ended, Guam and other territories can only access federal dollars up to an annual ceiling, often referred to as the "Medicaid cap". Guam requests that Congress provide parity to the territories in this regard and remove the annual ceiling or cap for Medicaid.

I appreciate your attention to my requests and look forward to working with the committee on solutions to these matters.

The CHAIRMAN. Thank you. Thank you, Governor. Before—Senator King and Senator Cortez Masto, who has to leave?

Senator CORTEZ MASTO. I have to leave at 10:45.

The CHAIRMAN. Okay. You okay at 10:45?

So we are going to continue with our presentation, but before you leave, if you have a question, we might not be able to interrupt, so you all can give your questions.

Senator KING. My only comment was to the Governor of the Virgin Islands. I never realized that drinking Puerto Rican rum was a patriotic act, and it is very reassuring to know that.

[Laughter.]

Senator KING. Thank you.

Mr. BRYAN. Thank you.

Senator CORTEZ MASTO. I do have a couple of questions.

The CHAIRMAN. If you can, before you leave, we will make sure we get them in.

Now we are going to go to Governor Lemanu from American Samoa.

**STATEMENT OF HON. LEMANU P.S. MAUGA,
GOVERNOR, AMERICAN SAMOA**

Mr. MAUGA. On behalf of the people of American Samoa, I wish to say “Talofa and greetings!” to the esteemed Committee on Energy and Natural Resources. Thank you, Chairman Manchin, Ranking Member Barrasso, and the distinguished members of this Committee for the opportunity for the U.S. territories to appear before you. This is truly an occasion to celebrate in recognition of our nations returning to our new normal with holding Congressional hearings again.

I first want to commend you on your role in passing the American Rescue Plan Act, Inflation Reduction Act, and Bipartisan Infrastructure bill. Funding provided by these laws helped to address many of our issues in American Samoa, and of course, the U.S. territories. As with all of the United States of America, American Samoa’s economy is recovering slowly from the adversity of COVID-19. While struggling through COVID-19, natural disasters with global warming, climate change, hurricanes, monsoons, droughts, spring and neap tides, sea-level changes, and so forth took damaging tolls, and are now the most dangerous catastrophe American Samoa is facing, now and into the future. In fact, according to the USGS study, and I quote, “American Samoa is vulnerable to sea-level rise in part due to steep terrain on its islands. . . . This subsidence is estimated to lead to roughly twice as much sea-level rise by 2060 as what is already predicted for climate change alone. As a result, the timeline of coastal impacts in American Samoa will be decades ahead of similar island communities of the Pacific.” Land is life for the seven islands of American Samoa, and I seek your immediate attention and full support on saving American Samoa.

American Samoa is sending a request for funding to build and maintain hard infrastructure—sea walls, roads, bridges, eight wharfs, four airports, and shipyards; soft infrastructure—health care system, hospital, education system, food and fiscal security, power generation, water system, communication, and financial sys-

tem; and critical infrastructure—building and structures and components to house and provide services to our people, and of course, security of the surrounding perimeters because of the Chinese presence in the Pacific. Mr. Chairman and Committee, all three components of our infrastructure must be built simultaneously, because one complements the other. Like building a house, you can't have the structure of the house without a bathroom, a kitchen, and all the components that go into the house. So therefore, Mr. Chairman, we can't build one without the other because one complements the other.

So what is the U.S. territory from American Samoa asking for? Well, for hard infrastructure, \$700 million. For soft infrastructure, \$500 million, and for critical infrastructure, \$500 million. Please keep in mind that American Samoa, like other U.S. territories, are by ourselves in the middle of the vast deep blue sea, and our need to build infrastructure, economy, security, health care system, education system, power generation system, communication, air, sea, and land transportation, protection of land, air, ocean, and food security is protecting the lives of our people.

I thank you once again for this opportunity for American Samoa to address this distinguished Committee and for your ongoing effort to improve the quality of life for the people of the U.S. territories. God Bless America. God Bless this Committee and us.

[The prepared statement of Mr. Mauga follows:]



**Office of the Governor
American Samoa Government**

GOVERNOR LEMANU P.S. MAUGA TESTIMONY

United States Senate Committee on Energy and Natural Resources

February 9, 2023

Introduction

On behalf of the people of American Samoa, I wish to say “Talofa and greetings!” to this esteemed Committee on Energy and Natural Resources. Thank you Chairman Manchin, Ranking Member Barrasso and the distinguished members of this Committee for the opportunity for the US territories to appear before you. This is truly an occasion to celebrate in recognition of our nation returning to our new normal with holding Congressional hearings again.

Thank you for the chance to share with you some of the challenges facing our territory and the needs of the people of American Samoa. I also want to commend you for your role in passing the American Rescue Plan Act, the Inflation Reduction Act and the Bipartisan Infrastructure Bill. Funding provided by these laws helped address many of our issues in American Samoa and the other US Territories. I also want to thank our Congresswoman High Chief Uifa’atali Radewagen for her work, not only for our territory, but for all of the US territories—our gratitude further extends to the Delegates of the other territories who work collectively on our issues common to all our territories. But before I get into the issues, I would like to say something about COVID, as this is my first time to personally be here in Washington, DC, since the COVID virus upended our way of life and closed our territorial borders for nearly one year.

COVID-19 Response

American Samoa survived COVID after more than two years of adopting and exercising some of the strictest COVID restrictions in the world. We closed our borders March 2020 for 11 months and there was no travel in or out of our territory. It stranded thousands of our residents off-island and others on-island. Upon taking the helm as the new Governor in January 2021, we

Governor Lemanu Peleti Sialega Mauga, American Samoa
Feb. 9, 2023, Written Testimony
Before the US Senate Committee on Energy and Natural Resources __Page 1 of 9

immediately began a stringent six-month process of repatriating our residents back home, in February 2021. Returning residents were subject to multiple COVID testing, pre-travel quarantine in the State of Hawaii and post arrival quarantine upon arrival in American Samoa. After keeping COVID out of our territory for nearly two years, we had our very first community outbreak in February 2022. While the rest of the world had learned to live with COVID, our small island of 50,000 people was just facing a COVID outbreak in 2022. By the outbreak, we had a near 90% full vaccination rate for eligible individuals thanks to the vaccines we received from the US federal government. We lost 34 people whose deaths could be attributed to COVID. It was at this moment that truly showed the tremendous role the United States federal government played in our territory's ability to respond to a global pandemic. The US Federal Government with its multiple agencies from FEMA, to CDC, to the US Army and others, was instrumental in supporting us, sustaining us and helping us recover. While I have this honor to testify before this Committee, I feel it only proper that on behalf of our people and our government, I would like to personally express my heartfelt gratitude to this US Congress. The federal laws you pass that have supported COVID vaccinations, our small businesses, our employees, our health care system, had a real impact on the lives of our people. We owe so much to all of our federal partners who had feet on the ground during this outbreak, before and after. Thank you.

Census 2020 Population Count

American Samoa's 2020 population count and other data products weren't officially released until late 2021 and late 2022, and the significant drop in our population count does not reflect the actual number of residents in American Samoa today. The Coronavirus pandemic led the Territory to close its borders in 2020 to 2022 where numerous American Samoa residents could not return home immediately and within the enumeration period. Accordingly, I humbly request an opportunity to recount or consider another population census method on a quinquennial basis for US Territories.

American Samoa Constitutional Amendments

The US flag was first raised on the islands of American Samoa on April 17, 1900. Every year the people of American Samoa celebrate "Flag Day" to recognize the historical significance of the raising of the American flag over the islands. In 2023 we will acknowledge 123 years of American Samoa's loyalty and service to the United States. We are proud of our service to the US military. We are proud to defend this great nation.

American Samoa is an unorganized territory because Congress has never established an organic act for American Samoa. However, American Samoa enjoys governmental institutions based on the American Samoa Constitution which was first approved by the Secretary of Interior in 1960 and revised in 1967. After the Revised Constitution of 1967 was approved, a constitutional convention was held in 1973. Since then, Governor Peter Tali Coleman, Governor A. P. Lutali, and Governor Togiola T. A. Tulafono called constitutional conventions by executive order in 1984, 1986, and 2010 respectively.

On November 8, 2022, the voters of American Samoa approved five amendments to the Revised Constitution of American Samoa. The people of American Samoa formed and convened a representative deliberative body, reached out and informed the public on the proposed amendments, and sought the will of the people by referendum in a democratic process of self-determination.

In my December 14, 2022 letter to the Honorable Secretary of Interior Deb Haaland, I respectfully requested that she support these amendments and take such actions as may be necessary and appropriate to bring them into effect.

1. The “Swains Island Vote”

This amendment grants the delegate from Swains Island the right to vote in the House of Representatives.

2. The “Accountability Amendment”

This amendment provides an impeachment process of the Governor and Lt. Governor.

3. The “American Samoa Government Amendment”

This amendment inserts “American Samoa Government” in place of “Government of American Samoa”.

4. The “Ma’oputasi County Amendment”

This amendment inserts “Ma’oputasi” in place of “Ma’uputasi”.

5. The “Leasina ma Aitulagi County Amendment”

This amendment adds “ma Aitulagi” to “Leasina” for the name “Leasina ma Aitulagi”.

Health Care

Two significant Congressional Acts have transformed the American Samoa health care delivery system. The Further Consolidated Appropriations Act of 2020 increased the annual Medicaid allotments to American Samoa from \$11 million to \$84 million and the Consolidated Appropriations Act of 2023 that increased our Federal Matching Assistance Percentage (FMAP) from the standard 55% to 85%. The increase in federal funding has allowed our government to expand Medicaid beneficiary benefits to include increased off-island referrals for specialized care not available on island, coverage of MedEvacs, eyeglasses and durable medical equipment and assistance for Medicare dual eligibles—services not available previously to our people.

Federal Medicaid Match (FMAP)

I want to thank you for the recent passage of the Consolidated Appropriations Act of 2023 that permanently increased the federal Medicaid match to 83% for American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands. This monumental change has brought equity to the matching issue for the territories Medicaid

Governor Lemanu Peleti Sialega Mauga, American Samoa
Feb. 9, 2023, Written Testimony
Before the US Senate Committee on Energy and Natural Resources __Page 3 of 9

programs. This will help make programmatic improvements to our Medicaid programs and increase provider payment rates for the U.S. Territories. American Samoa has a unique Medicaid model that does not allow us to claim the full 83% FMAP, but we are working on addressing this complex issue with the Centers for Medicare and Medicaid Services (CMS). Like all federal programs that require local matching funds, as a small territory with a limited economic base, American Samoa continues to face challenges in generating local revenues to meet the matching requirements in order for our territory to fully expand our Medicaid benefits.

New Healthcare Facility

We are now in the planning stages for a new healthcare facility that will improve the delivery of health care in American Samoa and will help to provide specialized medical services for our people. Our goal is to reduce our reliance on off-island medical referrals and build our local capacity to provide quality and comprehensive medical care for our population on island. Expanding the medical services available in the territory will also improve access to medical services needed by our sizeable veteran population that are forced to seek medical attention off-island. We need to attract and hire medical doctors and specialists, nurses, and staff to help serve our people. I hope we can more effectively tap into the workforce that may be available through the Public Health Service program. Currently many specialty medical cases must be flown off island for treatment but a new hospital would help address many of the gaps in our health care system by providing, for example, state-of-the-art diagnostic and operating theatres and oncology services currently not available on island. The Lyndon B. Johnson Tropical Medical Center is the only hospital in American Samoa and was built in 1968. We will need help from the Federal Government to construct a new facility and respectfully seek your assistance in providing Federal dollars for the construction.

American Samoa Permanent Residents

American Samoa is the only US jurisdiction that has a certain population category referred to as American Samoa Permanent Residents. Unlike US permanent residents, these residents are required to have lived continuously in American Samoa for 20 years to gain permanent residency status. These residents are ineligible for Medicaid except on a limited basis for emergency services. A change in the Medicaid law would allow our government to provide needed medical care for this group who have contributed 20 years of their lives living in our US territory, paying taxes and contributing to the welfare of our community—a US territory. They need to be treated equally like US permanent residents that are eligible for Medicaid, but only require five years in the US to become eligible for Medicaid under federal law.

Climate Change

Natural disasters continue to impact American Samoa at an alarming rate. It is clearly evident that we live in a period of rapidly changing climate conditions. The ripple effects of climate change to American Samoa's economy and overall quality of life due to weather and climate related phenomena calls for immediate action and emergency response. American Samoa is in a climate crisis.

This past year, sea level rise and stronger wave action created more coastal erosion and flooding than compared to 20 years ago. These severe weather events create conditions that threaten life and property and cause millions of dollars in damages. Our infrastructure is at risk due to extreme weather events that are exacerbated by sea level rise and American Samoa's subsidence rate of 6-9mm/year. A recently published report in the Geophysics Research Letters reported that the Pago Pago International Airport and Pago Pago Harbor were identified as critical infrastructure most affected by the subsidence.

In American Samoa we do not yet know to what extent the other major consequences of climate change will affect us. What we do know is that extreme changes in precipitation patterns will impact our food security through agriculture and drinking water resources. Ocean acidification and rise in water temperature will impact fish stocks and the productivity of coral reefs. These impacts are known to occur in other tropical areas of the world and we must face that they will eventually happen.

Today, the impacts of climate change in American Samoa is real. The effects are visible today and will continue to increase in the future. Our efforts to protect life, property and critical infrastructures are often hindered and stalled by lengthy federal permitting processes, funding restraints – local match, life of funding, and the NEPA process to name a few. These are obstacles that further delays time sensitive projects such as shoreline protection and stabilization to protect life and property and our critical infrastructures.

The Justice40 Initiative within the Department of Transportation will help us tackle the climate crisis and develop solutions to clean energy and energy efficiency, training and workforce development, clean water, and wastewater infrastructure.

NEPA (National Environmental Policy Act) Requirements/ Permitting

This is a recommended solution that would go a long way in delivering a more effective partnership with NEPA. For all US Department of the Interior (USDOI) federal awards, there is a designated point of contact handling the NEPA process for all DOI projects. In addition to USDOI, other federal funding agencies have selected environmental POCs that provide assistance on the federal environmental review and approval process. However, not all federal agencies provide an environmental POC and we hope OJA would consider a request to establish a local Army Corp of Engineers (ACOE) office or representative to assist with this matter. Providing training or technical assistance will also benefit the Territory by ensuring ASG is compliant with the NEPA process. A local ACOE office would also assist with environmental permits that present challenges for strict project timelines. Some federal agencies recommend that we seek permits for similar projects that may have been completed previous years. As a small island, many project sites will share the same coordinates or location therefore it would be prudent for environmental permits for project sites that have been approved the previous year, receive an expedited review and approval.

American Samoa Economic Development Credit (ASEDC)

One of the biggest issues facing American Samoa is the American Samoa Economic Development Credit. The tax credit was designed to encourage investment in the U.S. insular areas and create jobs by reducing the federal taxes on income earned by qualifying U.S. Corporations. During the last Congress, there were a number of tax provisions that did not get completed by the end of last year, and one of those was the American Samoa Economic Development Tax Credit. This tax credit is crucial to the employment and economy of American Samoa. We respectfully ask that this tax provision be acted upon, as soon as possible, and made permanent so that yearly extensions are no longer necessary.

Bipartisan Infrastructure Law

The Bipartisan Infrastructure law provided critical funding to American Samoa and the other US Territories, but it also presented major challenges due to the non-federal local matching requirements outlined in the legislation. This requirement disadvantaged our Territory. Due to our small populations and the struggling local economy, it is difficult to meet these matching requirements. We requested and were granted a waiver of the matching requirement from the Department of Interior's Office of Insular Affairs. This waiver opened up major funding opportunities for American Samoa. We continue to ask for waivers for other federal funding grantors to alleviate the matching burdens on U.S. Territories and ask for your assistance in waiving current matching requirements and eliminating that requirement in future legislation.

We also need your assistance to modernize and rebuild our transit systems, roads, bridges, seaports, and airports to make them more accessible, affordable, and sustainable. Sea transportation service to our outer islands is limited due to the lack of vessels and shipyard maintenance services. With the help of our Congresswoman Uifa'atāli Amata Radewagen and the U.S. Army, we are on our way in securing two landing crafts to service our neighboring islands and our shipyard services are improving but still needs more funding assistance.

Transportation Infrastructure Finance And Innovation Act

I also want to thank you for the flexibility in the Transportation Infrastructure Financing Innovation Act which is crucial to seeing our infrastructure projects from design to completion. This legislation will help to close funding gaps with low-cost, long-term financing and speed the delivery of infrastructure projects, to help our territory get the financing necessary to improve the transportation systems in our communities.

Broadband Equity, Access, And Development (Bead) Program

The funds from the Broadband Equity, Access, and Development Program, will help to expand high-speed internet access to American Samoa and the other US Territories. American Samoa lags behind in the development of telecommunications and these grants from the Federal Communications Commission, will help identify underserved areas and build an infrastructure to provide affordable and accessible connectivity for all.

Department Of Interior Grants

We also rely on American Samoa Operation Grants, through the Department of Interior and request continued support for those grants that are critical to the operation of our territory. I want to thank you and ask for your continued support for the Department of Interior Insular Affairs - Assistance to Territories grants that are essential in helping with financial management; economic development; education; energy production; natural and cultural resources; and invasive species management.

For 25 years American Samoa's annual allocation of \$10 Million remains unchanged despite the steady rise of costs for materials needed to complete projects. The overall cost of completing a project has increased for various reasons, namely the cost of fuel, materials, labor and supplies. Increasing American Samoa's allocation to reflect the increasing costs as well as address the lack of planning funds would efficiently make a concept ready project into a shovel ready one.

DOI has taken the lead in waiving local cost matching for all of its current funding opportunities available. We hope this initiative can be extended to other federal agencies providing funding to the territories. The waiver of local cost matching will relieve fiscal strain on our limited local funding.

Further, we request assistance from OIA in establishing and improving our Solid Waste Infrastructure for Recycling and to identify potential sources of funding to support the following:

- ASPA MSW Gasification Plant
- Transfer Stations
- Recycling Equipment (balers, scrap metal and tire shredders, etc.)
- Seed money to launch Governor's Recycling Program

Department of Education funding extensions

The American Samoa Department of Education is grateful for the funds we received under the American Rescue Plan Act and the Education Stabilization Fund. However, due to the long delivery times and shipping of materials, we will be unable to fully utilize all of the funds in the time limits imposed. We respectfully request that that a waiver be granted to permit us to spent all of the funds that were allotted to American Samoa.

Interagency Cooperation and other Federal Issues

We continue to work with our associations of Western and National Governors to address workforce development, cybersecurity, disaster preparedness and response, transportation infrastructure, and energy and water quality that require interagency collaboration with Congress and the federal government for our territory and the Insular Areas. Other issues listed below affect our ability to plan for a more sustainable future.

Governor Lemanu Peleti Sialega Mauga, American Samoa
Feb. 9, 2023, Written Testimony
Before the US Senate Committee on Energy and Natural Resources __Page 7 of 9

Build America Buy America Act (BABA) / Buy American Clause

Often times, meeting the Build America Buy America Act is not feasible to procure American made materials and supplies because American Samoa is so isolated from the rest of the nation, and they are not readily available. As such, the cost of shipping required materials is high due to our remote location. Having the flexibility of procuring materials and supplies elsewhere would not only lower costs, but will cut down on lead time. The Territory's geographic location is closer to New Zealand, Australia, the Pacific Island nations and Asian countries where similar products are manufactured at slightly lower costs. Shipping of these materials and supplies to the Territory is also more time efficient.

Air Traffic Control Tower and certain funding limitations in BIL

American Samoa has difficulty in competing with the rest of the nation for project funding because often times there are too many elements we do not qualify for- ex: there is funding in BIL for Air Traffic Control Tower projects - which the American Samoa Government desperately needs; yet we do not qualify as it is meant for airports that have existing towers and are part of the FAA tower program. American Samoa does not have an Air Traffic Control Tower at the main airport, the Pago Pago International Airport. American Samoa needs funding opportunities to allow for the initial construction of an Air Traffic Control Tower.

Equity In Competing for Grants

There is a lack of fairness as a Territory to compete with other states, tribes and local governments. The funding requirements, review and approval process are the same across the board. These scoring tools must be separated between territories, states, tribes and local governments. They should not be graded on the same criteria. There is a need to separate funding requirements for territories alone. This is done for tribal communities where they have their own tribal federal grants separate from states, local and territorial governments. The bottom line is to provide flexibility to the insular areas so it will only be fair and practical for territories to compete. The territories are underserved and unserved communities.

Geographical location makes it even more challenging to ship recyclables off island due to shipping and freight cost. Unfortunately, this has hindered our ability to grow the recycling industry in American Samoa as there is very little return for recyclers to pay for labor and overhead cost.

American Samoa being a "containerized society", is almost entirely dependent on goods to be shipped to the islands. Consequently, all these items at the end of their life cycle end up at either in the landfill, scrap metal yard or strewn about across the

islands. Only a few of these items end up being recycled based on their value as recycled items.

China

The challenge I see in the work before Congress, is that in the laws it passes for this great nation of ours, please, I implore you as our federal law makers, do not forget about the US territories. American Samoa may be small in population numbers, but our location, as the southern-most jurisdiction of the United States based in the South Pacific region, is critically important to our strategic defense and national security. Our territory is well known to be the most successful recruiting station for the US military. China over the years have steadily made inroads in establishing its presence in the Pacific region through economic investment or incentives among small island developing states (SIDS). It is necessary for the US to become more visible in the Pacific region and it can start doing that by investing in climate change impact funding to assist American Samoa and small island developing states. Helping to build the physical, technological and workforce infrastructure of American Samoa can only strengthen the United States resilience and presence in the South Pacific.

Closing

I thank you once again for this opportunity for American Samoa to address this distinguished committee and for your ongoing efforts to improve the quality of life for the peoples of the US territories. May God guide and bless you in the work that you do for this great nation. May God Bless the United States of America and its US territories.

Fa'afetai Tele Lava, Soifua.

The CHAIRMAN. Thank you, Governor.
And now, we are going to have Governor Palacios, from Northern Mariana.

**STATEMENT OF HON. ARNOLD I. PALACIOS, GOVERNOR,
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

Mr. PALACIOS. Good morning, Hafa Adai and Tiroow, Chairman Manchin, Ranking Member Barrasso, and members of the Senate Committee on Energy and Natural Resources. Thank you for conducting this crucial hearing on the state of America's territories. As the newly elected Governor of the Commonwealth of the Northern Mariana Islands, I appreciate this opportunity to highlight the strategic importance of our islands and the security of our nation and peace in our Indo-Pacific region. I also wish to share with you the urgent challenges confronting our Commonwealth, the path we are forging toward recovery and resilience, and the support we seek from Congress.

We in the Northern Marianas are grappling with crisis on multiple fronts: a government in fiscal disarray, an economy still struggling from the impacts of COVID and several unprecedented typhoon disasters that preceded the pandemic, infrastructures and systems that are woefully unprepared for the climate crisis, and a shrinking population, as citizens leave our islands for greener pastures. Against this backdrop of vulnerabilities are the geopolitical challenges presented by China in our islands and the region. My administration is fully committed to rebuilding relationships of trust and confidence among our citizens, our federal partners, and our allies in Micronesia and the wider Indo-Pacific area.

Four weeks ago, I was sworn in as the tenth elected governor. I entered an office that had been literally stripped bare, but far more troubling, I found the government's finances in complete disarray. We are still assessing the extent of the government's fiscal woes, but we are already taking necessary but painful actions, including cost containment measures. We have also placed high priority on increasing oversight and accountability of federal and local funds, and have sought assistance from and placed full cooperation with local and federal agencies investigating and holding accountable those responsible for the misuse and abuse of public funds. As my administration continues to tackle our government's fiscal disaster head-on, I want to remind this body that the Commonwealth is still recovering from disasters that, in and of themselves, were unprecedented and extraordinary in scale.

Just a few years ago, the Commonwealth was devastated by three natural disasters that occurred within a span of only three years. The most recent, Super Typhoon Yutu, was a Category 5 storm that ranked the most powerful on earth that year and was the worst storm to hit the U.S. since 1935. These storms wreaked havoc on our homes, our businesses, schools, infrastructure, and brought into sharp focus the vulnerabilities of our islands to the impacts of the climate crisis. These natural disasters were followed by an economic downturn, as tourism, our primary industry, collapsed. We are grateful for the Federal Government's investments that have been making projects which will support a long-term economic recovery, and we welcome the opportunity to work with our

federal partners to break the bottlenecks holding up hundreds of millions of federal dollars awarded to support our economic recovery and development.

A major part of our struggle to carry out critical infrastructure and development projects is a shortage of labor and serious uncertainty affecting the stability of the Commonwealth's workforce. I therefore strongly support our U.S. Congressman Kilili Sablan's recently reintroduced legislation, H.R. 560, the Northern Mariana Islands Population Stabilization Act. As Congressman Sablan has stated, "the population loss in our islands and resulting loss of economic viability not only hurts all of us, but also has an implication for the U.S. strategic position in the Western Pacific." With increasing competition for dominance from China, the United States needs to be strengthening our position in the region and not shrinking the significance. Equally important, I appeal to you to consider amending the U.S. Workforce Act of 2018, which governs the administration of the CW program with a diminishing number of CW permits every year, and with the program's end just around the corner in 2029, I ask for your support in the repeal of the section on touchback provision.

More than 50 years ago, Mr. Chairman and members, the Commonwealth's founding fathers traveled thousands of miles across the sea to Washington, DC to negotiate the covenant between the Northern Marianas and the United States. The Marianas' delegation included my own father, the late Dr. Francisco Palacios. Their hopeful vision of a thriving Marianas and a strong relationship with the United States holds true today, and like our Commonwealth founding fathers, I carry the decisive mandate of the people to repair and strengthen relationships of trust with our own federal partners. We are acutely aware of the sensitive geopolitical challenges of our region, and recognize the vital role we play in ensuring the safety and security of all and in supporting a larger strategic imperative. Now, the Northern Mariana Islands is also America's front line in the Pacific. We face many challenges, but our people, who are American citizens, possess the grit, the resilience, and resourcefulness to pull together as we always have in times of crisis to solve our problems.

That said, we do need help, and I am here to seek your assistance to contribute to the CNMI's economic recovery and financial sustainability. Thank you for the opportunity to testify before you today. May God bless the Northern Mariana Islands. May God Bless America. Thank you. Si Yu'os Ma'a'e.

[The prepared statement of Mr. Palacios follows:]

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ARNOLD I. PALACIOS



OFFICE OF LT. GOVERNOR
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Governor Arnold I. Palacios
Written Testimony
 U.S. Senate Committee on Energy
 and Natural Resources
 Feb. 9, 2023

Hafa Adai and Tiroow Chairman Joe Manchin, Ranking Member John Barrasso, and Members of the Senate Committee on Energy and Natural Resources.

Thank you for conducting this crucial hearing on the state of America's territories. As the newly elected Governor of the Commonwealth of the Northern Mariana Islands, I appreciate this opportunity to highlight the strategic importance of our islands to the security of our nation and peace in our Indo-Pacific region. I also wish to share with you the urgent challenges confronting our commonwealth, the path we are forging towards recovery and resilience, and the support we seek from Congress.

We are grappling with crises on multiple fronts: a government in fiscal disarray; an economy still struggling from the impacts of Covid-19 and several unprecedented typhoon disasters that preceded the pandemic; an unstable environment for businesses and workers; dilapidated infrastructure and systems that are woefully underprepared for the climate crisis; and a shrinking population as citizens leave our islands for greener pastures.

Against this backdrop of vulnerabilities are the geopolitical challenges presented by China in our islands and in the region.

My administration is fully committed to rebuilding relationships of trust and confidence among our citizens, our federal partners, and our allies in Micronesia and the wider Indo-Pacific area.

The people of the Northern Marianas are proud American citizens, and critical partners in national security and peace in the region. But we are also vulnerable, struggling to stay afloat in a sea of immense challenges. And I am here to appeal to you, and to all of our federal partners, to support the Commonwealth's efforts to reach stable ground and ultimately thrive - fiscally, economically, and socially. The interests of the Marianas in getting our government's financial house in order, shoring up our economy, strengthening our infrastructure, and stabilizing our population are inextricably linked with the interests of our nation and our allies in a secure and peaceful Indo-Pacific.

The Commonwealth's Fiscal Crisis

Four weeks ago, I was sworn in as the 10th elected governor of the Northern Marianas. I entered an office that had been literally stripped of all furniture and equipment by my predecessor. But far more troubling than that, I found the government's finances in complete disarray.

Preliminary assessments indicate that the Commonwealth has exhausted and overcommitted the more than \$480 million received through the American Rescue Plan Act, with excess obligations totaling an estimated \$86 million. The Office of the Governor alone overspent its entire general fund budget for the year by over \$1.4 million just in the first quarter of Fiscal Year 2023. In Fiscal Year 2022, according to the Department of Finance, the Commonwealth overspent beyond its appropriated general fund budget by approximately \$38 million.

My administration is still assessing the extent of the government's fiscal woes, but what is clear is that our current predicament cannot only be blamed on external forces - the impacts of the Covid-19 pandemic, for example, or the typhoon disasters before that. Over the past seven years, we have received significant federal resources aimed at helping our community build back stronger from adversity. But we are not stronger today. Instead we are facing fiscal calamity because of years of egregious misappropriation, waste, and abuse of both federal and commonwealth resources with very little oversight and accountability.

Immediately upon taking office, Lieutenant Governor David Apatang and I formed a Fiscal Response Team composed of representatives from the Department of Finance, the Office of Management and Budget, and the Commonwealth Legislature. The team is leading the comprehensive review of the government's financial records, completing reconciliation of all accounts, and identifying stringent containment measures to cut costs and ensure the continuity of critical government services.

We have already begun to make painful cuts. In the first weeks of my administration, we have issued notices of termination to hundreds of government employees who were funded at unsustainable levels through ARPA funds. We are now preparing to submit to the Legislature a drastically revised budget for the remainder of the fiscal year, and we expect further reductions in the government's workforce as well as other areas of government operations in the coming weeks.

We have also placed high priority on increasing oversight and accountability for federal and local funds. My administration has sought assistance from, and pledged full cooperation with, the Commonwealth's Attorney General, the Office of the Public Auditor, and the U.S. Department of Justice in investigating and holding accountable those responsible for the misuse and abuse of public funds. We have also dedicated our limited resources towards finally completing long-delayed single audits of the Commonwealth government for fiscal years 2020 and 2021, and I have sought the assistance of the Public Auditor in reviewing the transition reports that have been prepared for each of the government's departments and agencies. I have additionally

requested federal technical assistance in conducting forensic audits of the Commonwealth's federal and local accounts.

I met recently with Interior's Assistant Secretary for International and Insular Affairs Carmen Cantor, and sought her guidance and support in ensuring the Commonwealth's compliance with federal laws and regulations in the expenditures of federal funds. The Northern Marianas would benefit particularly from a stronger Department of Justice presence, including the assignment of more federal agents based in the Commonwealth, and the appointment of a dedicated District U.S. Attorney. We seek federal assistance as well in building a robust financial management system that is tailored to the Commonwealth's needs, and in bolstering local capacity to monitor the government's finances, conduct audits, and enforce collections. My aim is to ensure that the systems are in place to deter and detect the kinds of abuses of public funds that were rampant in our recent past, and improve stewardship and accountability for these funds to secure our future.

Additionally, my administration is revisiting recommendations put forth during the Fiscal Response Summit held in the Marianas in May 2020. The summit was funded and facilitated by Interior, and brought together a wide range of community members from across the public and private sectors to identify creative and practical solutions to the Commonwealth's fiscal troubles. These included various proposed measures to improve government efficiency, reduce costs, and raise revenue. Many of these recommendations were never actually implemented or seriously explored by my predecessor, but I believe they remain relevant and worthy of consideration today.

The Fiscal Response Summit is a good example of the kind of fruitful partnership I would like to build upon, between the Commonwealth and the federal government. The summit showed that with the support of our federal partners, and backed by our community and political leadership, we can indeed generate locally driven and achievable solutions to seemingly intractable problems.

An Economy Still in Recovery

As my administration continues to tackle our government's fiscal disaster head-on, I want to remind this body that the Commonwealth is still recovering from disasters that in themselves were also unprecedented and extraordinary in scale.

Just a few years ago, the Commonwealth was devastated by three major typhoon disasters that occurred within the span of only three years: Typhoon Soudelor ravaged Saipan with record-breaking winds and rain in August 2015; Typhoon Mangkhut slammed into Rota in September 2018; and in October 2018, Super Typhoon Yutu flattened Tinian and much of Saipan. Yutu was a Category-5 storm that ranked as the most powerful on earth that year and was the worst storm to hit the United States since 1935. These storms wrecked homes, businesses, schools, and infrastructure, and brought into sharp focus the vulnerabilities of our islands to the impacts of the climate crisis. We have yet to fully recover.

These natural disasters were followed by an economic downturn as tourism, our primary industry, slumped. Tourist arrivals dwindled, local businesses shut down, government revenue dropped precipitously, and austerity measures were implemented throughout all levels of government.

Thankfully, we have not been alone in our struggles to rebuild and recover from back-to-back disasters. We are grateful to the Federal Emergency Management Agency and all our federal partners for the aid delivered to the Commonwealth in our time of need. Even to this day, we are working with FEMA and our partners to continue on this long term path of recovery, rebuilding and hardening critical infrastructure throughout the Marianas, including our airports, schools, and healthcare facilities.

It was barely a year and a half after Super Typhoon Yutu when the Covid-19 pandemic reached the shores of the Marianas, disrupting every aspect of life in the islands as it did throughout the world. Supply chains were disrupted, workers were displaced, many businesses closed permanently, schools and government offices shut down, and our healthcare system was strained. Moreover, our tourism industry came to a complete halt as our primary markets in Asia closed their borders and international airlines canceled flights.

Our hospitality industry has long been the Commonwealth's economic lifeline. It has allowed us to build a sustainable workforce and thriving small businesses, practice responsible stewardship of the natural resources and tropical beauty of our islands, and generate revenue to support public services. Under the far-reaching impacts of Covid-19, that industry was collapsing before our eyes, even as we had barely begun to recover from the typhoons that came before. As evidence of this, according to the Bureau of Economic Analysis, the Commonwealth's real gross domestic product (GDP) decreased 29.7 percent in 2020 after decreasing 11.3 percent in 2019.

Thankfully, congressionally approved financial aid packages like the CARES Act and ARPA provided the Northern Mariana Islands much needed funding to respond to the pandemic and mitigate its devastating effects. But as we have come to learn, unfortunately and embarrassingly, much of these funds were squandered by the previous Commonwealth administration. These funds were supposed to go to critical infrastructure and essential public services, support business retention and jobs, stave off a fiscal cliff, and keep us afloat for at least three years until 2024. Now, in 2023, we are free falling from a fiscal cliff that came two years too soon—in our already crippled island economy. Inflation has only worsened our situation.

We fully understand that the blueprint to economic recovery is not without hardship and sacrifice. The people of the Marianas have faced daunting adversity before, and we pull together as a community to address our challenges. As members of the American family, we look to our federal partners as well, for support in placing the Commonwealth on a sustainable path to recover, rebuild, and thrive.

The Commonwealth has received significant resources to rebuild and repair damage following the typhoon disasters, and many of these projects are still in various stages of implementation. Through the Community Development Block Grant - Disaster Recovery program alone, for example, the Commonwealth received \$248 million to fund critical housing and infrastructure projects throughout Saipan, Rota, and Tinian. Federal funds from other programs have also been allocated to various projects that include:

- \$81 million for the Commonwealth Utilities Corporation, \$8.9 million for the Commonwealth Ports Authority, and \$53.3 million for the rebuilding of the educational facilities within the Public School System, from the FEMA Public Assistance Program; and
- \$21.9 million for the design and construction of a modern cultural facility and sports complex, \$19.6 million for the design and construction of an Economic Resiliency Center, \$11.2 million for the revitalization of Saipan's main tourist district in Garapan, and \$23.5 million for the Northern Marianas College and the Northern Marianas Trades Institute, from the Economic Development Administration.

We are grateful for the federal investments that have been made in projects such as these which will go to support the long-term economic recovery of the Marianas. But what we have found is that in the years that have lapsed since the disasters occurred, these projects have encountered significant hurdles in execution, ranging from limited local capacity and labor shortages, to cumbersome federal environmental review process, rigid deadlines, and inflexible grants that do not take into account costs that have skyrocketed from the time that projects were approved for funding. For example, long before the pandemic and soaring inflation, when the Northern Marianas College, our sole institution of higher education in the Commonwealth, applied for and secured EDA and other grants to rebuild its campus that had been destroyed by Super Typhoon Yutu, the estimated cost of construction on the high end was approximately \$375 per square foot. Today, that cost per square foot has jumped at least 40%, and the college must now scale back its project plans significantly to stay within its means.

I would welcome the opportunity to have a conversation with our federal partners about how we can break the bottlenecks holding up hundreds of millions of federal dollars awarded to support the Commonwealth's economic recovery and development, and provide greater flexibility and consideration of the contingencies that so dramatically impact our ability to complete these critical projects. Moreover, I believe with the climate crisis bearing down heavily upon us and more frequent and severe weather events anticipated in the future, we need the federal government to seriously consider establishing a permanent FEMA presence in the Marianas.

A Population in Decline, Facing an Uncertain Future

The 2020 Census showed shrinking populations across America's territories, including the Northern Marianas. Our population dropped from approximately 54,000 in 2010 to just 48,000 in

2020, a function of outmigration and a flagging economy. Our ability to recover economically is made even more challenging with a declining population. A major part of our struggle to carry out critical infrastructure and development projects is a shortage of labor and serious uncertainties affecting the stability of the Commonwealth's workforce.

I therefore strongly support our U.S. Congressman Gregorio Kilili Sablan's recently re-introduced legislation, HR 560, the Northern Mariana Islands Population Stabilization Act, which would encourage approximately 1,600 long-term foreign workers living in our islands since 2015 to remain in the Marianas by offering them a Commonwealth-only permanent status.

Population stability in the Marianas is also a matter of national concern. As Congressman Sablan has stated, "The population loss in our islands and resulting loss of economic viability not only hurts all of us, but also has implications for the U.S. strategic position in the Western Pacific. With increasing competition for dominance from China, the United States needs to be strengthening our position in the region, not shrinking in significance. That legislation [HR 560] fits into that larger strategic imperative."

I see opportunities to further stabilize our population by shoring up our energy security and bringing down the cost of power for the suffering citizens of the Marianas. The astronomical cost of power in the islands is the single biggest expense for most households and businesses. It has literally driven residents to move out of the islands and forced businesses to close. Our power infrastructure is aging and dilapidated, we depend almost entirely on imported fossil fuel that costs the Commonwealth upwards of \$50 million a year, and we lag behind the rest of the nation in shifting to clean and renewable sources of energy. We are, however, finally poised to adopt updates to the Commonwealth's strategic energy action plan, which will provide a roadmap to cost-effective energy management solutions, including our transition to renewable energy. My administration is committed to supporting the implementation of this plan, and we will seek further support from federal partners to invest in the Commonwealth's energy security as a means of bringing stability and relief to the people of the Marianas.

Also key to population stabilization are stronger social safety nets and parity in the federal programs that apply to the Marianas. We are grateful for the generous funding increases that Congress has approved for Medicaid and Nutrition Assistance over the years, but true parity remains just out of reach as long as funding is fixed in statute and not tied to need as it is throughout the states. In times of crisis, when people need help the most, is when federal funding for critical safety nets can run out, and it is in fact under these circumstances that the Marianas has actually had to slash Medicaid and food assistance benefits for its most vulnerable citizens until supplemental funding was made available by Congress. In this current time of crisis, the Commonwealth is projecting to run out of Medicaid funds by June this year. Our Medicaid Agency is already contemplating the suspension of services even as it braces for a deluge of new applications once the national public health emergency ends and as more people are displaced from their jobs.

My administration is also supporting the development of a community-based coalition of social service agencies, educational and health institutions, and other organizations to alleviate the impacts of the fiscal and economic crisis on individuals and families. The coalition will seek to facilitate efficient processing of applications for food assistance and Medicaid, develop options to provide access to affordable housing and health insurance, and recommend or pursue options for unemployment assistance or other short-term financial aid, and connect individuals who have lost income or employment with opportunities for new jobs or training. My administration is further working with the Commonwealth Legislature, employers, and educational systems to establish a robust apprenticeship program in the Marianas and strengthen our workforce capacity as we prepare for the end of the Commonwealth-Only Transitional Worker program in 2029. The Commonwealth has received federal grants to establish the infrastructure for the apprenticeship program and support implementation, but we will need to identify additional resources to fund incentive programs and cover at least part of the wages of apprentices, the need for which is tremendous in the CNMI.

The Commonwealth benefited greatly from the Pandemic Unemployment Assistance program, but we also had to learn some hard lessons about how to effectively administer such a program where there was previously no system for unemployment assistance at all. Although PUA has closed, the Commonwealth's Department of Labor continues to process the pending claims of more than 1,000 people, and has received an extension to complete this work in 2024. We must also begin the groundwork for an unemployment insurance program in the Commonwealth, and we will seek the assistance of our federal partners to build our capacity and establish this critical safety net.

A final note on stabilizing the Marianas population: I appeal to you to consider amending the U.S. Workforce Act of 2018, which governs the administration of the CW program. The program's end is just around the corner in 2029, and we recognize the diminishing number of CW permits every year. Given the context of an overall shrinking population, the needs of the Marianas and the region for stability, and the re-introduction of Congressman Sablan's HR 560, I ask for your support in repealing the touchback provision that requires CW workers to exit the Commonwealth for at least 30 days prior to the submission of their third renewal petition.

Repealing the touchback provision would not be so urgent if the permit processing from both U.S. Labor and U.S. Citizenship and Immigration Service were more timely and efficient. Currently, processing times for CW-1 permits are so delayed that employers wait months after the petition start date to receive the necessary approvals to secure entry of the CW-1 permit holder to the CNMI. As a result, a large proportion of workers will be required to depart all at the same time without a clear timeline for their return, and at a time when businesses are attempting to regain normalcy in operations. The touchback provision's disruptions to families, businesses, and the overall economy cannot be overstated. For businesses reliant upon a set number of employees, the touchback requirement necessitates the onboarding and training of additional staff to ensure that operations continue. These additional costs create a significant burden on small businesses attempting to recover from the pandemic.

I hope for an open and candid conversation with our federal partners about this and other areas of the Workforce Act and the CW program that can be improved or modified in light of the new realities and monumental challenges we face in the Commonwealth.

Strengthening Our Ties, Securing Peace in Our Region

More than fifty years ago, the Commonwealth's founding fathers traveled thousands of miles across the sea to Washington, DC to negotiate what would become the Covenant between the Northern Marianas and the United States. The Marianas delegation was led by Edward Pangalinan, Chair of the Marianas Political Status Commission who would later become the Commonwealth's first Resident Representative in Washington. Mr. Pangalinan passed away just a few days ago, and I ask that we keep his family in our prayers as we remember and honor his legacy. The Marianas delegation also included my own father, the late Dr. Francisco Palacios.

The Commonwealth's founders envisioned a strong and vibrant Marianas in close political union with the United States. They dreamed of a flourishing democracy and a decent, American standard of living for the people of the Marianas, who were struggling then to rebuild our islands from the ashes of war and colonization.

That hopeful vision of a thriving Marianas and a strong relationship with the United States holds true today. And like the Commonwealth's founding fathers, I have traveled 8,000 miles to this great city, guided by a firm commitment to this vision, and the promise of self-government under the stars and stripes. I carry with me the decisive mandate of the people to repair and strengthen relationships of trust with our federal partners and our allies in the region, as we strive once again to rebuild our islands from extraordinary adversity and reaffirm our commitment to a secure, free and peaceful Indo-Pacific.

We are acutely aware of the sensitive geopolitical challenges of our region. And we recognize the vital role that the Northern Marianas plays in ensuring the safety and security of all Americans, and supporting the strategic position of the United States in the Indo-Pacific.

To underscore our commitment, I have been engaged in collaborative discussions with senior ranking military personnel, including Assistant Secretary of the Navy Meredith Berger, and Commandant of the U.S. Marine Corps General David H. Berger, who recently traveled to Saipan to discuss expanding cooperation and communications between the Commonwealth and the U.S. Department of Defense. Last week, I also met with U.S. Air Force officials to discuss the progress of the divert airfield project on Tinian, which is intended to provide a critical alternative operating location to the U.S. Air Force's Andersen Air Force Base on the island of Guam. Andersen's Commander, Brigadier General Jeremy Sloane, has described the Tinian divert development project as the "largest and most important Air Force project in the region."

I have pledged the full support and cooperation of my administration in seeing the divert airfield project through, and I look forward to continuing engagement with the Department of Defense in discussions of other proposed future training facilities and activities in the Marianas.

Our Shared Future

Securing the fiscal, economic, and social stability of the Marianas is directly tied to the security of our nation and America's position in our part of the world. We face many challenges in the Commonwealth, but they are not insurmountable, and our people possess the grit, resilience, and resourcefulness to pull together as we always have in times of crisis to solve our problems. That said, we do need help. I am not here to ask for bailouts or handouts, but I am asking for open dialogue and meaningful partnership with our federal government. We need technical assistance to help us build our own capacity to ensure fiscal discipline, compliance, and accountability and get our financial house in order. We need fixes in federal policy to help us move hundreds of millions of federal dollars in stalled projects. We need congressional support to help stabilize our economy and population, and to strengthen crucial social safety nets.

We in the Marianas are Americans too. We are grateful for the rights and privileges that come with being part of the American political family, and we are proud to contribute as much as we do to the peace, freedom, and promise of our nation. Our political union enshrined in our Covenant lays a solid foundation for a sustainable and prosperous future, but it can always be made more perfect. I am confident that with the support of Congress and all our federal partners, we will together be able to build a better, brighter, and more stable and resilient future for the Marianas, for the region, and for our nation.

Thank you again for this opportunity to testify before you today. May God bless the Northern Mariana Islands, and our United States of America.

The CHAIRMAN. Thank you.

Now we have Governor Pierluisi to give his comments. Thank you.

**STATEMENT OF HON. PEDRO R. PIERLUISI,
GOVERNOR, PUERTO RICO**

Mr. PIERLUISI. Chairman Manchin and members of the Committee, thank you for holding another hearing regarding the state of the U.S. territory of Puerto Rico. Since last year's hearing, much work has been done toward the reconstruction and recovery of our island, and there is great momentum as we continue to move forward.

I am pleased to report that Puerto Rico has entered a new era of economic progress and optimism. We successfully restructured the government's debt to a sustainable level. Our economy grew four percent last year. We are strategically employing federal funding across the island, and government revenues are surpassing estimates. All economic indicators, including those relating to our manufacturing and tourism sectors, have consistently been on the rise during the past two years. We have 150,000 additional jobs since the beginning of 2021. The labor participation rate has increased by five percentage points. We now have the lowest unemployment rate in our history and we are expecting similar figures for 2023.

Let me highlight some of the most important developments of the last year. The government of Puerto Rico has put its fiscal house in order. My administration has published three audited financial statements that had been delayed by previous administrations and is on schedule to publish two more this year so that we are up to date in our financial reporting. Our government's last two budgets, including the one for the current fiscal year, were clearly balanced, and our Treasury Department reported an operational surplus at the close of the last two fiscal years.

Our reconstruction efforts have made significant headway, even in the wake of Hurricane Fiona last September. Our Recovery, Reconstruction, and Resiliency Office has disbursed over \$954 million for permanent work projects, a huge jump from the \$153 million disbursed from 2017 to 2020. As of the end of last year, more than 2,400 FEMA-funded projects were under construction. In 2022 alone, over \$1.4 billion has been disbursed across multiple disasters, and we estimate that we will be able to disburse around \$2 billion in funding for permanent work during this year. With respect to CDBG-DR funding, we have obligated \$7.2 billion of the approximately \$10 billion allocated to Puerto Rico, and disbursements have increased from \$152 million in 2020 to more than \$1.5 billion as of year-end 2022. This represents a 377 percent increase in obligations and an 893 percent increase in disbursements.

Another important highlight is the status of our energy system transformation. We have already procured private operators for the transmission and distribution electric grid as well as for the operation and maintenance of the government-owned generation plants. The Puerto Rico Energy Bureau has approved over 142 projects for reconstruction work valued at over \$8.4 billion, and 93 permanent work projects have been approved by FEMA. Over 68,000 rooftop

solar systems have been interconnected in our grid, and we anticipate that those interconnections will continue to increase by over 2,000 a month. Additionally, utility-scale renewable energy projects are underway to add 845 megawatts of generation and 200 megawatts of battery storage to our system. We also continue our collaborative work with the Department of Energy to be able to implement our public policy to reach 100 percent renewable energy generation capacity by 2050.

To conclude, I must speak to you about the importance of putting an end to Puerto Rico's territorial status. On December 15, 2022, the House of Representatives passed H.R. 8393, which allows the American citizens of Puerto Rico to choose one of three available non-territorial status options for their future. The people of Puerto Rico have repeatedly expressed their desire to end the island's current territorial status and an absolute majority of them want Puerto Rico to become a state of the union. It should not be surprising that 105 years after becoming U.S. citizens by birth, Puerto Ricans want to vote for President and to have voting representation in Congress. In other words, nobody should expect the American citizens of Puerto Rico to consent to discrimination and unequal treatment. It is therefore up to this Congress to show Puerto Rico, our fellow citizens of the states, and the world that the democratic principles of equality professed by our nation apply to all American citizens. As Governor of Puerto Rico, I will continue to demand equal treatment for my constituents until they have it.

Thank you.

[The prepared statement of Mr. Pierluisi follows:]



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

**Written Submission
U.S. Senate Committee on Energy and Natural Resources
Full Committee Hearing to Examine the State of the U.S. Territories
February 9, 2023**

Chairman Manchin, Ranking Member Barrasso, and Members of the Committee: Thank you for the invitation to testify before you today and share an overview of the state of the United States territory of Puerto Rico.

I am pleased to report that Puerto Rico has entered a new era of economic progress and optimism. Since last year's hearing, much work has been done towards the reconstruction and recovery of our Island and there is great momentum as we continue to move forward. We successfully restructured the government's debt to sustainable levels, our economy grew 4% last year, we are strategically employing federal funding across the Island, and government revenues are surpassing estimates.

In fact, all economic indicators have consistently been on the rise during the past two years, we have 150,000 additional jobs since 2021, the labor participation rate has increased by 5 percentage points, we now have the lowest unemployment rate in our history, and we are expecting similar figures for 2023.

I. FISCAL RESPONSIBILITY

a. PROMESA Title III Restructuring Process

Since we last met, the Government of Puerto Rico has achieved significant milestones in its debt restructuring process and fiscal reforms.

Those milestones have allowed Puerto Rico to emerge from many of its Title III cases under the *Puerto Rico Oversight, Management, and Economic Stability Act* of 2016 ("PROMESA") with sustainable debt levels and balanced annual budgets. Puerto Rico is now entering a new chapter with fiscal strength and optimism for a prosperous future.

During 2022, Puerto Rico completed two historic Title III restructurings: (i) a joint Title III plan of adjustment for the Government of Puerto Rico (PR POA), the Employees'



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

Retirement System ("ERS") and the Public Buildings Authority ("PBA"); and (ii) a Title III plan of adjustment for the Puerto Rico Highways and Transportation Authority ("HTA") ("HTA Plan")."

The PR POA reduced Puerto Rico's debt obligations related to the Central Government, ERS, PBA, and HTA from \$35 billion to \$9 billion, representing a total aggregate debt reduction of 74%. In addition, we completed three out-of-court restructurings under Title VI of PROMESA (known as Qualifying Modifications) for the Puerto Rico Infrastructure Financing Authority ("PRIFA"), the Puerto Rico Convention Center District Authority ("PRCCDA"), and the Puerto Rico Public Finance Corporation ("PFC").

Each of these restructurings has added to our prior successes, including (i) the Title III plan for COFINA that went effective in February 2019, reducing COFINA's debt from \$18 billion to \$12 billion, and (ii) the Title VI Qualifying Modification for Government Development Bank ("GDB") that went effective in November 2018, reducing GDB's debt from \$5 billion to \$3 billion. These Title III Plans and Title VI Qualifying Modifications collectively accomplished the most significant public debt restructuring in U.S. history by reducing approximately \$64 billion in claims to \$29 billion in new debt, an overall 55% reduction in Puerto Rico's pre-PROMESA debt. And further debt reductions are anticipated in 2023.

Additionally, in July 2019, the Puerto Rico Aqueduct and Sewer Authority ("PRASA") completed the modification of almost \$1 billion in debt obligations with the Clean and Drinking Water State Revolving Funds, administered by the EPA, and USDA-Rural Development (the "Federal Lenders"). The modification resulted in substantial benefits for PRASA, the Government and the people of Puerto Rico, and the Federal Lenders, including: (i) debt service relief to PRASA of approximately \$380 million over the next ten years, (ii) renewed access to sources of funds under federal programs for infrastructure projects, (iii) elimination of approximately \$1 billion in Commonwealth guarantees over the Federal Debt, and (iv) adequate protection of the interests of the Federal Lenders by elevating such debt to senior status, on parity with other senior lenders of PRASA.

Following the modification of the Federal debt, PRASA was able to complete refinancing of its senior obligations in 2020 and 2021 resulting in total debt service savings of \$917 million, which validated the capital markets recognition of PRASA's achievements and return to the capital markets.



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

As a result of these accomplishments, Puerto Rico now has the momentum it needs for fiscal stability and progress-oriented policies that is restoring investor confidence on the Island and transforming Puerto Rico's economy for generations to come.

b. Other PROMESA Restructurings in Progress

The Puerto Rico Electric Power Authority ("PREPA") is the only Puerto Rico entity remaining in a pending Title III process and we are making significant progress toward achieving a plan of adjustment by the end of 2023.

In March of 2022, the Government of Puerto Rico, terminated the previous PREPA Restructuring Support Agreement because its implementation was no longer feasible nor in the best interest of Puerto Rico under its then-existing terms. Notably, the prevailing circumstances when the PREPA RSA was negotiated had changed significantly, including changes to worldwide economic conditions, such as rising inflation and surges in crude oil prices.

Shortly after the PREPA RSA terminated, U.S. District Court Judge Laura Taylor Swain entered an order appointing a mediation team to facilitate confidential negotiations between the Financial Oversight and Management Board ("the Oversight Board" or "the Board"), AAFAF, and PREPA's creditors to develop a Title III plan of adjustment for PREPA. As a result of the mediation process, the Board filed PREPA's Title III plan of adjustment (the "PREPA Plan") on December 16, 2022, and a related disclosure statement. The proposed PREPA Plan incorporates settlements between the Oversight Board and two critical groups of PREPA creditors. The Oversight Board has also indicated that it has agreed in principle on the terms of a settlement with one of PREPA's monoline insurers.

The current schedule for the PREPA Plan's confirmation process is a disclosure statement hearing on February 28, 2023, and a confirmation hearing proposed to start on July 17, 2023. However, the confirmation process also runs parallel with litigation in case the PREPA Plan is not confirmed. Although it is uncertain whether the Title III Court will ultimately approve the PREPA Plan, and while the Government continues to evaluate the proposed PREPA Plan to ensure its terms conform to the Government's public policy of ensuring that Puerto Rico residents have reliable and affordable electric power, we are hopeful that the confirmation process will stay on track to be completed before the end of 2023.



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

If successful, Puerto Rico will no longer have any pending Title III cases by the end of this year.

c. Effect on P.R. Economy

Over the last six years, the uncertainty of Puerto Rico's Title III bankruptcy process created additional caution from investors and lenders when considering Puerto Rico as a potential investment opportunity. The resolution of all our Title III cases and other out-of-court restructurings under Title VI has significantly reduced that uncertainty, making Puerto Rico a more stable investment environment. In addition, as Puerto Rico becomes a less risky investment, the cost of capital in Puerto Rico will also go down. This will create a better environment for businesses to grow and thrive.

d. The End of the FOMB

The emergence of crucial Puerto Rico entities from their Title III cases signals the beginning of the process to dissolve the FOMB, according to Section 209 of PROMESA. Terminating the FOMB will attract more investments to Puerto Rico by doing away with the uncertainty that a parallel structure to our duly and the democratically elected government has generated. Moreover, the end of the FOMB will significantly reduce our government expenses since the GPR will save approximately **\$65 million per year** in FOMB's operational expenses.

In the next several years, we will leverage our successful debt restructuring and employ these new capital sources to expand and strengthen our economy so that we can strategically allocate additional resources to provide better government services and support expanded job creation

e. Audited Financial Statements

I am also proud to report that my administration has prioritized fiscal responsibility and, in the past two years, has already issued three audited Annual Financial Statements for Fiscals Years ending in 2018, 2019, and 2020. Next month, we expect to publish the Audited Financial Statements for Fiscal Year 2021 and, in the summer, the Audited Financial Statement for Fiscal Year 2022. This will mark another important milestone in our economic recovery.



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

f. Balanced Budgets and Government Efficiency

Our budgets are now formulated in phases with a responsible exercise of planning and development of the requested budget in which the agencies actively participate. During the evaluation phases, the amount of the budget spent to date, the current budget, the initiatives, and the "baseline" established by the Fiscal Oversight and Management Board (FOMB) were considered in the budget request from the Governor.

This budget process also includes an analysis of ARPA, CRF, CDBG-DR, FEMA, and other federal funds. These plans lay the groundwork for agencies to prepare a more accurate budget, maximize the use of funds, and achieve better public management policy and fiscal responsibility.

One example of best practices is integrating and consolidating processes between agencies during the budget formulation. As a result of the first phase of this strategy, the General Services Administration (ASG, Spanish acronym) and the "Puerto Rico Innovation and Technology Service" (PRITS) were incorporated into the Annual Procurement Plan and Annual Technology Plan. This was done to avoid a duplication of reports and streamline functionality with the agencies. As a result, the EPBCS platform will now have two additional areas that will specifically direct them to the preparation of the procurement plan and the technology section. Both entities have access to this platform so they will collect the data from the information presented by the agencies. In terms of technology, the entity must include an overview of the equipment, personnel, and services included in the requested budget. On the other hand, the Procurement Plan must include the projection of purchases that will be made in the new fiscal year.

The integration and centralization of the infrastructure of the information systems, including cloud storage and software licenses, will enable PRITS to achieve a significant reduction in operational costs while also improving oversight, effective use of available resources, and the value of IT investment.

Furthermore, we were able to implement initiatives, such as the Grants Management Office (GMO) of the Government of Puerto Rico, to provide guidance and technical assistance to agencies and municipalities with the managing their federal funds and programs.

The GMO seeks to develop best practices by identifying risks and assisting state entities in taking steps to prevent noncompliance and possible losses of funding opportunities, as well as providing the necessary knowledge. Hence, Puerto Rico's federal programs ensure that all awarded funds are accounted for. We want



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

pooled budgets to complement state and federal funding sources in compliance with applicable laws and regulations.

This will be achieved by focusing on six main objectives: risk assessment, capacity building, policymaking, fiscal guidance, and data analysis, in addition to serving as a facilitator between the local and federal governments. With GMO providing support between local agencies and their national counterparts, a consistent exchange of information will further expand the knowledge in the local government, improving compliance and streamlining disbursements.

During the past months, significant advances have been made by maximizing available technological tools to improve the development, administration, and analysis of GPR's budget. Such improvements are more evident in budgetary items such as employee roster data, capital Expenditures Planning & Oversight, Revenue Measures, Expenditures Projections, and Budgetary Requests, among others. We have implemented best practices and strategies to maximize administrative tasks in public agencies and entities, prioritizing using technology to design standard templates and procedures. Similarly, we have emphasized using statistics and the project management method in the budget process to achieve a justified funding request aligned with the Administration's vision for the fiscal year 2023-2024.

Also, one of our priorities is to improve the communication channels between the Government of PR and the US Government at the federal and state level to facilitate access to best practices and ensure continuity of efforts. We worked dynamically with the JSF team to initiate a process of knowledge transfer and a corrective action plan. Limiting ourselves to data exchange efforts with budget metrics but not addressing execution would not guarantee that we can have standardized structures that, among other things, entail correct budget management in government entities to ensure transparency, implementation of cutting-edge public policy, and a post-PROMESA government.

II. RECOVERY & RESILIENCY

a. FEMA Funding

Over 5 years have gone by since the devastation of Hurricanes Irma and Maria, since then we have made significant progress towards building back our island despite numerous subsequent disasters. Even though Hurricane Fiona, last



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

September, caused more damage to the power system, as well as to other critical infrastructure such as housing, roads and bridges, the Government of Puerto Rico, in conjunction with the federal government, is much better positioned today to respond and assist in this post-disaster reconstruction than it was 5 years ago. The current primary focus of the Government of Puerto Rico continues to be the advancement of permanent works, in particular for a reliable and efficient power grid as fast as possible.

Hurricanes Irma and María resulted in the largest and most complex disaster response and recovery effort in U.S. history. To make matters worse, Puerto Rico suffered two additional major disasters—major earthquakes that shocked the Island beginning in late 2019 and lasting over six months and the COVID-19 Pandemic.

Despite these challenges, with the help of the federal government, Puerto Rico worked diligently to accelerate permanent work. Before our administration began in 2021, permanent work projects were slow to develop. In fact, through 2020, no PREPA permanent work projects were obligated by FEMA. However through FEMA's FAAST program \$9.5 billion was approved, and today over \$1.6 billion has been drawn down and disbursed for the power grid for emergency work and 93 permanent work projects have been obligated for a total cost of over \$579 million. The FAAST obligations were a major turning point as it moved the Island out of response and into recovery.

With the majority of emergency work completed for Hurricanes María and Irma, Puerto Rico's disaster response transitioned to long-term recovery, with its primary focus on the formulation and execution of permanent work projects.

By its nature, long-term infrastructure recovery is a slower process, as it requires the development of the design and engineering of projects, obtention of environmental approvals and permits, procurement of construction contracts, and ultimately construction. This could not be truer in Puerto Rico. Our main goal and motto is to build back better, which requires making sure damages are not repeated in the case of future disasters. To be able to reach this goal, the development of projects also includes careful and precise planning as well as designing which takes a bigger toll on the overall process. However, this is necessary in order to protect the federal government's investment in the island.



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

All indications show significant momentum since 2021. Through September 2022 there were more than 7,000 projects commenced totaling \$3.2 billion, this includes 2,400 projects under construction. Under FAAST, FEMA, COR3 and subrecipients PREPA, PRASA, Department of Education and Department of Public Housing have worked together to obligate 248 projects for a total cost of over \$2.2 billion. Construction projects are being completed in accordance with applicable codes, standards, and industry best practices, and in the majority of the cases, with added measures to mitigate hazards and built additional resilience.

It is important to note that since 2021 alone Puerto Rico has successfully disbursed over \$954 million in permanent work, a huge jump from \$153 million disbursed from 2017-2020. Also, in 2022 COR3 was able to disbursed \$1.4 billion for all subrecipients across multiple disasters.

As discussed earlier, a major obstacle to recovery in Puerto Rico has been access to working capital to the cash flow needs of our subrecipients, especially for large infrastructure and construction projects, since FEMA disaster recovery programs are based on a reimbursement model. As we transition to the recovery phase where these projects are an even greater focus, a successful plan to address these issues is of the utmost importance. Puerto Rico has therefore developed and is now working to implement several strategies to provide the necessary support for these projects.

The most critical strategy developed and implemented by COR3, in consultation and approval by FEMA, is the Working Capital Advance Program (WCA). This program was implemented specifically to provide a mechanism to advance the federal share of funds reimbursed for permanent work projects under FEMA's Public Assistance program and HMGP projects for incurred damages as a result of Hurricane María. It also applies to the 2020 Earthquake disaster and will eventually apply to large permanent work projects under Hurricane Fiona disaster.

The WCA was launched in June 2022, after receiving formal approval from FEMA in May 2022, and is already demonstrating significant support for the recovery effort. As such, in less than a year, COR3 has successfully disbursed over \$716.4 million which have impacted 650 permanent work projects across all permanent work categories (C thru G) of FEMA's Public Assistance program, including municipalities, multiple state agencies, and private non-profits.



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

On September 18, 2022, Hurricane Fiona made landfall in southwest Puerto Rico bringing heavy rains and 90 mile per hour sustained winds impacting power and infrastructure across the island. The 30+ inches of rain that fell caused devastating flooding that damaged homes and washed out newly constructed roads and bridges. The winds also caused severe damage to the power grid, causing an island-wide blackout and left much of the island without power and water for weeks.

Hurricane Fiona not only exacerbated the prior disaster damage to the power grid, but also caused new damage. Despite the fact that Hurricane Fiona was a much smaller storm, it caused a cascading effect that is compounding the difficulty of the recovery from the multiple disasters that Puerto Rico has endured within the last five years.

To date, COR3 has already obligated 87 projects for well over \$100 million for the recovery of Fiona. During this time, in coordination with the DOE, FEMA, EPA we have developed the Grid Stabilization Plan to provide temporary power generation and conduct emergency repairs to the generation and transmission system. Further demonstrating how we have applied best practices and leveraged our experience with Irma and Maria.

It has been a difficult journey, but Puerto Rico is on the road to recovery and resilience. The future of our recovery is bright, and we have set high but achievable goals for 2023. As to our grants management team, our goal is to disburse \$2 billion at years end by driving large projects in top agencies and providing key and more sophisticated trainings to all subrecipients. In addition, our plan is to close-out and submit all Category A and B projects from Hurricane Maria, increase site visits, strengthen collaboration with state and federal entities and hold a major compliance event.

b. Community Development Block Grants CDBG Funding

In 2018 the Puerto Rico Department of Housing (**PRDOH**) was designated by the Government of Puerto Rico as the Grantee of the CDBG-DR funds. PRDOH is currently responsible for managing various recovery allocations such as CDBG-DR (approximately \$10 billion), CDBG-Mitigation (\$8.2 billion), CDBG-DR for the Optimization of Puerto Rico's Electrical Power System (\$1.9 billion), and CDBG-DR



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

Earthquakes (\$221.05M). Together, these allocations address the damages caused by the impacts of Hurricanes Irma and María and the earthquake disasters while making Puerto Rico more resilient and mitigating the effects of future disasters. So that this honorable commission may have complete and detailed information on the funds allocated in this area, we include the following breakdown:

i. Community Development Block Grants - Disaster Recovery (CDBG-DR)

Through the establishment of twenty (20) programs designed to provide grant opportunities to citizens, small businesses, municipalities, agencies, and non-governmental organizations, PRDOH has successfully disbursed the CDBG-DR funds creating a significant impact on housing, infrastructure, economic, and planning sectors.

When my administration came into office in 2020, PRDOH had obligated and disbursed the following amounts:

12/2020- Obligated - \$1,529,899,629 12/2020- Disbursed - \$152,180,957

Two years later, the obligated and disbursed amounts are:

1/2023 - Obligated - \$7,297,644,759 1/2023-Disbursed - \$1,510,886,250

This represents a 377% increase in obligations and an 893% increase in disbursements.

- CDBG-DR Programs such as the Home Repair, Reconstruction or Relocation (R3) Program continue to provide assistance to families in need of repairs or reconstruction of homes, as well as offering relocation assistance to eligible homeowners located in hazard zones. At the moment, the R3 Program has a total of 4,762 homes completed, an additional 1,148 homes under construction and 854 homes in the design and permitting process. The program has also provided a total of 2,340 relocation vouchers to families in need of relocation.
- The housing reconstruction programs have also generated healthy economic activity by employing local contractors across the island. The construction sector generates hundreds of thousands of dollars of gain, which supports materials suppliers and laborers across the supply chain.



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

- The Gap to Low-Income Housing Tax Credits (**LIHTC**) Program has a budget of \$1.2 billion. The Program's objective is to leverage LIHTC to amplify the impact of CDBG-DR funding with the aim of increasing the inventory of affordable multifamily and elderly rental units. This makes federal dollars stretch further.
- Under the Phase 1 of the LIHTC Program (9% tax credit for rehabilitation and new construction projects), there are 6 projects with 851 affordable rental units in development. Of those, 363 units have been completed and are placed in service by the developers. The percentages of construction completion are: Caguas Multifamily 83.63%, Caguas Elderly 70.01%, Coamo Multifamily 100%, San Juan 100%, Río Piedras 55%, and Humacao Elderly 59.69%. A total of \$78,077,348 funds has been disbursed in this phase. In Phase 2 (4% tax credit for new construction and rehabilitation of existing housing), there are 17 potential projects with 2,535 rental units and an estimated total CDBG-DR Gap of \$415 million. The first of the 17 Phase 2 projects has entered the construction phase, with the rest scheduled to start construction this year.
- The City Revitalization Program (CRP) has a budget of \$1.29 billion, from which approximately \$1.07 has been obligated. All the 78 municipalities in Puerto Rico are subrecipients under the CRP program.
- The CRP, as of January 26, 2023, has 330 projects in the Approved Project phase, 135 Projects in Design, 4 Bids in Progress, and 3 Projects in Construction. This pipeline represents a diligent project approval process to ensure project viability, eligibility, cost reasonableness and 2 CFR 200 compliant procurement processes in accordance with federal requirements.
- The CRP Program has disbursed \$21,399,669 and expects to increase the disbursement to approximately \$281 million, as projects are expected to start construction or begin the bid process by the end of this year. The statuses of the projects may vary depending on their complexity, but Municipalities are continuously working on identifying and evaluating additional projects to move to the bid and construction phases.
- PRDOH has a portfolio of programs between its CDBG-DR, CDBG-Mitigation, and CDBG-DR Energy allocations that may serve to provide energy and infrastructure resilience in various ways.
- The Community Energy and Water Resilience Installations (**CEWRI-DR**) Program promotes resilience and addresses the energy and water system vulnerabilities of single-family homeowners referred by the R3 Program by installing residential PV systems with battery backup for critical loads and water storage systems.



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

- The CEWRI Program in CDBG-DR addresses the need at the residential scale, CEWRI-MIT serves the need at the municipal or regional level, and for the CDBG-DR Energy, the need is addressed at the energy system level. These programs together provide energy solutions and resilience at different scales:

Scale	Impact	Grant	Program(s)	Budget	Outcome
Small	Individual, single-family homes	CDBG-DR	CEWRI	\$300M	10,000 households
		CDBG-MIT	CEWRI-HERI	\$350M	12,000
			CEWRI-IP	\$100M	households
Medium	Community scale projects	CDBG-MIT	CEWRI-CI	\$50M	20 communities
Large	Grid Scale	CDBG-DR Energy	ER1 (DR Elec)	\$500M	-
			ER2 (DR Elec)	\$1.3B	600 MW of generation

- The CEWRI-DR Program continues to deliver energy solutions to the 3,758 home projects completed under the R3 Program.

ii. Community Development Block Grants - Mitigation (CDBG-MIT)

- Puerto Rico received the largest CDBG-MIT allocation of all HUD's grantees. This grant has been allocated through the Federal Register Notice 85 FR 4676, issued specifically to perform mitigation activities for benefit of the people of Puerto Rico. In May 2021, PRDOH and HUD signed the Grant Agreement that secures Puerto Rico's access to the \$8.285 billion in mitigation funds. Additionally, PRDOH has continued to provide status updates on the progress of the CDBG-MIT Programs that are scheduled to be launched by the end of the year. PRDOH has been meeting with HUD through scheduled monthly meetings with the Community Planning and Development Office in Puerto Rico to discuss program updates and ensure federal oversight in the implementation of the programs.
- The CDBG-MIT Action Plan contains nine (9) programs, three (3) subprograms, and two (2) set-asides, which are currently in the pre-



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

implementation phase. The timeline established by HUD for the mitigation grant is 12 years, as informed by best practices for large-scale infrastructure projects set by federal partners such as the Federal Emergency Management Agency (**FEMA**).

- Under the Infra-MIT Program, PRDOH secured the approval of the first covered project in the CDBG-MIT 2017 class, with an estimated cost of approximately \$552 million in CDBG-MIT funds for the PR-10 Highway. A covered project an infrastructure project having a total project cost of one hundred million dollars (\$100,000,000) or more, with at least fifty million dollars (\$50,000,000) of CDBG funds and a detailed Benefit Cost Analysis is required to be posted for public comment and receive federal approval, which may include partner agencies.
- The PR-10 Highway will include design and construction of segments II, III, IV and V of Highway PR-10 along the municipalities of Utuado and Adjuntas, providing uninterrupted freeway travel to users traveling from north to south, and vice versa, connecting with PR22 in the north and with PR-52 in the south, resulting in improved travel times and roadway safety for passenger cars and trucks.
- PR-10 is an important element of the Puerto Rico transportation network since it is an interface between the industrial centers of the PR-2 North Corridor (Arecibo – Aguadilla) and the PR-52 South Corridor (Ponce – Salinas) providing north-south connection to promote the industrial development of both centers and of the adjacent municipalities. Having the Port of Las Americas and Mercedita International airport in Ponce, and an emerging industrial region coupled with the international airport in Aguadilla, PR-10 will become the catalyst needed to boost the industrial development of Puerto Rico.
- PRDOH included two (2) additional Covered Projects in the CDBG-MIT Action Plan Amendment 2 (Substantial), for an estimated cost of \$558 million and \$257.4 million.
- Regarding CDBG-MIT Energy Programs, there are three (3) subprograms within the CEWRI-MIT Program: 1) Home Energy Resilience Improvements (**CEWRI-HERI**), 2) Incentive Program (**CEWRI-IP**), and 3) Community Installations (**CEWRI-CI**). The first two subprograms (CEWRI-HERI and CEWRI-IP) focus on providing assistance to vulnerable populations and households for the installation of



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

photovoltaic systems with battery backup.¹ On the other hand, the CEWRI-CI program is focused on communities to complement the home-based improvements or reduce household barriers to mitigation on a larger scale.

- The CEWRI-HERI and the CEWRI-IP Programs are scheduled to launch this quarter (Q1-2023).

iii. Community Development Block Grants - Electrical System Enhancements (CDBG-DR Energy)

- On June 22, 2021, PRDOH was granted an allocation of \$1.9 billion of CDBG-DR funds for Electrical Power System Enhancements and Improvements in Puerto Rico.
- On January 24, 2022, PRDOH submitted the Action Plan for HUD review and approval of two programs: 1) The Energy Grid Rehabilitation and Reconstruction (**ER1**) Cost Share program (\$500,000,000), and 2) the Electrical Power Reliability and Resilience (**ER2**) Program (\$1,316,406,180). On March 25, 2022, HUD partially approved the Action Plan, leaving ER1 on hold for a subsequent amendment.
- The CDBG-DR Electrical Power System Improvements APA1 was published on November 15, 2022, and the 30-day public comment period ended on December 16, 2022. The purpose of this amendment was to include Appendix H.1, which provides a detailed analysis, budgets, maps, and methodology regarding how the ER1 program will consider vulnerable populations, as requested by HUD in its partial approval letter dated March 25, 2022. The approach considered guidance received from HUD in collaborative work sessions with HUD and LUMA Energy.
- PRDOH reviewed the public comments, drafted a response, and the APA1 is expected to be submitted to HUD for approval in the following days. HUD will then have a 60-day review period for approval of the APA1.
- The purpose of the **ER1 Program** is to maximize the benefit of federal grant programs by positioning CDBG-DR as a local match to other federal funding

¹ Both programs will be administered under one (1) unified structure referred to in Program Guidelines as the Community Energy and Water Resilience Installations – Household (CEWRI – HH) Program. Therefore, CEWRI-HH is comprised of the CEWRI-CI and CEWRI-IP programs, which focus on households and LMI persons, while the CEWRI-CI is design to assist communities in alignment to home-based improvements.



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

streams, in this case, the FEMA Public Assistance allocation for electrical grid reconstruction.

- Through the matching of funding provided by other federal agencies, critical infrastructure needs will be addressed, making the island more adaptable to changing conditions and able to withstand and recover rapidly from disruptions caused by future disasters.
- The **ER2 Program** will provide assistance to communities through public/private and non-profit support to create electrical system reliability and resilience through the implementation of decentralized renewable energy resources, including, but not limited to, both small and large microgrid projects as allowed under Puerto Rico Energy policy.
- PRDOH will prioritize projects that provide maximum integration of renewable energy sources for each project, as required by the Federal Register Notice.
- Projects will be evaluated to identify opportunities for alignment with efforts to increase energy efficiency. PRDOH anticipates that approximately 80% of projects funded under ER2 will qualify as distributed energy, microgrids, and similar projects.
- Since August 2021, PRDOH has met with relevant federal agencies, including the federal members of the Technical Coordination Team (**TCT**), as well as with various stakeholders such as municipalities, residents, non-profit organizations, academic institutions, and local government agencies to receive their input during the Action Plan development process.
- The TCT team, co-led by the U.S. Department of Energy and FEMA, consists of a variety of key federal agencies, such as the US Army Corps of Engineers (**USACE**), the Environmental Protection Agency (**EPA**), the U.S. Department of Agriculture (**USDA**), the Federal Communications Commission (**FCC**), Government Accountability Office (**GAO**) and the U.S. Treasury amongst others. We appreciate the valuable input these agencies have provided in the development of our energy recovery strategy.
- We are also fortunate to have a regulatory agency, the Puerto Rico Energy Bureau (**PREB**), which has emerged as a leader in Puerto Rico's renewable energy goals, and a partner to us in this process.
- A key project for the ER2 Program is the Centro Medico Microgrid which will provide the complex with increased energy reliability and resilience. The



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

Request for Proposals for this project is expected to be published in Q1 2023 (February).

iv. Community Development Block Grants - Earthquakes and Storm (CDBG-DR Earthquakes & Storm)

- On September 23, 2021, HUD approved PRDOH's Action Plan for the CDBG-DR funds allocated with the purpose of helping in the long-term recovery from the disasters caused by the 2019-2020 earthquakes. This allocation of \$36.4M will mainly be distributed for the recovery of the following municipalities in southern Puerto Rico: Ponce, Guayanilla, Yauco, Guánica, Peñuelas, and Lajas. These funds will primarily address the unmet housing recovery needs of the most impacted municipalities identified by HUD.
- On November 1, 2021, HUD also allocated \$184.6 million of CDBG-DR funds to Puerto Rico to provide assistance to low- and moderate-income residences affected by the earthquakes and Tropical Storm Isaias.
- On September 30, 2022, PRDOH executed a Subrecipient Agreement with the Municipal Governments that have self-organized into the Southern Consortium for Management and Administration of Federal Earthquake Damage Funds from January 2020 (CONSUR, for its Spanish acronym). PRDOH has held, coordinated, and participated in multiple targeted engagement efforts with the CONSUR in close collaboration with HUD. These engagement events have sought to increase transparency and continue taking collaborative steps towards the successful execution of the Action Plan's programmatic outcomes.
- The municipalities have been in direct contact with the communities impacted by the disasters, and they know first-hand of the hardships and damages they suffered. That is why when preparing the Action Plan, HUD requires the grantee to consult not only with affected citizens and stakeholders but also with local governments to be able to assess and determine the unmet needs to be addressed with the CDBG-DR funds. PRDOH believes that this close relationship between the Municipalities and the affected communities and building from the existing relationship between PRDOH and the Municipalities, serves as a solid foundation for the CONSUR to deliver an impactful implementation of recovery efforts as the CDBG-DR grantee for these two allocations.



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

III. ENERGY TRANSFORMATION

After Hurricanes Irma and Maria, as well as recent Hurricane Fiona, the weakness of our electrical system was evident.

On January 24, 2023, the Puerto Rico Private Partnerships Authority ("P3A"), together with the Puerto Rico Electric Power Authority ("PREPA"), signed a Partnership Agreement ("Generation Agreement") with Genera PR (a subsidiary of New Fortress Energy Inc.) under Puerto Rico's Public-Private Partnerships Act (Act 29-2009) and Puerto Rico Electric Power System Transformation Act (Act 120-2018). Through the Generation Agreement, Genera will undertake the operation and maintenance of PREPA's legacy generation assets ("LGAs") until they're decommissioned following the Integrated Resource Plan approved by Puerto Rico's Energy Bureau ("PREB").

The Generation Agreement with Genera marks another milestone in the transformation of Puerto Rico's electric system. The first milestone took place on June 22, 2020, when the P3A, PREPA, LUMA Energy ServCo LLC, and LUMA Energy LLC (the last two collectively, "LUMA") executed the Puerto Rico Transmission and Distribution Operation & Maintenance Agreement ("T&D Agreement"), which transferred all the responsibilities over PREPA's transmission and distribution system ("T&D System") as well as customer service duties to LUMA for them to manage during a fifteen (15) year period.

The Generation Agreement provides that Genera will oversee the day-to-day operation and maintenance (including any significant maintenance) of the LGAs to generate electricity and deliver it into the T&D System during a ten (10) year period. Genera will also be tasked with procuring and managing the delivery and quality testing of fuel, and, relevantly, the Generation Agreement's compensation approach is structured in a way that Genera is to receive incentive payments based upon the demonstration of actual realized savings in fuel costs during each contract year.

The procurement process was designed to comply with Puerto Rico's energy public policy, laws, regulations, and the Integrated Resource Plan approved by PREB. Also, due to the impact of the transaction with PREPA's Title III proceedings, the procurement process was carried out in coordination with the FOMB, given the need to align the strategy with the efforts to address PREPA's financial challenges and the Certified Fiscal Plan.



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

LUMA continues repairing and restoring PREPA's electric grid and carrying out much-needed capital projects. Notably, since undertaking the operation and maintenance of PREPA's T&D system in the Summer of 2021 and as of November 2022, LUMA had replaced 580+ utility poles bringing the total poles replaced to over 3,500. It had also completed a total of 12,718 streetlight replacements in the municipalities of Guánica, Aguada, Lajas, Luquillo, and Maunabo; submitted 142 projects/program initial Scope of Works (SOWs) to PREB, representing an estimated \$8.4 billion in reconstruction work, and had received FEMA obligation for 38 projects, representing 200 million dollars. LUMA also continues to contribute to the transitioning path to sustainable energy. As of November 2022, LUMA had activated net metering for 8,500 rooftop solar installations representing over 40MW. A total of 27,894 renewable distributed generation systems were interconnected to the grid during 2022. This number of interconnections represents 41% of the 68,336 systems interconnected to the grid by the end of 2022. The amount of distributed generation interconnections continues increasing each month by over 2,000.

LUMA also continued work on Tranche 1 interconnection studies for the additional Battery Energy Storage System projects approved by the PREB. Also, it continues to improve customer service for PREPA's customers. The average speed of answer of customer's phone calls is under 5 minutes, and LUMA also opened an additional Contact Center in the town of Isabela.

In compliance with the Integrated Resource Plan, during 2022 PREPA awarded a total of 18 contracts for the development of approximately 845MW of renewable energy and 200MW of energy storage at utility scale level. These projects represent the result of the first tranche from an aggressive ongoing procurement schedule. During December 5th, 2022, new proposals were received as part of the second tranche that looks for additional 1,000MW of renewable energy and 500MW of energy storage.

During 2022 Ciro One project at Salinas initiated construction phase to add a total of 90MW of solar renewable energy, this project is one of two legacy solar power purchase and operation agreement PPOA from procurements before tranche 1 process.

Punta Lima wind farm at Naguabo is a 26MW project originally built in 2012. This project was heavily affected by Hurricane María during 2017 and it was rebuilt during 2022. It's expected that the project to be back online approximately during Q2 of 2023.



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

IV. Renewable Energy-continuing cooperation with DOE

In the wake of Hurricane Fiona, President Biden asked Secretary of the Department of Energy (DOE) Jennifer Granholm to put together a Puerto Rican Grid Recovery and Modernization Team. Since then, we have been working closely with the DOE to advance the transformation of our energy system. Furthermore, the Government of Puerto Rico signed a Memorandum of Understanding (MOU) with the Department of Energy (DOE), the Department of Housing and Urban Development (HUD), and the Department of Homeland Security (DHS) to make sure the usage of the federal funds for the repair of the electrical system is in alignment with the goals of transitioning to 100% renewable energy. As part of this effort, the DOE initiated the PR100 study to identify the different alternatives for Puerto Rico to achieve the energy goals. This study includes the collaboration of six (6) National Labs, energy-related stakeholders, and community input.

For the past couple of months, the Government of Puerto Rico (through the P3A and the Fiscal Agency and Financial Advisory Authority of Puerto Rico ("AAFAF")) has been engaged in discussions with the Loan Program Office ("LPO) from the Department of Energy ("DOE") to produce a revised version of a Power Purchase Order Agreement ("PPOA") to be used for Tranche II onwards. The goal of the parties is to come up with a PPOA with acceptable terms to both the Government of Puerto Rico and the LPO to allow bidders in the upcoming tranches to become eligible for financing under DOE's Loan Program and to make the PPOAs transaction more bankable in overall, therefore increasing market participation in the procurement processes for the integration of renewable energy to meet the targets in Act 17-2019.

Additionally, as part of the available programs funded by the Infrastructure Investment and Jobs Act (IIJA), Puerto Rico submitted concept papers for three DOE competitive grants under the Grid Resilience and Innovation Partnership Program. The focus of the concept papers is to enhance the flexibility and improve the resilience of the grid.

Since 2009, Puerto Rico has been included as part of the formula allocation of the Weatherization Assistance Program (WAP) that support low-income households to replace old or inefficient appliances with energy-saving equipment and measures. The annual allocation assigned to Puerto Rico is of approximately \$1.2 million, which impacts approximately 200 low-income households. Under IIJA,



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

Puerto Rico received an allocation of approximately \$38 million for the next five years to extend the WAP. The outreach and application process is scheduled to begin during Q2-Q3 of 2023.

Moreover, with an allocation of \$20 million from ARPA funds, the government developed an incentive program to support small business in the development of renewable and energy conservation projects. During 2022, a total of 888 small businesses received incentives under this program, and currently more than 400 installations have been completed. A new allocation of \$30 million from CDBG funds will be assigned during the Q2 – Q3 of 2023 to continue supporting small businesses.

VI. Broadband

The public policy of my administration prioritizes closing the digital divide by promoting access to high-speed broadband infrastructure, universal inclusion across all segments of society, and increased utilization in key strategic sectors, such as education, healthcare, and government services.

The Puerto Rico Broadband Program (PRBP) is using federal funds to create a comprehensive Five-Year Action Plan that will identify Puerto Rico's broadband access, affordability, equity, and adoption needs. Parallel to residential and business infrastructure investment, the PRBP will focus on gigabit connections to schools, community internet centers, high-speed municipal Wi-Fi, government facilities and emergency management localities, among other community institutions that serve as anchors to the 78 municipalities in Puerto Rico.

VII. STATUS

On December 15, 2022, the U.S. House of Representatives, on a bi-partisan vote, passed the Puerto Rico Status Act, H.R. 8393, to authorize a plebiscite that, once and for all, would resolve the century-long political status question that hinders progress and economic development on the Island. H.R. 8393 provides that **on November 5, 2023**, the 3.2 million American citizens residing in Puerto Rico would be able to choose among the following non-territorial political status options as alternatives to the current territorial status: independence, sovereignty in free association, or statehood. President Biden expressed support for the bill by stating: "For far too long, the residents of Puerto Rico—over 3 million U.S. citizens—have been deprived of the opportunity to determine their political future and have not



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

received the full rights and benefits of their citizenship because they reside in a U.S. territory."

The people of Puerto Rico have repeatedly voted to end the Island's current territorial status, and an absolute majority of them want Puerto Rico to become a state of the Union. Ignoring their quest for equal rights, including the right to vote for president and to have voting representation in Congress, goes against the democratic ideals this Nation was built on.

For far too long, the U.S. Senate has looked the other way to avoid righting the colonial nature of Puerto Rico's status. This is an affront to the American democratic values that hundreds of thousands of Puerto Rican soldiers have defended around the world while wearing the Stars and Stripes on their arm alongside their fellow Americans.

If you believe in equality, you cannot expect the American citizens in Puerto Rico to consent to discrimination and unequal treatment. It is up to this new Congress to show Puerto Rico, our fellow citizens of the states, and the world that the democratic principles of equality professed by our Nation apply to **all** American citizens. **As Governor of Puerto Rico, I will continue to demand equal treatment for my constituents until they have it.**

I urge you to continue the important work of H.R. 8393 in this Congress and not allow this important opportunity to pass by. 125 years of unequal treatment towards the American citizens living in Puerto Rico have taken a toll on our society. And it is important to realize that even after the successful restructuring of our public finances and the rebuilding of our infrastructure, Puerto Rico will remain hindered until our century-long status question is resolved.

Thank you for your attention to these issues, which will significantly impact the 3.2 million American citizens in Puerto Rico. I look forward to working together with you to address these requests for the benefit of Puerto Rico and our Nation.

Attachment: Letter from the Governor of Puerto Rico, Hon. Pedro R. Pierluisi, to the congressional leadership dated January 27, 2023.



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

January 27, 2023

The Honorable Charles Schumer
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, D.C. 20510

The Honorable Kevin McCarthy
Speaker
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Hakeem Jeffries
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Majority Leader Schumer, Leader McConnell, Speaker McCarthy, and Leader Jeffries:

Puerto Rico is in a path of progress and economic stability. On March 15, 2022, the Puerto Rico's Plan of Adjustment went into effect marking the end of the bankruptcy proceedings and the beginning of a period of growth and opportunity. This new era of economic stability is attracting new investment to the Island and generating new employment opportunities, which is evidenced by the economic upswing being felt across Puerto Rico. In fact, the unemployment rate on the Island is the lowest in our history, labor participation has increased 5 percentage points in the past two years, our economy grew 4 percent in fiscal year 2021, and we estimate similar figures for 2022.

I would like to express my sincere appreciation for Congress's support as we have strived to restore and jumpstart Puerto Rico's economy, while dealing with the challenges caused by a prolonged recession, the pandemic, and several natural disasters.

As the 118th Congress gets underway, I look forward to working with you on key areas that will serve as catalyst to strengthen Puerto Rico's economy for the benefit of the 3.2 million American citizens that reside on the Island.



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

To keep us moving forward, I respectfully request your support on the following congressional initiatives that will be instrumental in helping Puerto Rico continue its path of economic recovery:

The 2023 Farm Bill/ NAP to SNAP Transition

Since passage of the 1981 Budget Reconciliation Act, Puerto Rico low-income families no longer participate in the Supplemental Nutritional Assistance Program (SNAP) and instead receive nutritional assistance through a block grant under the Puerto Rico Nutritional Assistance Program (NAP).

NAP, unlike the Supplemental Nutrition Assistance Program (SNAP) that applies to all the states, is a block grant that falls significantly short of the nutritional needs of the American citizens living in Puerto Rico. Given the changes in SNAP due to the Thrifty Food Plan, the current disparity between maximum household benefits for Puerto Rico vs. 48 states ranges from 21-24%. It is much greater when comparing Puerto Rico to the U.S. Virgin Islands and Guam. This gap exists even though Puerto Rico imports \$6.5B in agricultural products from the mainland each year – a value surpassed only by Canada and Mexico.

Moreover, as Puerto Rico has experienced during times of emergencies, NAP lacks the flexibility provided in SNAP to meet the nutritional needs of its most vulnerable population, which tends to be the most affected during crises.

While Congress has taken laudable steps towards providing temporary funding for Puerto Rico's nutrition programs, much work remains to be accomplished to achieving equitable treatment for needy families in Puerto Rico. Paramount amongst these concerns is equal benefits in nutrition assistance, which requires that Puerto Rico be transitioned out of NAP and included in the SNAP (Supplement Nutrition Assistance Program).

Medicare

We are very grateful for the bipartisan agreement to raise federal Medicaid funding for Puerto Rico to historic levels, allowing us to improve our public health



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

programs with the support of a stable longer-term funding source. These changes will improve the lives of thousands of Americans.

It is essential that Congress also consider two issues relating to our Medicare program: (1) the Medicare Advantage (MA) rate-setting formula that is used by CMS, and (2) the treatment of Puerto Rico under the Medicare Savings Program (MSP).

(1) The MA formula places Puerto Rico at 42% below the national average, 37% below the lowest state rate (Hawaii), and 23% below the U. S. Virgin Islands. In fact, while MA plans across the U.S. have seen their reimbursement amounts increase, MA plans in Puerto Rico receive approximately \$1.1 billion less in reimbursements than they received in 2011.

(2) Under the Medicare Savings Program (MSP), Medicaid pays some or all of Medicare Part B premiums for dual-eligibles. The MSP is mandatory in the states, but optional in the U.S. possessions, and the federal caps on Medicaid funding for Puerto Rico make the program generally unaffordable, which seriously affects the services provided to the most vulnerable Medicare beneficiaries.

These two issues can be resolved legislatively by establishing a national minimum MA average geographical adjustment of .07% and (2) by making the MSP a requirement in Puerto Rico.

Counter Drug Trafficking

The high level of violence that drug trafficking activities causes in Puerto Rico is in large part due to the island's strategic location, which is used as a transshipment point for drug smuggling from Central and South America, as well as other Caribbean islands, to the U.S. mainland. Throughout the years, Puerto Rico's government officials, including myself as a former Member of Congress, have raised this issue and, while actions have been taken to close certain gaps in our security, most of them have been temporary and we still have not found consistent solutions. In fact, this drug trafficking activity in and near Puerto Rico is currently causing most violent crimes on the Island.

Facts published in the 2019 and 2020 Drug Enforcement Administration's National Drug Threat Assessment (DEA-NDTA) highlight the importance of an increased federal presence on the island. In 2020 the DEA-NDTA mentioned Florida,



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

California, Pennsylvania, and Puerto Rico as the four jurisdictions with the highest amounts of seizures.¹ It is no coincidence that illegal narcotics seized in Florida and Pennsylvania are frequently moved through the Caribbean.

Drug trafficking through the Caribbean has long been considered a national security issue, and in 2014, during my tenure in Congress, I worked to secure language from the House Committee on Appropriations directing the Office of National Drug Control Policy's (ONDCP) to publish the first-ever Caribbean Border Counternarcotics Strategy, an interagency effort to significantly increase the number of federal law enforcement personnel and resources deployed to Puerto Rico. An update to this strategy was published by ONDCP in 2020 and 2022.

The strategies employed in the Caribbean Border Counternarcotics Strategy had the intention of leading to a regular increase in federal law enforcement presence on the island, which would help stop traffickers from moving their illegal products to the U.S. mainland through Puerto Rico and neighboring islands. I respectfully request that Congress require the deployment of additional resources and personnel to Puerto Rico and the U.S. Virgin Islands by codifying into law the Caribbean Border Counternarcotics Strategy in the same way it has done for the Southwest and Northern Border Counternarcotics Strategies.

Earned Income Tax Credit (EITC)

The Earned Income Tax Credit (EITC) funding that was enacted in the American Rescue Plan Act (ARPA) has been instrumental in bringing families in Puerto Rico out of poverty and into the workforce. However, the assumptions underlying the program need to be reconsidered. The federal contribution to our EITC program assumed that the full program cost would be \$800 million and set the federal contribution of 75% of the total cost at \$600 million. In fact, the actual program cost amounts to approximately \$1.05 billion, for which a federal contribution of 75% would be \$787 million, \$187 more than the ARPA level accounted for.

An adjustment to the federal contribution would go a long way to fulfill the objectives of this program to lift families out of poverty and continue to help Puerto Rico grow its economy.

¹ Drug Enforcement Agency, (2020). National Drug Threat Assessment, pg. 34. <https://www.dea.gov/documents/2021/03/02/2020-national-drug-threat-assessment>.



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

Rum Tax Cover-Over

The United States imposes a tax on rum produced in Puerto Rico and the U.S. Virgin Islands in the amount of \$13.50 per proof-gallon, \$10.50 of which is permanently returned to the territories. The return (cover-over) of the additional amount must be reauthorized from time to time, and that authority expired at the end of 2021. As such, Puerto Rico and the U.S. Virgin Islands currently receive only the cover-over of the \$10.50. Also, under prior law, the temporary extensions returned \$13.25, not the full \$13.50.

We had hoped that the year-end omnibus spending bill would have included the extension of the temporary amount, but that legislation did not include a tax title. These funds are very important to Puerto Rico and the U.S. Virgin Islands, and we rely on them, given that Congress extends them regularly.

We urge you to take up the cover-over as soon as possible in 2023 and that the reauthorization of the temporary amounts (on a retroactive basis to January 1, 2022) be increased so that Puerto Rico and the U.S. Virgin Islands receive the full \$13.50 per proof gallon.

Jones Act Waiver

An island not interconnected to a domestic grid in the United States, Puerto Rico becomes particularly dependent on diesel fuel after natural disasters. Diesel fuel is used extensively for critical recovery purposes: it keeps hospitals and other healthcare facilities open; it allows wireless cell sites to keep mobile devices connected; it allows trucks to transport needed supplies around the island; and it is used by millions of residents and small business owners who persevere after these storms by relying on small generators. Further complicating matters, Puerto Rico's power generation facilities continue to be principally reliant on imported fossil fuels. In these conditions, the flexibility to access these fuel sources swiftly in the aftermath of any natural disaster is vital to Puerto Rico and its residents, and even the slightest delay in resupplies can threaten human life and wreak havoc on recovery efforts.

We respectfully request that section 501(b) of the Jones Act be amended to provide a targeted waiver for the transportation of fuel and fuel derivatives to Puerto Rico for the duration of any emergency declaration issued by the President of the United States under the Stafford Disaster Relief and Emergency



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

Assistance Act (42 U.S.C. §§5121 et seq.) without having to make a finding on the non-availability of qualified United States flag capacity. The waiver would apply to both non-U.S. flagged ships subcontracted by U.S.-based shippers and non-U.S. flagged ships contracted by fuel distributors. Under this proposal, waivers beyond the emergency declaration could be granted up to one year after the issuance of the declaration, but subject to a determination by the Maritime Administrator under section 501(b)(1). These amendments would provide critical relief to Puerto Rico in the aftermath of natural disasters without undermining the overarching objectives of the Jones Act. The waivers would continue to require approval by the Secretary of the Department of Homeland Security. They would be limited to the duration of an emergency and would require a determination of nonavailability by the Maritime Administrator to extend them further. And they would be limited to shipping of fuel and fuel derivatives. In short, the waivers allowed under my proposal would be targeted to address the specific challenge that Puerto Rico faces after natural disasters as an island in the Caribbean still dependent on imported fossil fuels.

Supplemental Security Income (SSI)

In the recent United States v. Vaeillo Madero case, the United States Supreme Court ruled that an American citizen that received benefits under the Supplemental Security Income (SSI) program while residing in New York properly had those benefits taken away when he moved to Puerto Rico, rejecting equal protection claims upon which the District and Circuit Court of Appeals had ruled in his favor. The Supreme Court noted that the United States may, and often does, discriminate in its laws against Puerto Ricans.

SSI is a program that provides special assistance to American citizens who need particular attention, and the Supreme Court decision resulted in close to 400,000 low-income, elderly, blind, and disabled Americans in Puerto Rico being denied these vital benefits. SSI recipients living in the states and the District of Columbia receive average benefits of \$574 per month, while alternative benefits available in Puerto Rico average \$82 per month.

We urge you to take up proposals introduced in the 117th Congress to end this discrimination in SSI benefits. Extension of this program in Puerto Rico would make a fundamental difference in the lives of hundreds of thousands of American citizens whose only distinction is that they live in Puerto Rico.



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

Political Status

Last December, in a historic vote, the House of Representatives approved H.R. 8393, the Puerto Rico Status Act, legislation to authorize a binding plebiscite in November of this year in which Puerto Ricans would vote to support one of three non-territorial status options with a transition period to implement the new status. The legislation was a compromise bill between differing views on how to resolve the status issue and was approved on a bipartisan basis. Because Congress adjourned without time for the Senate to approve the measure, the issue remains to be addressed.

The political status of Puerto Rico has been unresolved since we first became a territory of the United States in 1898 and remains a blemish in American democracy. The Puerto Rico Status Act represented a major step forward in resolving, once and for all, the colonial status of Puerto Rico.

I urge you to continue the important work of H.R. 8393 in this Congress and not allow this important opportunity to pass by. 125 years of unequal treatment towards the American citizens living in Puerto Rico have taken a toll on our society. And it is important to realize that even after the successful restructuring of our public finances and the rebuilding of our infrastructure, Puerto Rico will remain hindered until our century-long status question is resolved.

So many Puerto Ricans have defended American democratic values at home and abroad that lack of representation and voting rights, as well as congressional inaction, are unacceptable. Congress must call for a vote on the political future of Puerto Rico and commit to implementing the will of the majority. That is what democracy is all about.

Thank you for your attention to these issues, which will significantly impact the 3.2 million American citizens in Puerto Rico. I look forward to working together to address these requests for the benefit of Puerto Rico and our Nation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Pedro R. Pierluisi".

The CHAIRMAN. We will start our questions, and we will go with Senator King.

Senator KING. Thank you, Mr. Chair.

You would think within the age of computers, we could schedule the Senate so that we didn't have to be three places at once. I am supposed to be in a meeting with the Secretary General of NATO right now. So I apologize.

I am going to submit my questions for the record, but I did want to comment. I made some notes, and my notes ended up, I looked down, three Cs—climate, China, and commitment. Particularly to our western island territories, China, obviously, is a very significant concern, and you are outposts on the frontiers of democracy, and I understand that.

As far as climate is concerned, you are all seeing the effects, and some more dramatically than others, but you can help us to—you are seeing it earlier in some ways than we are, and to the extent you can document the climate change impacts that you are seeing on your coastlines, on water supplies, on energy, all of those things, that would be very helpful to us.

The final "C" I have is commitment, and that is, we have a commitment to all of you, and we want to honor those commitments, whether it's a 100-year-old covenant, or recent agreements, I understand, there are detailed questions about H-2Bs and workforce and all of those kinds of things. We do want to address those, but I just want to express, number one, my apologies for not being able to stay at the hearing, but also, my understanding, of those three important elements, probably in the long run, the most important is commitment.

Thank you. I visited three of your five islands and look forward, hopefully, to visiting the others. But thank you for what you are doing. Thank you for the work that your American citizens do on behalf of your country, your states, your territories, and the United States. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Cortez Masto, do you have a question? Senator CORTEZ MASTO. I do, thank you.

Let me echo what my colleague Senator King has said with the support of our territories. Thank you all for being here. Let me start with Governor Pierluisi, thank you, always good to see you as well.

You talked a little bit about this—as you know, we have talked in the past, many American citizens living in Puerto Rico continue to face, what I am hearing, blackouts and brownouts on a regular basis. Residents are unable to plan when they will be able to cook dinner or do laundry without interruption. Use of generators has become more and more common, which obviously comes with added cost. So can you highlight a little bit more and update us on the status of the grid rebuilding? You talked a little bit about that. And what is the government doing to minimize, now, the service interruptions so that Puerto Ricans can continue to live their lives?

Mr. PIERLUISI. Yes, thank you, Senator.

For the past roughly five months, the electric system in Puerto Rico has been stable, which is quite positive. I have to say that part of it has to do with all of the emergency work that was done

after Fiona. Hundreds, if not thousands of poles were replaced, lines, and a lot of work is being done on the grid itself to make it more resilient, to make it better. FEMA has been an extraordinary partner with us. FEMA created a stabilization task force with DOE's support, as well as the Corps of Engineers' support because they realized after Fiona that even though it took roughly 12 days for 90 percent of the customers to get their power back, they realized that our system is still fragile, that we are barely meeting demand with the generation assets we have—old plants, contaminating plants. We are in the midst of a transformation, and we are turning to renewables with a vengeance, but that does not happen overnight.

Senator CORTEZ MASTO. Right.

Mr. PIERLUISI. So FEMA did this assessment and determined that we were short then by 700 megawatts in terms of generation capacity. And they also saw that some of our plants—generating units as well as substations—needed critical repairs. FEMA committed through this stabilization task force to assist us in the process, and that is ongoing. That is happening.

Senator CORTEZ MASTO. And so, that is what I want to ask you, because, obviously, the short-term is key, getting, right now, to Puerto Ricans the needed—

Mr. PIERLUISI. Exactly.

Senator CORTEZ MASTO. Are you comfortable that FEMA is there at the table?

Mr. PIERLUISI. Yes.

Senator CORTEZ MASTO. You are able to do that now?

Mr. PIERLUISI. Yes.

Senator CORTEZ MASTO. I applaud you and your long-term goals here with renewable energies, but like you said, it's going to take time to get there. What can we do now?

Mr. PIERLUISI. I anticipate that through the Corps of Engineers, FEMA will be bringing to Puerto Rico land-based generators, generating 350 megawatts in the coming months before the hurricane season, so we have that breathing room, so that we have that backup in case, God forbid, we get another hurricane. But I tell you, the numbers speak for themselves. Right now, FEMA has approved already 93 projects. Some of them have already been completed—

Senator CORTEZ MASTO. So when you say projects, they are not renewable projects, they are projects on stabilizing the grid?

Mr. PIERLUISI. Permanent work. These are projects to make the grid better, more resilient, changing poles—

Senator CORTEZ MASTO. More reliant.

Mr. PIERLUISI [continuing]. Changing transformers, changing transmission lines. Our grid is old. It is getting better, believe it or not, but it has taken a while. And as I said, in the last five months, we have been stable, and I have checked this out with FEMA and with the players we have at two private entities—well, one private entity is now in charge of the grid since mid-2021. This is Luma. Now, we just procured a contract, a P3 contract, a public partnership contract with another entity, Genera PR, to take care of the legacy generation assets. But actually, the vision which is incorporated in the integrated resource plan we have in Puerto Rico

is to turn to renewables. By 2025, the expectation is that we should be generating 40 percent of our energy from renewables. And I mentioned in my statement something that, it should tell you that this is ongoing.

Right now, we already have 68,000 rooftop solar systems with batteries, most of them interconnected in our grid. And this is growing by 2,000 a month. I am using ARPA funding to give incentives—grants to small businesses—to install solar panels and batteries, and I am devoting roughly \$500 million of CDBG-MIT funding to do the same, but for low-income and moderate-income households to install solar panels all over Puerto Rico. We will probably be reaching like 20,000 homes there. Congress appropriated—I should thank you—a billion dollars for DOE to do the same, you know, solar panels in Puerto Rico for low-income households and households with disabled people. So that is the vision. But at the same time, we are promoting—and actually, they are in the pipeline—industry-scale renewable energy projects, most of them solar.

So lots of things are happening in Puerto Rico. I have to say that I am glad that the system is stable and has been stable for five months because having blackouts is terrible for everything, for the public at large, as well as businesses, and that's what we don't want.

The CHAIRMAN. Thank you, Governor.

Senator CORTEZ MASTO. Thank you.

The CHAIRMAN. Thank you.

Senator CORTEZ MASTO. And can I just say thank you so much. I do have to run and I apologize, to go to Senate Finance, but I will submit the rest of my questions for the record as well.

The CHAIRMAN. Thank you.

Senator CORTEZ MASTO. Thank you all for being here.

The CHAIRMAN. Senator Barrasso.

Senator BARRASSO. Thanks, Mr. Chairman.

Governor Guerrero, Guam is central to our military power in the Pacific. We know that China understands this and that China has increased their aggression as a result. This includes military exercises near Guam, and developing weapons that are capable of reaching the territory. Could you please speak and share with all of us the recent Chinese actions that concern you?

Ms. GUERRERO. Absolutely. I think the geopolitical situation between China and the U.S. does concern our people. We are very fearful for what could happen if there is a conflict that would occur. We have two major military bases in Guam. We have the Air Force, the Navy, and now, just recently activated Camp Blaz, which is a Marine camp, and the Marines are going to be relocated from Okinawa to Guam by, I think 2024 or 2025.

The presence of that strength of military bases in Guam makes for a target for us. And if there is going to be any Chinese conflict, we feel that we would be the first line of attack, as we also were with Japan—by Japan in World War II. And so, that is very concerning to us, Senator. We realize this. We have had an average of about one or two North Korean missile threats to our island, and frequently in the last few years. We also know that there is more Chinese activity. The spy balloon that was shot down passed by

Guam. We had a briefing from the military. So those are the things that do concern us.

And of course, what are we doing to prepare? The military is now going to set up a military defense system in Guam. In fact, I think Admiral Hill is there now as we are speaking. And all this activity to fortify and strengthen military preparedness for national security concerns our people, again, because it does influence, I think, the attack. And that is why, Senator, I am very urgent to build our new hospital, and I am very urgent to find the financing and the grant to build our hospital. The military naval hospital is there, but their bed capacity right now is 39, and certainly, if there is any situation where they are attacked, they would rely on us, as the civilians, to help back up that military situation.

I just want to say that Guam and the military are working very closely together, Senator, to provide for the national security of our nation and more specifically, for our people. So any help from the Federal Government is, I think, an investment in the nation's security. We have daily discussions with Admiral Nicholson. I know Admiral Aquilino very well in the INDOPACOM. We have a great working relationship, both in interdependence and health care, primarily. And so, yes, we are very much concerned about conflict. We see the Chinese activities within our region.

Senator BARRASSO. In your good answer to this question, you mentioned the Chinese spy balloon, and you said it passed over Guam as well and that you were briefed on that. Was that as it was passing over or was it kind of an after the fact, or they saw it coming? You said you had a military briefing.

Ms. GUERRERO. They were briefing our homeland security as they were passing over.

Senator BARRASSO. As it was passing over?

Ms. GUERRERO. Yes.

Senator BARRASSO. Okay great. Thank you.

Just a quick question for the three governors from the territories of the Pacific. I mentioned in my opening statement, we are preparing to review the Compacts of Free Association that the Administration is currently negotiating. Can you speak, just very briefly, because I am running out of time, on the importance of these agreements to your security?

Ms. GUERRERO. Very important, these agreements—Compact-Impact, Compact. COFA citizens impact our island in all aspects—economy, in the safety, in the education, health care, and so forth. And as we continue on with this impact, we need to get federal reimbursement to provide the services for everybody. And they are, certainly, our brothers and sisters, Senator, and we welcome them, but I think we need to be able to provide them with the same kinds of services as everyone, and to do that we would need full reimbursement of our Compact-Impact.

Senator BARRASSO. If I could also hear from American Samoa and then Northern Mariana.

Mr. MAUGA. Thank you, Senator Barrasso.

I think the relationships between the Federal Government and American Samoa in terms of security, the presence of China in the Pacific, we are also on the front line. We are the only one out there. We are five hours from Hawaii for any military support. We do not

have military in American Samoa, as you know. That is why I asked for the \$700 million. We are looking at also service support and Compact service support, elements of the infrastructure to build in case something happens out there. We have a neighboring island that is also threatened by the Chinese and they are looking at American Samoa. What is American Samoa doing? And we are looking here at the Federal Government. What are we doing?

Like Guam, our hospital has been—Army Corps of Engineers has been to American Samoa about four or five years ago. We need a new hospital and they were told that we recommend to Congress that we should build a new hospital. \$700 million was the allocation that the Army Corps has proposed. And we are asking for that, as I mentioned in my opening remarks, in those terms.

American Samoa is very fragile with its infrastructure. The rebuilding of it, everything from sea walls, roads, and harbor, and so forth, airports. And then, we are asking for all of those in our proposal.

Senator BARRASSO. Thank you, Governor.

I am sure my time is up, but I would like to hear the importance of this Compact as well, Governor. Thanks.

Mr. PALACIOS. Thank you. I am glad that our Federal Government has finally started to finalize those Compact agreements. Personally, I think that we took too long and that is why, I believe, that we gave the opportunity for China to start making inroads and begin to influence. You know, I used to work in fisheries, and I saw personally how Chinese fisheries started getting into the region, but to your question, I am glad that we are finally at the home stretch on finalizing the Compacts and also, of course, hope that the Compact also takes into consideration the impacts, not just for the Marianas—Northern Marianas and Guam—but also for the State of Hawaii, because, you know, that is part of the agreement. And we need to quantify the impacts and help Guam and the Northern Marianas, but I am glad that we are finalizing those agreements.

Senator BARRASSO. Thank you, Governor. Thank you all very much.

The CHAIRMAN. Thank you.

I have not asked my questions yet. I am going to ask mine then I will go right to Senator Hickenlooper. My question is going to be to all of you, very quickly, if you can give us answers— inflation. What is inflation in your territories? What is the inflation? What is the most contributing factor to inflation? What are you fighting the most right now? Is it food? Is it energy prices? What is it? You know, where's your inflation rate? What is the greatest challenge you have?

We'll start with our friend from Puerto Rico.

Mr. PIERLUISI. Yes. Well, my concern with inflation is the cost—

The CHAIRMAN. What is your rate?

Mr. PIERLUISI. Well, last year it was about six percent. Lower than the mainland.

The CHAIRMAN. About the same as ours.

Mr. PIERLUISI. But still too high.

The CHAIRMAN. Sure.

Mr. PIERLUISI. And it impacted all the different areas you mentioned, but one area in particular that troubles me is cost of construction materials, because the way we are getting the funding from FEMA, it is basically through Section 428 of the Stafford Act, which caps the funding. Once you agree to an estimate with FEMA—and that happened in 2019—you have to live with it.

The CHAIRMAN. Got you.

Mr. PIERLUISI. The cost overrun goes on you. So we are engaged in conversations with FEMA, and I am alerting Congressional leadership that FEMA should have the flexibility to adjust the cost—the cap on the project—so that the scope of work of the projects does not get affected. So that is the—

The CHAIRMAN. Well, your inflation is running about the same as ours, but basically your construction, trying to rebuild back from your hurricanes—

Mr. PIERLUISI. Exactly.

The CHAIRMAN [continuing]. And all that is basically not able to proceed as you thought because you have cost overruns.

Mr. PIERLUISI. Yes, well, we could end up not doing all the projects that we planned to do.

The CHAIRMAN. Right, right.

Mr. PIERLUISI. Because of the cost of inflation.

The CHAIRMAN. Got it.

Mr. PIERLUISI. The inflation.

The CHAIRMAN. Congressman, or Governor, if you will?

Mr. PALACIOS. Thank you. We are in the same situation.

The CHAIRMAN. You are right about six?

Mr. PALACIOS. Pardon me?

The CHAIRMAN. You are at a six percent inflation rate?

Mr. PALACIOS. No, we are higher. We are much higher.

The CHAIRMAN. Where are you? Do you know?

Mr. PALACIOS. I don't have the specific numbers.

The CHAIRMAN. But you are higher than the national average?

Mr. PALACIOS. It is very, very high.

The CHAIRMAN. Okay.

Mr. PALACIOS. For consumer—

The CHAIRMAN. And what is the greatest cause of your inflation?

Mr. PALACIOS. Pardon me?

The CHAIRMAN. What is causing you the greatest harm and basically making it difficult for your citizens?

Mr. PALACIOS. I think transportation, where we are at.

The CHAIRMAN. Transportation.

Mr. PALACIOS. And that is—and energy, of course.

The CHAIRMAN. Just the high cost of getting everything to the island, right?

Mr. PALACIOS. Absolutely.

The CHAIRMAN. Okay. Governor.

Mr. MAUGA. American Samoa is at 11 percent.

The CHAIRMAN. You are at 11 percent?

Mr. MAUGA. Yes, sir. Costs, again—construction, shipping into the island, and food are the highest inflation rates.

The CHAIRMAN. Governor.

Ms. GUERRERO. I would say the same. Ours is about eight to ten percent.

The CHAIRMAN. Okay.

Ms. GUERRERO. And for example, Senator, the price of eggs was \$2.99, and now it is like \$10. So gas—

The CHAIRMAN. Can't trust those chickens.

[Laughter.]

Ms. GUERRERO. We are actually giving subsidies to our egg farmers to—

The CHAIRMAN. Well, the problem is, the virus that hit the chickens, I mean, it has taken a toll everywhere, in America too.

Ms. GUERRERO. So the cost of our inflation is, of course, energy, the gas prices.

The CHAIRMAN. Sure.

Ms. GUERRERO. And also, chains—

The CHAIRMAN. I am going to get to that next.

Ms. GUERRERO. Supply chain—

The CHAIRMAN. I am going to get to energy real quick.

Mr. BRYAN. Energy—63 cents a kilowatt-hour, compared to like, 12 here. Food—a pack of chicken thighs is \$35.

The CHAIRMAN. So what is your inflation, Governor? Your inflation rate?

Mr. BRYAN. The last three years, five percent, five percent, seven percent—growth. And then construction. A public housing unit is costing us \$380,000 to \$500,000 per unit, and construction has tripled in cost. Inflation and the hurricane recovery, but yes, it is really bad.

The CHAIRMAN. I do know that in the territories and islands, basically, that energy is a tremendous factor for you all—the reliability and also the cost. Now, with the Inflation Reduction Act and also the Bipartisan Infrastructure bill, do you see much interest and much technology coming your way or people wanting to develop hydrogen? Different types of new fuel, reliable fuel, you know, cleaner fuel or using fossil in a much cleaner way? Are you seeing those interests peaking in your areas? Because you would be natural for that, being more self-reliant.

Ms. GUERRERO. So for us, solar energy, of course.

The CHAIRMAN. Sure.

Ms. GUERRERO. And we have a goal of 100 percent alternative energy by 2045, but we are also looking at virtual power plants using solar energy coming from rooftops. That is something that—

The CHAIRMAN. Storage is the biggest concern you have right now because you don't have the reliability on storage.

Ms. GUERRERO. Right.

The CHAIRMAN. And we are trying to develop the storage as quickly as possible. Hydrogen is a tremendous replacement for what we have been doing. And if you have that much, you know, you can do green hydrogen. You can do green ammonia. There's so much. I want to make sure that you all have all the opportunities that we have developed and we are trying to mature very quickly. So let us know how we can help on that. I know most of you ran by oil for a long time, and I know on the island that as far as in your situation with the refinery—we need that refinery up and running. We do, for stability for the whole region. And I agree with you.

Mr. PIERLUISI. I should just say that I issued an executive order in Puerto Rico making green hydrogen renewable energy, considering it as renewable energy because we have a renewable energy portfolio standard that we have to meet.

The CHAIRMAN. Are you getting pushback? Are they saying green hydrogen does not fit as renewable?

Mr. PIERLUISI. The term is being used, but what I mean is the following, hydrogen, I agree with you—

The CHAIRMAN. It's got horsepower.

Mr. PIERLUISI [continuing]. That is the future.

The CHAIRMAN. It's got horsepower and you have stability with it.

Mr. PIERLUISI. That is the future. But I am, since I have this standard that I have to meet as a matter of our energy public policy law, I am considering hydrogen—

The CHAIRMAN. I would hope you would.

Mr. PIERLUISI [continuing]. As one of the renewable energy sources.

The CHAIRMAN. And we can make blue hydrogen also if we capture it and sequester the CO₂ from that—

Mr. PIERLUISI. Exactly.

The CHAIRMAN [continuing]. That would raise that to a level. And then we have a \$3 credit on it. I'm going to go ahead and I'm going to jump over to you because I know we have to run, the bell has been rung.

Thank you all. We are going to have a lot of more discussion on this. We want to help you and make sure you have access to every opportunity of this new transition that is going on, using all-of-the-above in a cleaner fashion than we ever had before.

Senator Hickenlooper.

Senator HICKENLOOPER. Thank you, Mr. Chair. Thanks to all of you. I mean, we always hear, those of us in the continental 48, always look with longing to our impression and understanding of the places you live as some of the most beautiful places on earth, but we also recognize, and it is only heightened by your testimony today, that they are not without risks and without serious challenges. So I appreciate you all coming here and hopefully we will be responsive to a lot of the issues you have raised.

Governor Palacios, Congress has made a number of infrastructure investments in the Northern Marianas and other territories, including through relief packages, and as the Chair mentioned, the Inflation Reduction Act investments. Do you have the workforce and the resources to actually put the funds to work, and how could we help accelerate the deployment of these investments? And actually, I could probably ask each of you, concisely. I mean, why don't you start, but then we can ask each of you to answer the question.

Mr. PALACIOS. Thank you for the question. You know, two years ago, I went in front of the IGIA and I thanked all of the federal agencies for all their contributions to rebuilding back after the super typhoon. We had, at the time, almost a billion dollars' worth of funding from HUD, EDA, FEMA, but we are still lagging behind on a lot of those projects because of the labor shortages in our region. It is like, you know, the rest of the nation. To put it in context—

Senator HICKENLOOPER. You are going to have to be more concise if I want to get all five of you, so.

Mr. PALACIOS. Okay.

Senator HICKENLOOPER. Sorry.

Mr. PALACIOS. Yes. We are very, very concerned about that, too and we are lagging behind—

Senator HICKENLOOPER. Okay.

Mr. PALACIOS. Because of labor shortages.

Senator HICKENLOOPER. Okay, thank you.

Who's next?

Mr. PIERLUISI. Well, in the case of Puerto Rico, skilled construction workers are the ones that are of concern because we are in the midst of an incredible reconstruction effort.

Senator HICKENLOOPER. Right.

Mr. PIERLUISI. You are talking about billions of dollars, of federal dollars devoted to this effort. And so, I have raised this topic with Secretary Mayorkas. I have raised it at the White House. I am saying that the H-2B program, it does not really work because it has a cap on it. If I recall correctly, it is roughly like 60,000 or so, nationwide. In Puerto Rico, we probably are lacking 10,000 skilled construction workers, and I know that there must be so many out there who we could give a two-year visa, tied to a specific sponsor with specific requirements, basically to allow them to come in and help us do this reconstruction that is in the interest of the Federal Government, and at the same time, that would help on the border because we would need Spanish speakers to deal in our construction industry. So you are talking about, it could be—

Senator HICKENLOOPER. What is your unemployment?

Mr. PIERLUISI. Unemployment is at the lowest point in our history right now. It is six percent. It used to be double digits because, as I said, we are in the middle of a rebound here in Puerto Rico, now, two years in a row.

Senator HICKENLOOPER. And you could put those workers to use. Got it.

Mr. PIERLUISI. But, yes, so that is, I would say, Central American workers, Dominican Republic workers, they could come in, legally through a program targeted for this purpose.

Senator HICKENLOOPER. Okay, thank you.

Mr. MAUGA. American Samoa is going through a reformation, reconstructions of the ability of the government to go forward, in terms of educating our young ones into trade and into technical schools and so forth. So we could gain the technical expert in terms of skilled. We have a cannery in American Samoa, StarKist, and we are getting workers for the cannery from our neighbor islands of Samoa. So there is a lot of work there, but like I said, we are going through the transformation, and the funding that we are asking for is to transform the school system, to transform the trade and technical training at the college level so we can teach our own young ones born in American Samoa so they can take over these jobs.

Senator HICKENLOOPER. The point is to help you train your own people, got it. Thank you.

Mr. MAUGA. Thank you.

Ms. GUERRERO. Senator, our greatest concern for economic recovery, of course, is workforce development. We do train our local people, but the demand is so much higher than the supply. And so, we are asking to exempt Guam from the ban of the H-2B workers, and in the NDAA there is a provision there that allows for H-2B workers, but only for military projects, and we would like to have it include civilian projects, also. And there is an expiration for that. It expires in 2024, and we are asking to extend it to 2029.

Senator HICKENLOOPER. Got it.

Mr. BRYAN. Same position as Puerto Rico. As a matter of fact, we used to get the Puerto Rican workers. We don't even get them anymore. They are working in Puerto Rico. Everybody used to complain about it. Nobody is complaining anymore.

Mr. PIERLUISI. Stop that.

[Laughter.]

Mr. BRYAN. We lost 20 percent of our population in the last decade between the hurricanes, the closing of the refinery, and the recession. We need as many people as possible. We need 5,000 additional workers. That is over five percent of our population, and over ten percent of our workforce to complete this recovery.

Senator HICKENLOOPER. Wow.

The CHAIRMAN. Let me say this—I'm sorry, Senator.

Senator HICKENLOOPER. No, I just wanted to make one last point.

The CHAIRMAN. Okay, go ahead.

Senator HICKENLOOPER. That I think you guys are doing a great job in difficult circumstances. I just want to leave you, and I will post a question into the record and you can provide written answers, because we are out of time, but there is a lot of evidence that expanding the Marine Protected Areas helps boost economies on your islands continuously. And I know there are a number of plans in the works that, I know, the Virgin Islands have. President Kennedy started the Buck Island Reef National Monument, and you look at the impact that has. One of the world's first Blue Parks. I think in many cases the best way to protect reefs is to protect the fish that inhabit the reefs. Those kinds of things, I think, the Congress is beginning to look at and recognize that this is economic impact in one way, as we get you the workers so that you can continue to build the infrastructure that creates a long, sustained economic expansion.

I yield back.

The CHAIRMAN. Thank you.

I am going to have to leave and I am going to turn it over to Senator Hirono to ask her questions and she will finish up the meeting.

I just want to personally thank all of you, and I want you to know that we are with you. We are very much concerned. You are extremely important, as any state is, as far as to all of our success and the freedoms that we love and the democracy that we enjoy. And it is something that we are going to protect and do everything we have with the force of the United States of America and working together and we will make sure that you have every opportunity that possibly could be available to you all. We are going to make sure that we are going to do that.

As far as you having the same concerns we are having, we need more workers too. We have ten million jobs we cannot fill in America. So with that, I am going to turn it over to Senator Hirono.

Senator HIRONO [presiding]. Thank you, Mr. Chairman.

Welcome to all of you, and of course, to my former colleague, Governor Pierluisi, it is always good to see you.

I echo the Chairman's comments about how important our relationship is with each of you and your governments. And of course, as a member of the Senate Armed Services Committee, I know how important our relationships are with each of you regarding our national security. So we have much in common.

This is a question for Governors Palacios, Mauga, and Guerrero. Always good to see you too, Governor Guerrero.

Ms. GUERRERO. Thank you, Senator.

Senator HIRONO. I know that you were asked questions about the importance of the Compacts that we are now negotiating, so I won't go through all of that, but at the same time, it is important that we change the law that will allow Compact citizens that come to Hawaii, Guam, and other places, that they receive the kind of social services that they should be, in my opinion, entitled to, and it took many years to restore Medicaid eligibility to Compact citizens. I plan to reintroduce the Compact-Impact Fairness Act, which would restore COFA citizens' access to all federal public benefits that are available to other legal permanent residents.

How would restoring access to these federal public benefits mitigate the effects of COFA migration on Guam and the Marianas' budget and improve health and educational outcomes for COFA citizens?

Would you like to start, Governor?

Ms. GUERRERO. I can start. Like I said, our brothers and sisters from the outer islands are certainly very welcome to Guam and they are already accessing a lot of these public services. And I am certainly very supportive, Senator Hirono, of your legislation, as I was with the Medicaid. And now, as a result of the eligibility for Medicaid in Guam, it is helping us with the impact on the health care services.

I certainly support it, but I think it should also have along with it an increase of grant funding to these social services to allow them to absorb the migrant workers to be able to continue and expand these services to them. So I hope that there is some consideration for an increase of funding in those various areas, whether it be housing, education, we estimate about \$150 million a year of impact to the island. This includes education, health care, and public safety. And we only get \$18 million. And so we absorb the balance of that and it does impact us tremendously.

Senator HIRONO. Same for Hawaii. So the amounts that come to you and to Hawaii and other places are very short of what is expended to take care of our friends.

Governors Mauga and Palacios, do you have anything to add?

Mr. PALACIOS. Yes, thank you.

First, I certainly support the idea of making COFA's FSM and Micronesian brothers and sisters eligible for Medicaid. That certainly would help defray the cost of health services in the Commonwealth, Guam, and Hawaii, for example. But I think we should also

take a look at other social services and other services provided, and perhaps even include them in your bill or maybe subsequent bills that Congress may consider because, obviously, I totally agree, and it is a fact that, you know, us, Guam, the CNMI, and Hawaii are recipients of most of the migrations out of Micronesia, and our government has basically borne the cost of a lot of these social services and health care needs that we provide. So I fully understand and I fully support your legislation and your effort.

Thank you.

Senator HIRONO. Would you like to—

Mr. MAUGA. First, I want to thank you for the Consolidated Appropriation Act of 2023 that permanently increased the federal Medicaid match to 83 percent/17 percent. Our dilemma in American Samoa is that most of us that are American Samoa-born qualify for Medicaid, but there is a percentage of American Samoa residents that are legal residents in our terms in American Samoa that do not qualify under the Medicaid program, and we are looking for internal revenues from the government to make sure that we are taking care of this part of the population.

In terms of a lot of revenues, grants from the Federal Government also do not benefit this group of population, residents of American Samoa. They are not qualified for federal scholarships. They are not qualified for a lot of the educational benefits that all the residents born in American Samoa are qualified for.

Senator HIRONO. Thank you very much for pointing out an area that I would like to learn a little bit more about. It is very clear that we need to do more, and I think if we present a united front in the need for more reimbursements under the Compacts or under the legislation that provides support for those areas that are particularly welcoming, I guess, of our Compact citizens, I think that is something that we need to look forward to.

Now, there has been testimony about the shortage of workers. And yes, all across the country we are facing very low unemployment, at the same time, I know that there are visa issues that impact, for example, Puerto Rico and Guam. I know I am over my time, but I am the only one here, so I can keep going.

[Laughter.]

Senator HIRONO. So it is going to take some work, I think, for us to work through some of the visa issues that you have to enable you to attract more workers. And with regard to Guam, we were able to put in a one-year extension for the H-2B visas. You had wanted a much longer extension, however, we do need to meet some of the Department of Labor's concerns about how these visa holders are treated. I just want to get to the bottom of all of that so we can help you with your workers and also Puerto Rico. And if that is an issue for the other governors, and you need us to address visa issues with regard to you, then I would like to have a commitment from each of you to work with us.

Yes, Governor.

Mr. PIERLUISI. And I have to say, Senator, that there are things that we are doing to increase labor force participation.

Senator HIRONO. Okay.

Mr. PIERLUISI. Through training. We are using CDBG-DR funding to train potential construction laborers. We are doing the same

with apprenticeships. And that is something that needs to be done. I issued an executive order requiring that in federally funded construction projects, the minimum wage be \$15 an hour for skilled construction workers and now, the construction industry in Puerto Rico is paying more for the labor, as it should. So that should be helping because we need all the labor we can get, including Puerto Ricans who left the island looking for better quality of life or, you know, equal rights in the states. Now we are telling them, come back. We have good-paying jobs, particularly in this construction field.

So that is something we are doing, but I have to admit, we are lacking, definitely, at the very least, like 10,000 workers right now. And we see the problems in the border. And so we say this is a common interest here. Let's set up a special program for skilled construction workers using either the H-2B visa program or something similar. That is my proposal, and I have run it both by Secretary Mayorkas as well as the White House, and here in Congress.

Ms. GUERRERO. I wanted to comment, Senator, on the concerns of the Department of Labor. We treat our workers very well. We have guidelines that we follow with the federal labor laws. We monitor construction sites all the time for adherence and compliance to those requirements. In fact, the Philippines just sent out a Congressional delegation to review the places of these workers, and they came back with such excellent comments about the way we provide food, housing, medical benefits, labor wages and so forth. So I think the concerns that the Department of Labor has are very much addressed in the way we treat our H-2B workers in Guam. So we need those H-2B workers with the increase of military construction and also coming back with economic recovery with investments in commercial development and housing developments. You know, we also have local training. We have boot camps for shipyard repair, boot camps for plumbing, electricians, but the local labor, the local civilian population just cannot meet the demands—

Senator HIRONO. Yes, I understand. So Governor, my hope is that Guam will be able to address and meet the concerns of the Department of Labor, and when that happens, I believe that we will be able to extend the number of H-2B visas that become available.

Ms. GUERRERO. Our Department of Labor is working very closely with the U.S. Department of Labor.

Senator HIRONO. Good.

Mr. BRYAN. If I may, Senator.

The other thing you have to think is conversely, the reality is that it is happening anyway. Every day, people are dropping off non-citizens on our shores. They are actually going to the immigration office and then they give them a court date and they let them go. Some of them even give them tickets to travel to the mainland. So they are already there. And they are being abused—the ones that don't know, the most disadvantaged ones, are being abused because they don't have a system in which they can report. Creating the program will allow them to actually be monitored and we can assure that they are not being abused.

Senator HIRONO. Yes, I agree with you. Thank you for that observation.

I know that one of my colleagues is going to be coming, so I will just continue with my questions. Regarding the lack of workforce, one of the things that COVID-19 really brought to the fore is how challenged our health care workers were. So all across the country we need nurses, we need other health care workers. Is that happening with all of you, and what can we do to address your needs for health care workers—doctors, nurses, the range of workers?

Mr. PIERLUISI. Well, I am appreciative, as is the Governor of the Virgin Islands, for the additional funding we got through the bipartisan appropriations bill that just happened here a month ago or so. But the fact is, we are underfunded, still, in Puerto Rico, in both the Medicaid program and the Medicare program. And the ones who suffered this, among others, are not only the beneficiaries, they are the providers, including those who work at hospitals and so on, because we are underfunded. And that raises the problem, and it increases the problem of getting people.

Now, what we are doing in Puerto Rico, finally, now that we have this bankruptcy behind us, is revising pay scales for public servants at large, ensuring that they earn pretty much what they would be earning in the private sector. And that is happening as we speak there.

Senator HIRONO. Okay.

Mr. PIERLUISI. And that includes nurses, for example. So we are raising the pay scales for nurses, the ones who work for the government, for the public hospitals, but I tell you, the underlying problem is lack of equality in our health programs. And that is why you see me advocating for statehood because that is one instance. And my fellow governors probably face the same lack of equal treatment in key health programs that, in our territories, they are like the Cadillac programs. The commercial plants do not pay as much as Medicare does. And still, we are underfunded in the Medicare program, underfunded in the Medicare Advantage program. The formula that is being used is not adequate, but I think this is something—

Mr. BRYAN. Common.

Mr. PIERLUISI. Something where we all in the same boat.

Mr. BRYAN. TEFRA rebasing at our hospitals has not been done in 30, 40 years. I mean, we are getting paid the lowest rate. And the ARPA funding has been so useful because it is so flexible and you can use it in so many ways. We are incentivizing nurses and medical personnel on a whole to move to the islands, but housing and everything else is expensive. I always tell people a bucket of chicken in the Virgin Islands is \$50. That puts it in perspective for you, and that was before COVID.

So incentivizing them is good, but not only are they lesser paid, there is a higher cost of living. So it's like a double-whammy.

Senator HIRONO. Yes.

Mr. BRYAN. Being able to pay more would be great.

Senator HIRONO. You know, the workforce issues are a multiplicity of factors. And Governor Pierluisi, Hawaii is a state, but we would like to have the Medicare reimbursement schedule changed for states like Hawaii. So we need to revisit how those determinations are made all across the country because there are other states

that do not feel that their Medicare reimbursements are what they should be.

So apparently my colleague is not coming. So thank you once again, each of you, for being here. I am going to close this hearing with the notation that members will have until the close of business tomorrow to submit additional questions to you for the record.

The Committee stands adjourned.

[Whereupon, at 11:36 a.m., the Committee was adjourned.]

APPENDIX MATERIAL SUBMITTED

U.S. Senate Committee on Energy and Natural Resources
February 9, 2023 Hearing: *The State of the U.S. Territories*
Questions for the Record Submitted to The Honorable Albert Bryan, Jr.

Questions from Senator Martin Heinrich

Question 1: Governor Bryan, as you are aware, in order to unlock the benefits of renewable energy and to achieve our climate goals, we need to build a lot more transmission capacity into the grid. The growth of solar generation in potential in the USVI and Puerto Rico, as highlighted in DOE & FEMA's PR100 year-one report indicate that these two islands could become exporters of solar power as opposed to importers of fossil fuel.

What is the current development state of the CariTrans transmission project between Puerto Rico and the USVI and will the IIJA be able to help this project?

Answer: At the 2022 OIA Territorial Climate and Infrastructure Workshop in Hawaii the Virgin Islands delegation presented on the value proposition of electrical interconnection between the USVI & Puerto Rico, and the potential of the IIJA to be a catalyst for implementation. Recently a company named *Alternative Transmission Inc* proposed "Project Equity" a \$6 billion undersea transmission project between the mainland United States & Puerto Rico. If this project comes to fruition the impact value would be bolstered by electrically interconnecting the Virgin Islands and Puerto Rico in parallel. The *Transmission Facilitation Program* and the *Grid Resilience and Innovation Partnerships Program* under the IIJA are both funding streams that could be strategically leveraged to reinvigorate the development of the inter-island transmission line in anticipation of mainland interconnection.

Question 2: Governor Bryan, in March 2022, you announced a plan to dramatically increase the use of solar power in the USVI – with a goal of St. Croix being powered 100% by solar plus storage systems in the very near future.

What is the current state of the USVI being able to achieve this goal and are there currently obstacles that the Congress should be aware of so we can be of assistance?

Answer: In March of 2023, the Virgin Islands Water & Power Authority Governing board approved 6 Power Purchase Agreements (PPAs) from two distinct renewable energy developers. The recently approved PPAs pave the path for the construction and commissioning of 55 MW of Wind Energy across St. Thomas & St. Croix as well as 68 MW of Solar across St. John, St. Thomas, and St. Croix. Additionally, the Virgin Islands Water & Power Authority is seeking to leverage HUD's Electric Grid funds to deploy an array of Utility-Scale energy storage to serve as a backbone to the grid's soon to be renewably penetrated transmission and distribution system. Congress can be highly assistive in supporting expedited approval and mobilization of HUD's Electric Grid to ensure timely integration of the critical battery storage resource which will maximize the benefit of forthcoming renewable integration.

U.S. Senate Committee on Energy and Natural Resources
February 9, 2023 Hearing: *The State of the U.S. Territories*
Questions for the Record Submitted to The Honorable Albert Bryan, Jr.

Questions from Senator Lisa Murkowski

Question 1: As you know, oil and gas prices were significantly impacted by the Russian Invasion of Ukraine a year ago this month, prompting an important – and urgent – discussion among Western allies about energy security. In Alaska, we are no strangers to paying higher fuel costs, especially in our remote areas and island communities. Governor Bryan, in your opening remarks, you mentioned the refinery that's currently shut down in St. Croix as a one way that the US Virgin Islands can improve their domestic energy capacity and, as a result, its energy security. Can you tell me what you are doing to ensure the refinery complies with EPA standards and whether you have a sense of when the refinery may be operational again? Where are you in the permitting process with the EPA? What are some of the barriers you face in this process?

Answer: This is a bit of a complicated question because what we're asking to happen is that the refinery be held to 2010-era standards and be allowed to start-up, as opposed to being compliant with the air quality requirements that went into effect in 2015 and to be fully implemented by 2018.

PHRT is required to have a Title V permit from DPNR, which is a program delegated to the Virgin Islands by the EPA and allows us to regulate air emissions. PHRT has yet to file an application with the GVI; however, we are holding PHRT to the 2010 Title V permit conditions issued to Hovensa.

The refinery has not provided any updates to the Virgin Islands in terms of timelines for restart. They previously indicated that they wanted to begin a “topping operation” (crude refinement process) by January 2023; however, since the EPA’s determination that a prevention of significant deterioration (PSD) permit would be required for startup, we really haven’t heard much from them.

The main barrier to the restart of the refinery is the EPA insisting on the facility being fully compliant at startup. this includes having a PSD permit, which requires a two-year assessment and permitting process, and the installation of a very costly piece of equipment called a flare gas recovery system (FGRS). Since 2012 the EPA had considered the refinery “idled” and not shut down; however, mandating complete compliance at start up means they are treating the facility as being shut down. Had the EPA stated this position during the bankruptcy process, it is unlikely there would have been any bidders for the facility.

Questions from Senator Catherine Cortez Masto

Question 1: Working to increase access to affordable, quality mental health services is one of my top priorities in Congress. It is critical that our health care system can meet both the physical and mental health needs of Americans. What more can we do in order to support the accessibility of mental health services across the territories?

Answer: Expansion of services by increasing funding which allows for an increased number of personnel with the addition of infrastructure costs. Our Behavioral Health leadership team met

U.S. Senate Committee on Energy and Natural Resources
February 9, 2023 Hearing: *The State of the U.S. Territories*
Questions for the Record Submitted to The Honorable Albert Bryan, Jr.

with all districts under Island Affairs. The Atlantic and Pacific territories were represented, and we discussed access to care with Assistant Secretary of Mental Health and Substance Use, Miriam E. Delphin-Rittmon, Ph.D. We shared the following:

1. We recommended that SAMHSA work more closely with HUD to allow for increased funding opportunities that will ensure those affected by Mental Health and Substance Use illnesses be housed in a manner that allows for continuous wrap-around services, and inpatient transitional care. The regulatory and safety guidelines require the separation of pediatric, adolescent, and adult inpatient care which again increases financial concerns.
2. Many of the grants limit personnel costs in the territories. We are seeing an increased number of behavioral health cases during this phase of COVID-19 endemicity. The effects are seen from the very young to our Seniors. Crisis care for all with increased attention to our veterans is in high demand as suicide rates continue to rise in that population.
 - a. We are working with Howard University to educate and train Community Health Workers who will enter homes and housing communities to better determine the social determinants of health in the Virgin Islands. This requires an increased level of personnel costs that will yield a significant impact on increasing wellness and decreasing morbidity and deaths.
3. When funding is raised nationally the manner in which grant funding is calculated negatively impacts the territories. For example, the PATH Grant has been \$50K for over 20 years even when the national funding available has increased as recently as this fiscal year.

Question 2: Over the course of the pandemic, telehealth has helped connect Nevadans and all Americans to quality health care. That's why I have fought hard to extend telehealth coverage for our seniors for another two years. Can you speak to the benefits of telehealth that you've seen in your communities?

Answer: The benefits of telehealth that you've seen in the Virgin Islands include:

- Easier access to care leads to a higher number of patients seen.
- Specialty Services are now more easily available in the territory.
- Access to more inclusive languages with the language interpretation module available through telehealth.
- An increase in access equals an increase in health equity and a decrease in health disparities.
- Decreased barriers and makes it easier to continuation of services (tracks progress).
- Strengthened infection control practices for example, Directly Observed Therapy (video conferencing) is used for TB and other infectious diseases to decrease the risk of transmission. This was also used during the higher phase of the pandemic.

U.S. Senate Committee on Energy and Natural Resources
February 9, 2023 Hearing: *The State of the U.S. Territories*
Questions for the Record Submitted to The Honorable Lourdes Leon Guerrero

Questions from Senator Martin Heinrich

Question 1: Thank you for your written testimony and comments regarding the Guam's position as being on the front line of U.S. national security in a potential conflict with the PRC.

In your testimony, you point out that Guam's ability to strengthen resiliency and reliability of its infrastructure directly impacts DoD installations and force preparedness in Guam. You mentioned specifically that DoD is customer of Guam Power Authority.

How is the partnership between your government and DoD regarding understanding energy security in Guam and what role do you see renewable power and microgrids playing to enhance that security?

Response: The government of Guam has a strong working partnership with the DOD, especially the Joint Region Marianas and the Indo-Pacific Command. It's a relationship rooted in a shared interest in the progress of the civilian community and the success of the DOD's mission in Guam. While facing challenges, we focus on resolving outstanding near-term and long-term concerns. I believe one example of this cooperative relationship was in 2020, during the early outbreak of COVID-19. The carrier USS Theodore Roosevelt docked on Guam due to an outbreak of COVID-19 on board. After an in-depth consultation with the U.S. Navy, the men and women aboard the carrier were evacuated and moved to local hotels set up as quarantine facilities. Because of the working relationship between the government of Guam and the U.S. Navy, this went relatively smoothly and expeditiously.

Concerning renewable energy, the Guam Power Authority (GPA) currently has 25.3 MW of renewable energy capacity with an additional 160 MW of solar photovoltaic and 150 MWh of energy storage – which will help achieve a 25% renewable production goal by 2024. For the long term, GPA has a mandated goal of 50% renewable energy by 2030 and 100% renewable energy by 2050. In addition, my Administration is aggressively pursuing the expanded use of solar panels in government, residential, and commercial structures. In tandem with GPA's transition to renewable energy, we are also expanding the use of electric vehicles, which will reduce our demand for imported gasoline. We are also exploring the utilization of microgrids to serve the planned new civilian hospital for villages in southern Guam.

Question 2: I was pleased to see you mention the Radiation Exposure Compensation Act (RECA) in your testimony. As you know, I have been a longtime advocate for expanding RECA to include New Mexico, Guam, Arizona, Colorado, Montana, Nevada, and Utah.

I was hoping you could touch on the impact that the extension of RECA would have on our constituents.

Response: Expansion of RECA to New Mexico, Guam, Arizona, Colorado, Montana, Idaho, Nevada, and Utah will open the way for those subject to radiation exposure to receive health benefits and monetary compassionate payments to assist families in paying high expenses for cancer medication. As a matter of justice, it would be a tangible response to those communities

U.S. Senate Committee on Energy and Natural Resources
February 9, 2023 Hearing: *The State of the U.S. Territories*
Questions for the Record Submitted to The Honorable Lourdes Leon Guerrero

that, on a grassroots level, have seen firsthand the impact on affected families due to radiation exposure to their loved ones.

Question 3: How does Illegal, Unreported and Unregulated (IUU) fishing impact the fishing industry and the economy of your islands? What more could the U.S. do to deter pirate fishing in the region?

Response: IUU has become a major problem in the Pacific, and according to the U.S. Coast Guard, IUU has replaced piracy as the leading global maritime security threat. We expect the deterioration of fragile coastal areas in the Pacific and increased tension if IUU is not addressed urgently. Furthermore, IUU significantly impacts the cost of fish accessible to our local markets but substantially affects our island brethren in American Samoa and Hawaii, who have long-line fisheries and are subject to extensive regulations and costly oversight. At the same time, foreign vessels are not made to adhere to the same policies – IUUs even more so. Each country, as well as islands, are afforded quotas based on the biomass of fish. These biomasses are impacted and reduced because of IUU fishing. Additionally, the US fleet is highly regulated and monitored, with a higher operating cost, putting our fleet at an economic disadvantage. Compounding this is that foreign fleets are highly subsidized by their government. We believe the U.S. Interagency Working Group on IUU Fishing should prioritize and fund resources to combat IUU in the Pacific Islands.

Questions from Senator Lisa Murkowski

Question 1: Broadband access is vital for connecting communities in your territories to each other and to the world. For instance, in Alaska, reliable and fast broadband is a lifeline for remote communities. Congress recently passed the bipartisan Infrastructure Investment and Job Act, which allocates money to rural and isolated communities to benefit from improved internet speed and reliability. Governor Lemanu, can you provide me an update on how funds from the Infrastructure Bill, specifically the *Broad Equity, Access, and Deployment Program* (BEAD) are being used to provide affordable and accessible connectivity for all? Governor Guerrero, I know that Guam has applied for BEAD funds, how is that process going

Response: We are at the early stages of the implementation process. The BEAD planning grant was received last December, and although the States have received Digital Equity Planning grants, we are still awaiting this funding. Using local resources, we have begun the Digital Equity planning process to meet the strict deadlines called for under the Bipartisan Infrastructure Law (BIL) broadband provisions. One aspect of this process that does concern us is the development of the FCC broadband maps that will be used to determine the allocation of BEAD deployment funding to the States and Territories. The first version of the FCC broadband map for Guam, released last December, left out almost 70% of the locations on the island. Huge swaths of urbanized communities and villages that have existed for almost five centuries were left out. Following FCC procedures, Guam has filed a challenge to the FCC map for Guam based on the fabric and the criteria for identifying unserved locations: upload speed, download speed, and latency. FCC has recognized the difficulties in the current map for Guam and has contacted us to resolve these issues. As we understand it, the FCC is currently consulting with internet services

U.S. Senate Committee on Energy and Natural Resources
February 9, 2023 Hearing: *The State of the U.S. Territories*
Questions for the Record Submitted to The Honorable Lourdes Leon Guerrero

providers in Guam to produce a new, more accurate broadband map for the island. It is unclear to us if Guam will have an opportunity to challenge the new FCC map that will be produced before its utilization in June to distribute BEAD deployment funding to the States and Territories. We believe it is essential that we have that opportunity to help ensure a fair distribution of BEAD deployment funding.

We also have concerns with the Affordable Connectivity Benefit Program. Guam is eligible for the \$30 per month subsidy under this program. The local ISPs are offering and promoting this discount and are reimbursed by the FCC per the statute. However, local ISPs were not part of the negotiations between the federal government and nationwide ISPs that secured \$30 per month service plans that, coupled with ACB, provided free internet for needy families. We advised that it would be difficult for the local ISPs to provide similar plans at the price point because of the high cost and economies of scale issue concerning local broadband service. As a consequence, Guam, the CNMI, and American Samoa last year filed an FCC case seeking the designation of the Pacific insular territories as a high-cost area, as defined in Section 60102 (G) of the Bipartisan Infrastructure Law, with an adjustment of the ACB subsidy to \$75 per month. FCC has deferred to NTIA in assessing our case for high-cost designation, and we are awaiting NTIA's findings.

Question 2: As you all mentioned in your opening testimonies, COVID-19 has hit US territories particularly hard. Similar to Alaska, the cruise ship and tourism industry is a vital part of Guam's economy. Unfortunately, the tourism industry experienced a significant decline through the pandemic. Although we are starting to see a rebound from this, lingering issues remain. I understand from my experience in Alaska that such a steep drop in tourism greatly affects small businesses that depend on tourism activities and take a long time to recover from. How has the tourism industry in Guam rebounded from the decline due to COVID-19? What challenges remain for the industry? How can Congress best support Guam's tourism industry as it continues to recover from the effects of the pandemic?

Response: As is the case with global international tourism generally, Guam's tourism industry is in recovery, and there is new investment in our hotel inventory and hospitality enterprises. However, visitor arrivals are still at a fraction of pre-COVID-19 numbers. In the interim, we have utilized American Rescue Plan Act (ARPA) funding to deal with the adverse impact on tourism industry businesses and workers. We believe that as international tourism travel rebounds, there have been fundamental changes to tourism patterns in this post-COVID-19 period. Therefore, we are developing a tourism repositioning and rebranding study to equip us with an effective strategy to adapt to and capitalize on the changes in our tourism markets, particularly in Asia.

Questions from Senator Catherine Cortez Masto

Question 1: Guam is vital to U.S. national security and is a proud home to our service members and their families. We are in a period of strategic competition with the Chinese Communist Party (CCP) and if competition turns to conflict, Guam may be a target of Chinese's aggression. What resources do you think Guam needs to support both the local residents and our service members?

U.S. Senate Committee on Energy and Natural Resources
February 9, 2023 Hearing: The State of the U.S. Territories
Questions for the Record Submitted to The Honorable Lourdes Leon Guerrero

Response: To fully answer this question, I need to describe how interrelated Guam's civilian community is with military bases. A changing military mission in Guam inevitably affects the civilian community, especially infrastructure. According to published reports, the proposed Guam Defense System involves the deployment of mobile missile launchers to various locations around the island, which generally has implications for our road network and our transportation system. The island's main ocean transport link is Apra Harbor which is divided between the naval base on one side and the civilian Port Authority of Guam (PAG) on the other. 30% of the cargo processed by PAG is military-related. There has been federal funding support for PAG upgrades. Still, the impact of this funding is undermined by the Buy America provision, particularly for new STS gantry cranes, which are no longer made in the US. These gantry cranes, in tandem with the rehabilitation of Port's wharves and other facilities, are all part of PAG's readiness plans to support civilian needs and the military mission.

Aside from Anderson Air Force base, the only other air transport link is the civilian Guam International Airport Authority (GIAA). As I mentioned in my written testimony, the Guam Power Authority (GPA) provides electrical power for military bases. The water systems and management of water resources, including our northern aquifer and Fena Lake in southern Guam, is a shared responsibility of the military and the Guam Waterworks Authority (GWA). Civilian telecommunications companies similarly serve the bases, and large numbers of military personnel and dependents have housing off-base, which naturally impacts the availability of affordable housing. Concerning medical facilities, there is a Naval Hospital on Guam behind the fence line with approximately 30 beds. If the Naval Hospital is the target of a military attack, it would naturally fall to our civilian hospital facilities to treat casualties.

Because of how interrelated both military and civilian systems in Guam are, Congress should consider federal investment in Guam's community and not only support for an American community. It is also an investment in Guam's resilience to support the military mission that my island will be called upon to serve should we find ourselves on the front lines of any conflict with China. Our priority in requesting federal support is for a new hospital. The current public hospital is aging, and the Army Corps of Engineers has determined that replacing the facility is the sound economic option. We have other needs as well. But to directly answer your question about the resources Guam needs to support the residents and our service members, I can think of no more important investment than the resources for a new public hospital.

Question 2: Working to increase access to affordable, quality mental health services is one of my top priorities in Congress. It is critical that our healthcare system can meet both the physical and mental health needs of Americans. What more can we do in order to support the accessibility of mental health services across the territories?

Response: In order to support the accessibility of mental health services across the territories, Congress can designate or classify territories similar to Tribal Nations with respect to federal grant funding opportunities. Currently, territories compete against states with no preferential point system or classification that takes into consideration our uniqueness, size, or population. This would help territories by leveling the playing field when we apply for Substance Abuse and Mental Health Services Administration (SAMHSA) grant funding or similar opportunities that aim to increase access to mental health services.

U.S. Senate Committee on Energy and Natural Resources
February 9, 2023 Hearing: *The State of the U.S. Territories*
Questions for the Record Submitted to The Honorable Lourdes Leon Guerrero

Congress can further support the accessibility of mental health services across the territories by providing more funding to establish additional mobile crisis response teams. Guam only has one mobile crisis response team, but it needs three more to support the mental health needs of our population. Congress can also provide more funding for community homebase workers. Guam needs more full-time employees to do wellness calls for individuals that utilize services provided by the Guam Behavioral Health and Wellness Center, which will limit more expensive services like inpatient care. Lastly, additional funding for the 988 education campaign will help inform our community of free, 24/7 access to trained specialists who can help people experiencing mental health-related distress. I request funding support for street outreach efforts to employ outreach workers to go into the community where individuals who have mental health issues may be gathering. These outreach workers will be able to conduct immediate intake for services, which would be a proactive approach rather than waiting for them to seek help.

Question 3: Over the course of the pandemic, telehealth has helped connect Nevadans and all Americans to quality health care. That's why I have fought hard to extend telehealth coverage for our seniors for another two years. Can you speak to the benefits of telehealth that you've seen in your communities?

Response: Even before the COVID-19 pandemic, our only public hospital – Guam Memorial Hospital (GMH) – had been utilizing telehealth, although at a low-level capacity. During the pandemic, we expanded and heightened telehealth and telemedicine service primarily in the ICU because of the island's minimal critical-care and ICU physician resources. GMH currently has telehealth and telemedicine access to six Intensivists and six Internal Medicine Hospitalists. GMH has extended telehealth and telemedicine access and service to neonatal intensive care units with two neonatologists. They are on the path to establishing telehealth access and service with neurology physicians. These plans call for acquisition. Telehealth and telemedicine physician resources are Rheumatology, Cardiology, and Pediatrics. Utilizing this technology has worked extremely effectively and efficiently for GMH. However, it must be noted that the physical facility is aging, and the government of Guam needs federal assistance to fund its replacement for a new hospital.

Questions from Senator John W. Hickenlooper

Question 1: Guam plays a critical role in ensuring our national security, and this will only grow should tensions further escalate with China. As you say in your testimony, infrastructure required to support this contribution is considerable. As you think about maintaining this infrastructure, how are you considering the impact of climate change and the need for climate resilience? What role can Congress play in supporting climate resilient infrastructure in Guam?

Response: Climate change is at the forefront of every aspect of our infrastructure planning. We are developing a new Guahan 2050 Sustainability Plan, which will be the basis for island land use policies and zoning regulations. Water resource planning has incorporated the expansion of exploratory wells to monitor Guam's water resources, and our drought management planning has considered project rises in temperatures. Guam has a long history of being subject to typhoons,

U.S. Senate Committee on Energy and Natural Resources

February 9, 2023 Hearing: *The State of the U.S. Territories*

Questions for the Record Submitted to The Honorable Lourdes Leon Guerrero

and as we project future storms to be more intense, we factor that into our planning. Several flood control projects, particularly in coastal areas, are being implemented, and we are examining measures to address the fragility of coastal roads to rising sea levels. Ongoing work includes underground power lines, shifting to renewable energy sources, and recycling initiatives. Aside from funding support for these projects, Guam can benefit from more technical studies by the Army Corps of Engineers on the Agana River and downscale models for sea level rise projections and long-term monitoring of surface freshwater sources. In general, more socio-economic studies on the impact of climate change on our community would be very useful.

U.S. Senate Committee on Energy and Natural Resources
February 9, 2023 Hearing: The State of the U.S. Territories
Questions for the Record Submitted to The Honorable Lemanu P.S. Mauga

Questions from Senator Martin Heinrich

Question 1: How does Illegal, Unreported and Unregulated (IUU) fishing impact the fishing industry and the economy of your islands? What more could the U.S. do to deter pirate fishing in the region?

IUU fishing undermines responsible fisheries conservation and management efforts that usually translates into lost revenue. Annual volume estimates for IUU fish product either harvested or transshipped within the Pacific Islands region from 2017-2019 was about 200,000mt, with an ex-vessel value of approximately \$360M (MRAG Asia Pacific 2021).

American Samoa's non-governmental economy is almost entirely built on tuna-related commerce. The tuna industry provides 83.8 percent of American Samoa's private employment and accounts for 99.5 percent of exports from the territory. The American Samoa population, 85 percent of which are indigenous Samoans, depend heavily on the tuna cannery in Pago Pago for jobs and income, and to provide food security for the region.

The success of the local tuna cannery, and the economy, is dependent on the direct delivery and supply of fish. The local cannery processes about 100,000mt of fish per year, almost all of which is exported to the US. The local cannery is the only tuna processor that satisfies the "Made in the USA" requirement for government contracts (USDA, School Lunch, Military, etc). IUU fishing is a significant threat to the supply of these raw materials supply not only for the territory's economic sustenance, but for food security as well.

China's fishing efforts in the Pacific has increased exponentially over the past decades. Recent reports from the US fishing vessels suggest an increased presence of Chinese fishing vessels in areas adjacent to the US EEZ's and compete with our vessels in the adjacent high seas areas. Attached is a map that indicate the fishing effort of foreign vessels, and China, in the region.

In order to deter IUU fishing within our region, enforcement needs to be enhanced. The US Coast Guard does not have an asset stationed in the region. We understand that American Samoa falls within the search and rescue area of New Zealand, which is over 1500 nautical miles from the territory. A USCG cutter presence in American Samoa will allow for improved safety at sea, monitoring of IUU fishing of tuna and other highly migratory species, as well as assisting the local government in the marking of derelict or abandoned vessels, specifically for waters near and within the U.S. exclusive economic zone.

American Samoa's request to the US Coast Guard to station a cutter in the territory has fallen on deaf ears. Because of American Samoa's geographic location, we remain an underserved and marginalized territory of the United States.

Appendix – Map of fishing effort in the Pacific

U.S. Senate Committee on Energy and Natural Resources
February 9, 2023 Hearing: *The State of the U.S. Territories*
Questions for the Record Submitted to The Honorable Lemanu P.S. Mauga

Questions from Senator Lisa Murkowski

Question 1: Broadband access is vital for connecting communities in your territories to each other and to the world. For instance, in Alaska, reliable and fast broadband is a lifeline for remote communities. Congress recently passed the bipartisan Infrastructure Investment and Job Act, which allocates money to rural and isolated communities to benefit from improved internet speed and reliability. Governor Lemanu, can you provide me an update on how funds from the Infrastructure Bill, specifically the *Broad Equity, Access, and Deployment Program* (BEAD) are being used to provide affordable and accessible connectivity for all? Governor Guerrero, I know that Guam has applied for BEAD funds, how is that process going

American Samoa recently received funds to begin the process of developing a 5-year strategic plan, a prerequisite of NTIA. Once this process is complete, we will proceed with implementing our plan, utilizing the grant funding allocated to American Samoa.

The planning process we are currently working through is critical as we will be capturing input from stakeholders and the community and developing strategies using this input to help accomplish the goals within the IIJA – achieving internet for all. We expect to see projects around improving current infrastructure, workforce development, digital literacy, digital equity, and more. It is important to note that American Samoa still has some of the most expensive internet costs in the nation. We hope to continue to work with the NTIA to address some of these challenges unique to American Samoa.

Questions from Senator Catherine Cortez Masto

Question 1: I want to thank you and the proud men and women of American Samoa for having the highest rate of military enlistment of any U.S. state or territory. It is crucial to our national security that our young men and women volunteer to serve their country and we all appreciate American Samoa's patriotism. What do you think American Samoa needs from Congress in order to promote economic prosperity and deter Chinese malign influence in the region?

- *China's fishing efforts in the Pacific has increased exponentially over the past decades. Recent reports from the US fishing vessels suggest an increased presence of Chinese fishing vessels in areas adjacent to the US EEZ's and compete with our vessels in the adjacent high seas areas. Attached is a map that indicate the fishing effort of foreign vessels, including China, in the region.*

In order to deter IUU fishing within our region, enforcement needs to be enhanced. The US Coast Guard does not have an asset stationed in the region. We understand that American Samoa falls within the search and rescue area of New Zealand, which is over 1500 nautical miles from the territory. A USCG cutter presence in American Samoa will allow for improved safety at sea, monitoring of IUU fishing of tuna and other highly migratory species, as well as assisting the local government in the marking of derelict or abandoned vessels, specifically for waters near and within the U.S. exclusive economic zone.

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American Samoa's request to the US Coast Guard to station a cutter in the territory has fallen on deaf ears. Because of American Samoa's geographic location, we remain an underserved and marginalized territory of the United States.

- *There are benefits that Pacific Island countries enjoy as members of the Pacific Island Forum (PIF). These nations commit to working together to address common challenges, harness shared strengths, and ensure that individual and collective advancement brings practical benefits to all Pacific people. American Samoa, due to its relationship with the US, is not a member of PIF. It is imperative that the territory has a seat at the table during Pacific discussions, and have a voice on these relative matters. More often than not, the US State Department does not consult with American Samoa on Pacific issues and should not be speaking on our behalf. Although this is an Administrative issue, Congress has oversight responsibility on these matters via the Committee on Foreign Affairs to ensure that there is equity and environmental justice is served at all levels, and to ensure that the rights of the US territories are effectively represented in these regional forums.*

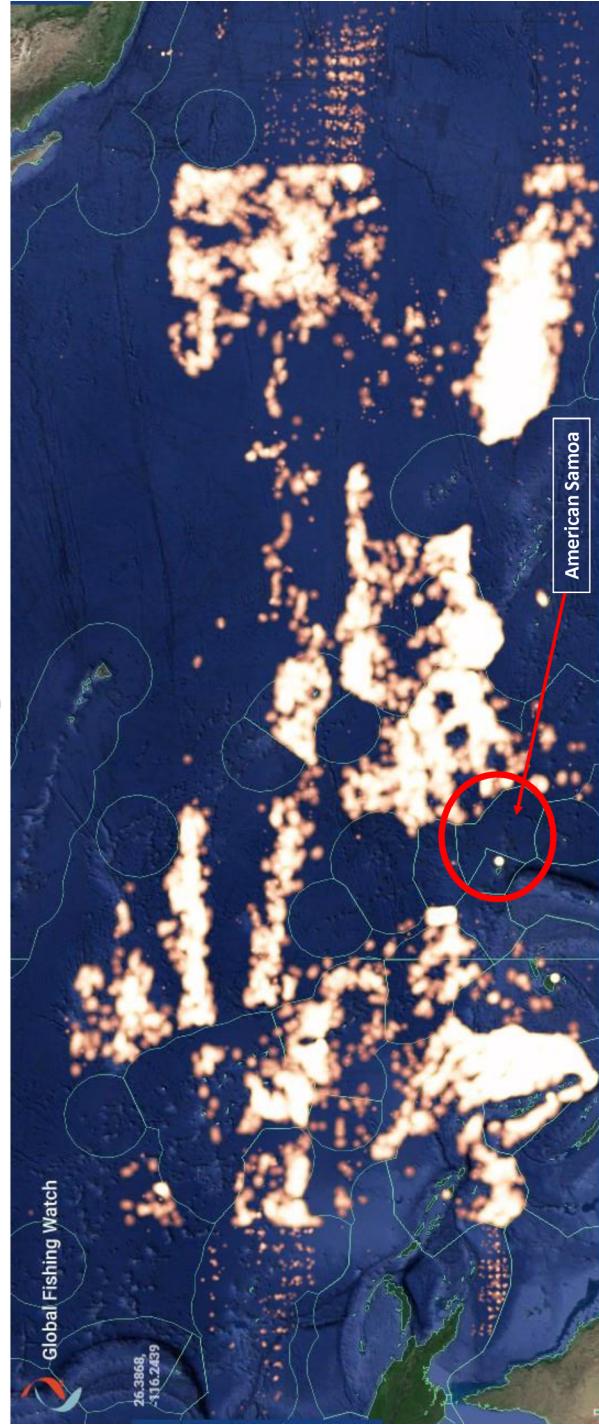
Question 2: Working to increase access to affordable, quality mental health services is one of my top priorities in Congress. It is critical that our health care system can meet both the physical and mental health needs of Americans. What more can we do in order to support the accessibility of mental health services across the territories?

1. *Support the establishment and implementation of telehealth services, accessible via smartphones, tablets, and desktops, with internet connection*
2. *Support the translation and production of Samoan versions of mental health screening tools*
3. *Support the establishment and implementation of mobile mental health clinics*
4. *Support the establishment and implementation of 24/7 online telephone crisis counseling*
5. *Support the establishment of Automated Medication Dispensing Devices in selected CHCs (Tau, Ofu, Leone, Amouli, Aunu'u)*

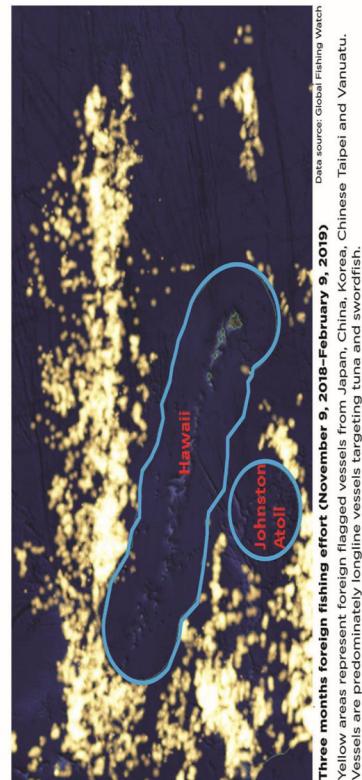
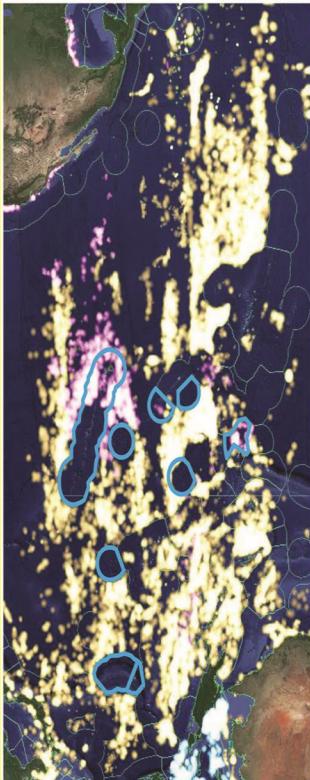
Question 3: Over the course of the pandemic, telehealth has helped connect Nevadans and all Americans to quality health care. That's why I have fought hard to extend telehealth coverage for our seniors for another two years. Can you speak to the benefits of telehealth that you've seen in your communities?

Telehealth telemedicine has not been installed and operated at the Community Health Centers due to other circumstances such as equipments and telecommunication connection. We are hoping to start using telehealth medicine soon. During the course of the pandemic, means of communicating with patients is through email or telephone consults. Department of Health has announced on local radio stations and social media the DOH telephone and email contacts to call or email for information on prescription refills, COVID 19 tests and treatment and other health related issues.

China's Fishing Efforts 2020



Fishing Effort in the Pacific Ocean



OFFICE OF GOVERNOR
ARNOLD I. PALACIOS



OFFICE OF LT. GOVERNOR
DAVID M. APATANG

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U.S. Senate Committee on Energy and Natural Resources
February 9, 2023 Hearing: The State of the U.S. Territories

*Questions for the Record Submitted to
 The Honorable Arnold I. Palacios*

Question from Senator Martin Heinrich

Question 1: How does Illegal, Unreported and Unregulated (IUU) fishing impact the fishing industry and the economy of your islands? What more could the U.S. do to deter pirate fishing in the region?

Illegal, Unreported, and Unregulated (IUU) fishing presents a significant threat to the fishing industry and local economy of the Mariana Islands, to the sovereignty of the United States in its EEZ waters, and to the influence of our nation in the Pacific region.

Approximately half of the nation's Exclusive Economic Zone lies in the Western Pacific; the Commonwealth of the Northern Mariana Islands (CNMI) alone has an ocean area spanning roughly 764,000 square kilometers. The CNMI government lacks the capacity to adequately monitor and safeguard such a vast expanse, but we know IUU fishing occurs in our waters and that it undermines the sustainability of our marine resources and opportunities for local fishermen. Our neighboring islands, including Guam and the U.S.-affiliated nations of Micronesia, similarly struggle to effectively patrol and protect their waters from the threats of IUU fishing.

Over the years, the U.S. Coast Guard (USCG) has seized a number of foreign vessels caught fishing illegally in CNMI waters and throughout the Pacific, but more can be done to detect and deter IUU fishing in the region. The U.S. Congress can give the USCG and the National Oceanic and Atmospheric Administration (NOAA) the tools and resources these agencies need to increase inspection, identification, monitoring, and enforcement capacity against IUU fishing in the nation's Pacific waters. An expanded USCG and NOAA presence in the Marianas, including but not limited to the homeporting of USCG and NOAA vessels and crew in Saipan, will go a long way to improve the monitoring and protection of our resources and to crack down on IUU fishing in the region. The federal government should also work in close partnership with the governments of CNMI, Guam, and other Pacific island countries to share data, develop and enforce stronger regulations to combat IUU fishing, and promote sustainable fishing practices and greater transparency and accountability in the global fishing industry.

Questions from Senator Catherine Cortez Masto

Question 1: Working to increase access to affordable, quality mental health services is one of my top priorities in Congress. It is critical that our health care system can meet both the physical and mental health needs of Americans. What more can we do in order to support the accessibility of mental health services across the territories?

Improving access to mental health services is crucial to ensuring the overall health and well-being of communities across America, including the territories. In the Northern Mariana Islands, the needs of our residents for accessible mental health services came into sharp focus following a series of devastating typhoon disasters between 2015 and 2018, and the far-reaching impacts of the Covid-19 pandemic from 2020 to the present. The demands for mental healthcare services have greatly strained the capacity of local providers, with just six licensed psychologists practicing in the Commonwealth, and a limited number of mid-level mental health service providers working in our healthcare and school systems.

Expanding access to quality mental healthcare in the CNMI and throughout the territories requires investment in workforce development as well as telehealth. In the CNMI, we recently established new scholarships for residents who wish to pursue mental and behavioral health sciences, and enacted legislation to enable the Commonwealth to join the Psychology Interjurisdictional Compact (PSYPACT), an interstate compact to facilitate access to telepsychology and temporary, in-person psychology practice across state boundaries.

But we can do so much more, especially with the support of Congress. We are now poised to establish the Northern Marianas College as a healthcare training hub in the region, an initiative that will require long-term, sustained support to succeed. We are also working to increase behavioral health training and certification programs, stand up peer centers to provide effective treatment and recovery services, and develop and implement resources to overcome the housing, employment, transportation, and other barriers that prevent many struggling residents from accessing the care they need. To maximize access to telehealth services through PSYPACT or other means, we need to make sure that telehealth providers are reimbursed fairly and equitably for their services by insurance providers.

Finally, the CNMI and all of the territories need consistent and reliable data to inform and guide our planning processes and health services. We must be included in national data collection efforts, including but not limited to the National Survey on Drug Use and Health and the American Communities Survey.

Question 2: Over the course of the pandemic, telehealth has helped connect Nevadans and all Americans to quality health care. That's why I have fought hard to extend telehealth coverage for our seniors for another two years. Can you speak to the benefits of telehealth that you've seen in your communities?

Our remote location, financially strained healthcare system, and limited pool of healthcare providers create immense challenges in meeting the needs of our island communities for quality health services. Telehealth has created indispensable avenues for island residents to connect with healthcare professionals regardless of location and at relatively lower cost. The Covid-19 pandemic greatly accelerated our shift to telehealth and embrace of technology to enable access to care at a time when travel and face-to-face contact were particularly difficult. I ask that Congress consider expanding telehealth coverage for our underserved communities in the territories, to include but not be limited to services for seniors, veterans, and individuals in need of mental health services or other specialized care.



Questions from Senator Martin Heinrich

Question 1: Between 2021, when LUMA Energy took over, and today, LUMA has initiated 282 FEMA grid reconstruction projects, with 88 projects obligated and 35 currently under construction. That's really an impressive pace in a short period of time.

What more can we do in Congress to assist you, LUMA, Genera PR, and PREPA to get the FEMA grid reconstruction projects obligated and shovels in the ground?

Puerto Rico's reconstruction would greatly benefit from Congress' support to expedite funding and simplify processes for our Island. Although COR3 and FEMA have taken proper steps to accelerate the reconstruction phase of the disasters, including the FAASt initiative, this only created a mechanism to agree on a universal budget for all permanent work projects. PREPA and LUMA, and soon GeneraPR, must comply with FEMA's funding obligation and local approval process. Currently, it's an 8-step process under FEMA's National Delivery Model that takes, on average, 67 days to complete. It is important to note that while §428 and FAASt were well intended, their effectiveness is limited by the complicated framework under which they must be implemented. The Government of Puerto Rico has been working with its federal recovery partners to discuss innovative ideas for an efficient and cost-effective approach. As we did after Hurricanes Maria and Irma, we are working closely with FEMA and other federal partners to ensure close collaboration regarding COR3's administration of the Public Assistance program and implementation of payment processes for PREPA and other sub-recipients.

The leadership of Puerto Rico and the Federal government are currently developing a coordinated plan that includes specialized policies that benefit a resilient grid reconstruction providing a long-term solution to Puerto Rico's power needs. However, we need Congress's support to take this from a plan to a reality. Many projects and ideas could be achieved by simply amending the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize FEMA to consolidate into a single award under DR-4339-PR for the administration of federal assistance. We have asked Congress to support our request as this will ensure a sound approach to the recovery process and help lessen the administrative burden for Puerto Rico and FEMA and reduce the funds required to manage these disasters separately.

In addition, as we head into 2023, our economic picture is bleak. Inflation remains stubbornly high, and the supply chain—while improved from a year ago—shows some persistent problems. Unfortunately, the construction industry is not immune to all these problems. Inflation and workforce shortage has and will continue to affect all



sub-recipients managing 428 and FAASt projects. All FAASt and 428 projects will be affected by inflation in several ways; a significant increase in materials and labor costs has made it more expensive to complete tasks. This has led to a rise in project budgets compared to the agreed-upon fixed amount. If fixed costs are not adjusted to account for the current and future inflation, it will cause a funding shortfall and jeopardize the federal funds and the recovery as a whole.

In other words, inflation has reduced the purchasing power of the funds allocated for the specific FAASt and 428 projects, which means that the same amount of money can now buy fewer goods and services due to the increase in inflation. The consequences will be insurmountable as projects can only be completed as planned if additional funding is secured. Therefore, we ask Congress to allow FEMA to make FAASt and 428 projects more flexible and authorize a revision of cost estimates considering the current economic reality. Puerto Rico needs human resources to accelerate the use of federal funds for infrastructure projects. We need mechanisms and alternatives to complement the current workforce.

Questions from Senator Catherine Cortez Masto

Question 1: In response to my questions about ongoing blackouts in Puerto Rico, you asserted that the grid has been stable for the last five months despite the electric grid barely meeting standards to provide service for Puerto Ricans post-Hurricane Fiona.

A. How do you reconcile this stability with reports from Puerto Ricans¹ that they continue to experience inconsistent electricity service?

Works directly related to grid stabilization include the integration of reclosers – devices currently being installed at the distribution level to integrate automation into the electric grid. With the installation of these devices, the impact of failures can be reduced by isolating specific sections of the distribution grid. The grid is still in an ongoing restoration process, and as the works continue to accelerate, the reliability and stability will continue to improve.

Undoubtedly, our electric grid could not be considered a stable grid regardless of how much work has been performed since Hurricane Maria completely decimated our system. However, the response time after Hurricane Fiona to bring Puerto Rico from 100% outage to 100% restoration was unprecedented. While it is true that the power

¹ <https://www.nbcnews.com/news/latino/puerto-rico-blackouts-power-grid-ailing-renewable-energy-rcna68754>



grid still suffers outages from time to time, these outages have been far less than two years ago. Data has shown that our grid is undoubtedly more consistent in the past 12-24 months since LUMA took over the operation and maintenance of our T&D system.

B. Where does this leave Puerto Rico ahead of the next hurricane – is the island better prepared to restore service and power to residents than it was after Hurricane Fiona?

Even with the current stability, it's essential to recognize that the hurricane season is also the season for the highest energy demand, and we have specific constraints in generation availability. Since hurricane Fiona, the generation unit's maintenance schedule has been delayed, and availability has been limited. There have been essential repairs and specific key generation units as Aguirre 1 & 2 are scheduled to return online in the upcoming months.

Puerto Rico is in a far better position today than five years ago and even a year ago. Since the passing of Hurricane Fiona, we have been working hand in hand with FEMA and other federal partners, such as DOE, USACE, and EPA, to achieve short-term stabilization. At the same time, PREPA/LUMA, supported by COR3 and FEMA, continues to advance shovel-on-the-ground permanent work and resilient projects under the FAASt and 404 HMG programs.

C. If not, what steps need to be taken to do so?

Since October 2022, we have been working with a federal task force led by FEMA that will be providing Puerto Rico with temporary generation; this temporary generation will support stability during the peak energy demand and hurricane season demand. The temporary generation is scheduled to be in place by the beginning of the hurricane season.

As stated before, we need Congress to allow PREPA and LUMA to revisit the cost estimates agreed upon under the FAASt to address the current economic panorama with inflation, workforce shortage, and supply chain gridlock we face today. Governor Pierluisi has also requested that a 100% Federal Cost Share be extended for all consolidated María (DR-4339-PR) and Fiona (DR-4671-PR) permanent work projects; this request has not been approved. Since 2017, Puerto Rico has endured four (4) significant disasters, further exacerbating its sub-recipients disaster management capabilities. Considering the Island's dire economic situation, this has proven to be an intense and challenging process. We ask Congress to support our Governor's request to alleviate the financial strains the disaster recovery process requires. This will provide our Island with such economic relief that it would allow us to turn some of our focus



and limited resources into effective preparedness for the upcoming hurricane season just a few months away.

Question 2: In your verbal testimony, you mentioned that there have been 93 projects approved by FEMA related to general grid resilience. As you stated, it will take time for the grid to be up to full capacity, but in the interim, there have been a reported seven electric rate increases over the last year with varying degrees of unreliable service. As of August 2022, the GAO reported that the government of Puerto Rico has only expended approximately \$5.3 billion (19%) of then available federal funding on recovery and resilience.²

A. Can you provide an update on the government's use of the federal funding since the time of the report?

It's important to highlight that the Public Assistance program is generally a reimbursement program that requires the recipient and sub-recipients to have enough liquidity to expend funds first, i.e., the ability to procure and pay for contractors and then submit proof of the incurred expenses for reimbursement, something the vast majority of sub-recipients in Puerto Rico lack.

Consequently, a significant obstacle to recovery in Puerto Rico is access to working capital, especially for extensive infrastructure and construction projects. A successful plan to address these issues is paramount as we transition to the recovery phase, where these projects are an even greater focus. Puerto Rico has therefore developed and is now working to implement several strategies to provide the necessary support for these projects.

On June 15, 2022, COR3 released a new funding support program available to its sub-recipients to address liquidity constraints. It was explicitly implemented to provide a mechanism to advance the federal share of funds for approved permanent work projects under FEMA's Public Assistance related to Hurricane María and the earthquake disaster. With FEMA's approval, the program was introduced officially through revision to COR3's guidance document, the Disaster Recovery Federal Funds Management Guide ("DRFFMG"), in the form of a new Chapter 7, Payment and Cash Management Policy. This unique and improved advance program is officially known as the Working Capital Advance ("WCA") Program and is already demonstrating significant support for the recovery effort.

² <https://www.gao.gov/blog/hurricane-recovery-can-take-years-puerto-rico-5-years-show-its-unique-challenges>



Since 2021, COR3 has been encouraged by the continued close collaboration with FEMA regarding COR3's administration of the Public Assistance program and implementation of payment processes for sub-recipients. With the new flexibilities, the government of Puerto Rico has been able to disburse \$6,714,811,062 of Public Assistance funds.

B. Can you outline what support you may need from FEMA in order to more swiftly manage and implement disaster recovery programs?

Despite implementing the FAAS, Puerto Rico must comply with FEMA's funding obligation and local approval process. Currently, it's an 8-step process under FEMA's National Delivery Model to obligate a project. However, at the Government of Puerto Rico's request, FEMA has improved its efficiencies in the obligation process under FAAS. From 2021 to now, we have seen a significant increase in FAAS obligations; for example, over 100 energy PWs have been obligated. Nevertheless, we will continue to work with FEMA to identify opportunities to expedite the recovery efforts of Puerto Rico.

COR3 and FEMA also work together to implement the Disaster Flexible Match ("DFM") approach. The DFM proposes a funding strategy for the FEMA Public Assistance program that eliminates the need for eligible applicants to comply with CDBG-DR requirements under each project to receive its non-federal share but instead apply for match payments based on the total cost share corresponding to selected FEMA projects for a specific disaster, thereby reducing additional administrative burdens to the recipient and the participating sub-recipients/applicants. Leveraged together, COR3's FEMA Public Assistance and PRDOH's CDBG-DR programs ensure that sub-recipients receive the most significant and most efficient benefit from federal recovery funding while rebuilding in more innovative, more resilient ways.

Question 3: Providing our children a quality education is always a priority. I've heard from Puerto Ricans about the importance of addressing the academic, social, emotional, and mental health needs of the island's students. With the influx of recovery dollars and partnerships with the U.S. Department of Education and FEMA, can you elaborate on how federal funds are contributing to the educational recovery of your schools?

As of today, under the PRDE FAAS, there have been 98 PWs obligated, representing a total amount of \$219 M. Also, for the earthquakes, there have been 149 PWs obligated, representing a total amount of \$301 M. In addition, COR3, PRDE,



and FEMA are working together in the implementation of a master plan that comprises 88 emblematic schools across the Island.

Question 4: Working to increase access to affordable, quality mental health services is one of my top priorities in Congress. It is critical that our health care system can meet both the physical and mental health needs of Americans. What more can we do in order to support the accessibility of mental health services across the territories?

1. Disparities in Medicaid Funding:

1. **Achieve equity by increasing the match rate for Puerto Rico.**
2. The structural inequity of Medicaid funding in Puerto Rico creates a fiscal strain on the healthcare system on the Island. It severely limits its ability to provide healthcare to the population.
3. Approximately 40% of all Puerto Ricans living on the Island receive health insurance through the Medicaid program compared to roughly 10 percent in the states. Yet, Puerto Rico receives less federal funding than any state. As a result, Puerto Rico, on average, spends significantly less on its Medicaid beneficiaries (\$1,980 in Puerto Rico compared to \$6,060 in the United States in 2014).
4. The Federal Medical Assistance Percentage (FMAP) is the federal Medicaid reimbursement rate traditionally providing higher rates to poorer states. However, the U.S. territories are assigned a permanent FMAP of 50 percent, which was subsequently increased to 55 percent with the Patient Protection and Affordable Care Act (ACA).
5. The Puerto Rico grant for Fiscal Year 2019 was \$367 million, while Puerto Rico's total Medicaid expenditures were projected to be almost \$2.8 billion. This amount only provides enough funds to cover 13 percent of the projected expenses, leaving 87 percent of the projected expenditures not covered by the block grant.
6. Federal funding for Puerto Rico's Medicaid program increased through ACA. However, despite this increase, the match rate of 55 percent is still noticeably lower than that received in the United States.



2. Crisis Services Infrastructure:

1. The Mental Health and Anti-Addiction Services Administration (MHAASA) of Puerto Rico (P.R.) is the Single State Agency (SSA) for mental health and substance abuse (MH/SU) for the territory, and state crisis counseling services in situations of natural disasters, and now COVID-19. The PAS Line (First Psychosocial Help Line), operating since 2001, is part of the Integrated Crisis Intervention Program (ICIP) of the MHAASA, a government agency. The PAS Line, for crisis hotline operations, is entirely financed with public funds.
2. The PAS Line provides suicide prevention/crisis intervention training services on an ongoing, formal basis to the community through Applied Suicide Intervention Skills Training (ASIST), Mental Health First Aid, and Rapid Response to Suicidal Behavior. Outreach services for families/communities after a suicide are also provided.
3. Since 2022, the hotline was expanded to include the 9-8-8 Lifeline National Network calls, chats, and texts through Linea PAS Hotline. The MHAASA has maintained coverage throughout the Island, with call, chat, and text message services 24 hours a day, seven days a week, through the interdisciplinary staff of the PAS Line.
4. Linea PAS hotline was expanded to become a National Backup Center for all Spanish-speaking populations in the USA.
5. **Linea PAS infrastructure must be enhanced by adding new resources to implement its services to attend to these expansions.**

3. Scarcity of professionals (physicians and other specialists):

1. The quality of mental health services through various providers, low wages, and migration of professionals, among other factors, have increased the chronicity of patients.
2. Absence of physicians, specifically psychiatrists, and other professionals such as occupational therapists and recreational therapists.
3. With the poor connection between levels of services, professionals cannot afford to follow up on their patients.
4. The lack of adequate care for patients with Early Serious Mental Illness (ESMI), Serious Mental Illness (SMI), Serious Emotional Disturbances



(SED), and substance use disorders (SUD) causes patients not to be treated on time and results in them coming to MHAASA for services.

5. Continuity of care - not all providers provide these services; MHAASA maintains multiple levels of care (residential, outpatient, etc.).

Question 5: Over the course of the pandemic, telehealth has helped connect Nevadans and all Americans to quality health care. That's why I have fought hard to extend telehealth coverage for our seniors for another two years. Can you speak to the benefits of telehealth that you've seen in your communities?

Fourteen thousand five hundred one virtual interventions were provided in 2020, and 26,228 virtual interventions were delivered in 2021 to individuals with Intellectual Disabilities and Developmental Delays, populations that otherwise would not have been served.

Furthermore, regarding services provided to children with special needs (autism, cognitive conditions, developmental delays, among other disorders and syndromes) by the **PRDOH Children with Special Medical Needs Division**, the staff reported their experiences with teleworking through a formal survey that was issued and administered by the Division.

- 83% of the participating personnel said that teleworking met their expectations. It reflected that:
 - 37.7% reported having had difficulty adapting to teleworking.
 - 92% indicated satisfaction with the accessibility of management to address issues related to teleworking.
 - 87% of the person indicated that the designated time to execute the tasks was appropriate.
 - 94.3% believed virtual meetings were helpful for them, and 76.7% reported receiving follow-up calls to clarify doubts related to teleworking.

Parents surveyed on September 2021 reported that:



The suggestion most frequently indicated by families is related to improving the organization and expanding the flexibility in the hours of the telehealth service. Among these are the following:

- Offer the service after business hours or on weekends.
- Have the possibility of a fixed schedule.
- There may be more than one specialist on a video call to use time better.
- Some families reported that the number of calls interrupted their family activities. Other families reported discomfort due to the number of calls from different personnel and recommended more excellent synchronization of services.
- Some families want to continue services in a hybrid way (face-to-face and virtual). Other families prefer to return to the face-to-face modality due to the difficulty of controlling their children.
- Several families requested the service through the WhatsApp application.
- One family recommended offering training and educational material on emotional health during the pandemic.

Remember that telemedicine was first enacted into law in 2018 and finally implemented in 2019.

Questions from Senator John W. Hickenlooper

Question 1: Puerto Rico has faced a number of monumental challenges, from a debt crisis to multiple natural disasters. What impact does Puerto Rico's status as a territory have on its ability to fully bounce back from what you've faced?

Puerto Rico has faced several monumental challenges, from a debt crisis to multiple natural disasters. What impact does Puerto Rico's status as a territory have on its ability to fully bounce back from what you've faced?

Puerto Rico is working hard to accelerate the reconstruction from recent natural disasters, which has seen significant progress in the past year, as well as recovering from the economic crisis by successfully restructuring its debt to sustainable levels and promoting economic development initiatives and strategic investment of federal funds that have helped turn our economy around, create jobs, reduce unemployment, and see a consistent rise in all economic indicators.

Our territorial status does have a meaningful impact on our people's ability to recover from recent challenges, not least of which is our lack of representation in Congress and our inability to vote for the president. Puerto Rico does not have a seat at the table



when the social and economic public policy that can affect the 3.2 million American citizens is being discussed and executed.

Moreover, given Puerto Rico's high poverty rate, our residents are not eligible for social programs such as Supplemental Security Income, and we receive less funding for programs such as the Supplemental Nutrition Assistance Program and others through which the Island receives capped blocked grants.

The Medicaid program significantly strains the government's budget, particularly since healthcare costs consistently rise. Although Congress has made great strides in increasing Puerto Rico's Medicaid funding levels since 2010, it is still lower than if Puerto Rico were treated as a state, and the temporary nature of the funding authorized becomes a constant problem when the end of the funding allocation period gets closer. Not only does Puerto Rico have to bear the higher cost of providing healthcare to its needy citizens, but it also means that we cannot cover as many people and cannot provide full benefits because of that cost.

In addition, Puerto Rico does not participate in many economic development programs, and its residents are not eligible for the federal EITC; our business does not receive federal tax credits that mitigate issues like inflation and high costs in the supply chain. Resolving the colonial nature of Puerto Rico's territorial status is paramount.

Question 2: To hone in the matter of building resilience in advance of future hurricanes and other climate impacts, last year, Congress invested \$1 billion in improving Puerto Rico's grid—including for grants to boost rooftop solar and renewables on the island. How are you working with the Biden administration to deploy those funds?

We participated with DOE as part of town halls initiated during Secretary Jennifer Granholm's recent visit. These town halls aim to identify the specific needs of the most vulnerable communities and communicate about different incentive programs, electric grid works, and energy renewable energy transition status. We will continue participating in DOE and Secretary Granholm's upcoming visits and town hall events.

In addition, we are working to identify potential data of participants from previous programs, such as the Weatherization Assistance Program, which is focused on prioritizing the most vulnerable. Participants from the Weatherization Program can have a quick deployment of the funds allocated as application forms and household data are available.

**Colonel(P) Art Garffler
Written Submission**

**U.S. Senate Committee on Energy and Natural Resources
Full Committee Hearing to Examine the State of the U.S. Territories
09 February 2023**

Chairman Manchin, Ranking Member Barrasso, and Members of the Committee:

I thank the Committee for the opportunity to submit my written statement addressing the Commonwealth of Puerto Rico's state of affairs.

As a native of Puerto Rico, with 28 years of service to the Nation in the United States Army Infantry and Special Forces, and as a current service member in the West Virginia National Guard, I am inimitably postured to afford a succinct understanding.

I endorse Governor Pierluisi's comments on the state of affairs of Puerto Rico, though I would add to it. Puerto Rico continues to exemplify its resiliency as it strives to re-build and align itself with the United States mainland best practices for governance.

Nevertheless, Puerto Rico continues to fail to be afforded parity, politically and fiscally, as it pertains to being an equal partner with United States. I underscore this on two main fronts. The first, Puerto Rico's inability, yet again, to qualify for Supplemental Security Income (SSI); and secondly, the intrinsic process of the United States Congress towards admitting Puerto Rico as a State of the Union.

SOCIAL PROGRAMS

In addition to the unique inequity of Medicaid extension to Puerto Rico, it is equally important to address the disappointment to not extend SSI to United States residents in Puerto Rico.

During last year's Full Committee Hearing to Examine the State of the U.S. Territories, on February 1, 2022, I expounded on the need for the United States Congress to legislate this extension. Unfortunately the Supreme Court of the United States on April 21, 2022 upheld the Federal Law that denies Puerto Rico residents access to SSI, including Veterans who paid into the program and due to residency are not entitled to the funds. This is enigmatic but yet accurate.

I still hold true that the United States Congress act legislatively on this matter. By legislatively amending the Federal Law, it will visibly indicate the will of the People to extend equality, and afford a message of inclusion for 3.19 million United States citizens, especially those of us who have, and still done, our nations uniform.

STATUS

On December 15, 2023, during the final days of the 117th Congress, Puerto Rico enjoyed a major milestone in bringing to conclusion its colonial status. H.R. 8393 passed the House of Representatives affording Puerto Rico a path to decolonization and a major step towards Statehood as the 51st State of the Union. Unfortunately, the legislative calendar did not afford further time for its discussion and harmonization in the United States Senate.

It is imperative that we continue this momentum to afford a federally legislated binding referendum that would permit the 3.19 million Puerto Ricans on the island to vote on the future status of the island, selecting one of three decolonizing options. However, two of the three binding options do deserve some further refinement and delineation of verbiage since confusion does permeate among members of the Puerto Rico Independence and Popular Democratic Parties.

The ability to capitalize on this momentum would result in the culmination of over 625 years of colonization of Puerto Rico, multiple local plebiscites, and finally chart a clear and directed path to make the Union even stronger as the 51st State of the Union.

Our Nation has entrusted me with leading our most valuable and treasured asset, our fighting men, and women, into combat several times. I see how our Puerto Rican service members go into combat diligently and in awe of our Nations flag. However, I also notice in their fighting spirit a ‘chink in their armor’ where a sense of second-class citizen quietly weighs on their thoughts during a pause in battle. There is no reason why a Veteran, at any moment, must feel they are a second-class citizen. Let’s finalize legislation to make this binding referendum a executable reality.

GEOSTRATEGIC COMPETITION

Just last week we witnessed how Communist China has increased their overt commitment to spying against the United States in an effort to shape their battlespace as part of the culmination to their 100 year plan. The current geostrategic competition with near peers, the People’s Republic of China (PRC) and Russia, are currently being felt through Latin America and the Caribbean Basin.

PRC has been painstakingly aligning regional Caribbean Basin countries as members of the Belt and Road Initiative (BRI). This is a clear challenge to United States hegemony in the Western Hemisphere and an effort by PRC to erode the United States efforts in the region. BRI follow on efforts will be to introduce foreign military sales and invest in a military presence in the region, which will provide foundations for PRC overt and surreptitious activities.

I underscore my comments from last year’s Full Committee Hearing to Examine the State of the U.S. Territories whereby I provided a clear blueprint of Communist China’s exertions, through the People’s Liberation Army in the region.

In addition, Russia continues to aggressively posture limited forces in Cuba, Nicaragua and Venezuela as massive investments and business opportunities are increasing between Russia and

the Dominican Republic while propping up Russian Paramilitary Groups, Rostec and Wagner Group, in Venezuela providing a surreptitious means by which to build up Russia's military infrastructure in the region.

Let there be no mistake that both PRC and Russia see Puerto Rico as a point of entry to destabilize a United States flagged territory as a means to generate confusion and division among the United States. During the Cold War, the United States worked arduously to leverage Puerto Rico's geo-strategic posturing in order to prevent that precise possibility with Puerto Rico and the Caribbean Basin, but yet again we find ourselves coming full circle on this matter.

As a result of the current geostrategic threat assessment in the region, existing airfields, and naval ports in Puerto Rico, specifically Ramey and Roosevelt Roads, could be partially rehabilitated to support and facilitate denial efforts towards PRC, Russia, Venezuela and Cuba, threatening posture. This enhanced with PRANG's flight line and ramp operations at Muniz AFB, which currently supports the U.S. Southern Command, is of strategic importance in this effort.

Incorporating Puerto Rico as part of the strategic regional plan will ensure Puerto Rico's continued strategic importance to commit to the Nation's security and interests.

Thank you.

Statement of Congresswoman Jenniffer González-Colón (PR-At Large)
U.S. Senate Committee on Energy and Natural Resources
Hearing to Discuss the State of the U.S. Territories
February 9, 2023

Thank you, Chairman Manchin and Ranking Member Barrasso, for holding this hearing to discuss the State of the U.S. Territories. As the sole representative in Congress for the 3.2 million American citizens living in Puerto Rico, I had the opportunity to testify before this Committee on June 29, 2020, to assess the impact of the COVID-19 pandemic on the Island. Today, I join in support of the Governor of Puerto Rico, the Honorable Pedro Pierluisi, who will appear before you to share an overview of some of the opportunities and challenges facing Puerto Rico.

Puerto Rico has consistently been the U.S. jurisdiction with the highest poverty rate, with 44% of the general population falling under the federal poverty line. This number is more than double the rate that in Mississippi, the highest poverty rate among the 50 States with 19%. It is even more alarming among children and young people living on the Island, where 57% live in poverty and 39% in extreme poverty.

Like most U.S. states, Puerto Rico receives billions of dollars in federal funds including for federal programs such as Medicare and Social Security. However, the U.S. citizens living in Puerto Rico receive fewer federal benefits than Americans living stateside, despite their federal contributions totaling more than \$4 billion in fiscal year 2021. For example, Puerto Rico residents are ineligible for the Supplemental Security Income (SSI), Earned Income Tax Credit (EITC), and various federal healthcare subsidies, and earn less, on average, in Social Security. In addition, many federal mandatory spending programs available in the States are capped in the case of Puerto Rico or are funded through block grants, rather than need-based spending, as in the case of Medicaid and nutritional assistance. As a result, the burden of financing these programs falls upon the Government of Puerto Rico in a manner disproportionate to that of States in similar circumstances.

That is why, since my first day in Congress, I have proposed legislation to foster economic development, create jobs, reduce poverty, and promote investment in Puerto Rico, while also helping us recover from devastating natural disasters and the COVID-19 pandemic. Some of the legislation that I have proposed and will be proposing this month include:

H.R.253 — PUERTO RICO NUTRITION ASSISTANCE FAIRNESS ACT
Sets a path for Puerto Rico's transition from NAP to SNAP.

H.R.254 — TRICARE EQUALITY ACT
Improves the administration of the TRICARE program in Puerto Rico.

H.R.255 — FEDERAL DISASTER ASSISTANCE COORDINATION ACT
Amends the Disaster Recovery Reform Act of 2018 to develop a study regarding streamlining and consolidating information collection and preliminary damage assessments.

H.R.256 — SUPPLEMENTAL SECURITY INCOME EQUALITY ACT
Extends the benefits of SSI to the territories of Puerto Rico, Guam, American Samoa, and the U.S. Virgin Islands.

H.R.257 — EARNED INCOME TAX CREDIT EQUITY FOR PUERTO RICO ACT
The bill would eliminate the federal subsidy to the local program and make federal EITC applicable in Puerto Rico.

H.R.258 — PUERTO RICO DATA COLLECTION EQUALITY ACT
Requires the Interagency Council on Statistical Policy to develop and implement a plan to collect and publish statistics regarding Puerto Rico in the same manner as federal agencies collect and report statistics for the states.

H.R.259 — POST-DISASTER ASSISTANCE ONLINE ACCOUNTABILITY ACT
This bill establishes a centralized location to publish information on disaster assistance provided by federal agencies.

H.R. 375 — PUERTO RICO AIR CARGO INDUSTRY EMPOWERMENT ACT
This bill establishes the legal framework for new air cargo connections in Puerto Rico, which will foster improved airport infrastructure and investments.

H.R. 376 — PUERTO RICO FILM, TELEVISION, AND THEATRE PRODUCTION ACT
This bill amends the Internal Revenue Code to allow accelerated depreciation of certain qualified film and television and live theatrical productions in Puerto Rico.

H.R.377 — PUERTO RICO INSURANCE EXCISE TAX EXEMPTION ACT
Exempts from the foreign insurer excise tax certain insurance policies, indemnity bonds, annuity contracts, or reinsurance policies issued by partnerships or corporations created or organized under the laws of a U.S. territory or possession.

H.R. 378 — PUERTO RICO OPPORTUNITY ZONES
This bill seeks to have 100% of Puerto Rico designated as an Opportunity Zone.

H.R. 379 — VIEQUES RECOVERY AND REDEVELOPMENT ACT
The bill sets forth provisions regarding monetary compensation for certain individuals and for claims by the municipality of Vieques.

H.R. 447 — MMEDS ACT
To provide incentives for relocating medical manufacturing facilities in the United States and for manufacturing medical products (i.e., drugs and devices) in economically distressed zones.

H.R. 462 — REAL ESTATE EXCHANGE FAIRNESS ACT

This bill seeks to amend Section 1031 to correct the administrative interpretation and treat all territories as part of the United States" for purposes of determining whether property qualifies for treatment as like-kind-exchange.

H.R. 600 — BUY AMERICA WAIVER

Allows U.S. territories to waive "Buy American" provisions during a major disaster emergency consistent with the fifty states.

H.R. 601 — AMENDMENTS TO STAFFORD ACT AND BIPARTISAN BUDGET ACT

To modify certain requirements to encourage the recovery of Puerto Rico and the U.S. Virgin Islands.

H.R. 602 — VETERANS HEALING VETERANS ACT

Expands the veterans healing veterans medical access and scholarship program to include more students and schools.

H.R. 655 — DEA CASH AWARD

Provides authority to the Administrator of the Drug Enforcement Administration to provide a cash award to Administration employees with foreign language skills.

H.R. 787 — EMPOWERING NONPROFITS ACT

To require executive agencies to reduce cost-sharing requirements for certain grants with certain nonprofit organizations by 25 percent.

H.R. 919 — COMMERCIAL DRIVING LICENSES

Grants Puerto Rico eligibility to issue commercial driver's licenses.

H.R. 920 — CARIBBEAN BORDER COUNTERNARCOTICS STRATEGY ACT

Codifies the requirement for the Office of National Drug Control Policy (ONDCP) to issue a Caribbean Border Counternarcotics Strategy.

MEDICARE ADVANTAGE INTEGRITY ACT

This bill seeks to level the playing field for Puerto Rico and for those counties with growing Medicare Advantage penetrations, which will start to suffer the same detrimental effects upon their premiums.

FAIRNESS IN MEDICARE PART B ENROLLMENT ACT

This bill maintains the automatic opt-out enrollment but extends the period for Medicare beneficiaries in Puerto Rico to enroll in Medicare Part B, without penalty, to a total of five years.

RUM COVER OVER PERMANENCY ACT

Repeals the limitation on the cover over of distilled spirits taxes to Puerto Rico and the U.S. Virgin Islands.

Promoting the federal laws and policies that have a direct impact on the Island creates the best opportunity for its short- and long-term success. Some of these bills seek to spur economic development through investment in industry, others aim to correct an interpretation by the Internal Revenue Service denying the applicability of certain domestic credits for activity carried out in Puerto Rico, while others extend certain programs to Americans in Puerto Rico. However, as long as Puerto Rico is a territory, our access and treatment under federal programs will always be on the line. Just as Congress could provide equal treatment today, it could take it away tomorrow.

I have been a longstanding supporter of statehood for the Island. Over the past decade, the people of Puerto Rico have voted three times against the territorial status and for statehood.

In response, in the last Congress I introduced H.R. 1522, which would have established a process to admit the Island as a State of the Union, if voters ratified the decision in a simple, Yes-or-No vote.

However, given the political realities in Congress, and in the interest of advancing the status issue and ending the territorial stagnation, I agreed to negotiate on a bill, H.R. 8393, which passed the House of Representatives on December 15, 2022.

H.R. 8393 makes an offer to the people of Puerto Rico: statehood or independence, with or without free association. It spells out the consequences of each option, allowing voters to make an informed decision.

I seek to refile this bill again, and respectfully urge this Committee to give it its due consideration.

Simply put, the status quo is unsustainable and until it is addressed, Puerto Rico's economy and social development will continue to lag behind that of the 50 states, driving Puerto Ricans to leave the Island in search of better opportunities. According to recent reports, more than 130,000 residents fled to the mainland after Hurricane Maria alone.

For 105 years, the people of Puerto Rico have been proud American citizens, with over 235,000 having honorably served our Nation in the U.S. Armed Forces. All while being denied equal participation in the federal decision-making process.

It is time to get to work to give the people of Puerto Rico the equality that has been long promised but denied.

Thank you.

**Statement of
Joaquín A. Márquez, Esq.
Before the United States Senate Committee on Energy and Natural Resources
Full Committee Hearing
The State of the United States Territories
February 9, 2023**

Chairman Manchin, Ranking Member Barrasso, and Members of the Committee:

Thank you for holding a hearing on the state of the Territories of the United States and for the opportunity to once more express my views regarding state of the Territory of Puerto Rico.

Introduction

My name is Joaquín A. Márquez, and I offer this statement in my personal capacity as an American citizen born and raised on Puerto Rico. I am part of the Puerto Rican diaspora, having moved permanently to Virginia in 1970. Like more than 375,000 other Puerto Ricans, I am a veteran having served in the United States Army as a special warfare officer in Vietnam where I was awarded the Bronze Star Medal, among other decorations. From 1970 until 1981, I was engaged in federal and state public service serving as chief of staff to two Resident Commissioners, as an attorney advisor to the USAID in Secretary Kissinger's Department of State, and as Puerto Rico's senior non-elected representative heading the Puerto Rico Federal Affairs Administration. From 1981 to 2015, I was engaged in the private practice of law as a partner in the Washington, D.C. office of two large, national law firms. I must disclose that I have always been a staunch supporter of Statehood for Puerto Rico.

The Political State of the Territory of Puerto Rico

The Governor of Puerto Rico, Honorable Pedro Pierluisi, will appear before you today to set forth the island's current economic and financial state as well as the progress that his administration has made in resolving Puerto Rico's present economic crisis. I will limit my remarks today to discussing the real cause for the crisis – its status as a colony of the United States - and what this 118th Congress, especially this Senate, can do to resolve it.

Colonial Background

Puerto Rico has suffered from a colonial status since 1493; first as a colony of Spain for 405 years, and currently, as a colony of the United States for an additional 125 years. As part of the Spanish-American War, United States troops invaded the island largely unopposed and took control of its territory in just three weeks with almost no casualties. In fact, the island's residents welcomed the American troops with open arms when General Nelson Miles stated that he came "bearing the banner of freedom" and promised "to bestow on them the blessings of the liberal institutions of our government". On December 10, 1898, the date that marks the beginning of

the long American colonial tutelage that Puerto Rico continues to endure today, Spain ceded Puerto Rico to the United States.

Origins of the Current Political and Economic Discrimination – The “Plessy Court”

It did not take long for residents of Puerto Rico to become disappointed with their new colonial overlords. The same United States Supreme Court that in 1896 had established the odious “separate but equal” doctrine in *Plessy v. Ferguson*, which justified racial segregation, on May 27, 1901, also established in *Downes v. Bidwell* the equally shameful doctrine of “territorial incorporation”. The doctrine holds that not all the provisions of the federal Constitution apply to “unincorporated territories”, such as Puerto Rico, because “unincorporated territories” are not a part of the United States but merely its property. This doctrine of “territorial incorporation”, in effect, established the “separate and unequal” political status of Puerto Rico that currently afflicts the island. Furthermore, those “unincorporated territories” would not be candidates for Statehood.

These invidious doctrines were based in part on the racial prejudice of some of the Justices who viewed the newly acquired Puerto Ricans, Filipinos, and Guamanians as “an alien race”, a “savage people”, and “unfit to govern themselves”. In 1980, the United States Supreme Court again held that Congress could discriminate against the American citizens of “unincorporated territories” (*Harris v. Rosario*). Most recently, on November 10, 2022, the Supreme Court decided a case (*U.S. v. Vaeollo-Madero*), which reaffirmed *Downes* and once again held that Congress could discriminate against American citizens residing on Puerto Rico based on territorial residence. Just as the Supreme Court subsequently overturned *Plessy* and ended the racially discriminatory “separate but equal” doctrine in their landmark 1954 *Brown v. Board of Education* case, the American citizens of Puerto Rico fervently hope that the Supreme Court will similarly overturn *Downes* and its progeny and thereby end the discriminatory “unincorporated territory” doctrine that has afflicted all American citizens that reside in the territories. It is time to end the “separate and unequal” colonial status that still stains the soul of our nation.

On March 2, 1917, Congress granted American citizenship to all the residents of Puerto Rico. Since then, despite multiple efforts and petitions to Congress requesting that the American citizens residing on the Territory be given the opportunity to exercise their political self-determination, Congress has disregarded those petitions, and the island and its inhabitants have remained in a political limbo and subject to economic discrimination as an unequal colony of the United States. As a result, American citizens on Puerto Rico are bereft of the right to have voting representation in Congress and of the right to vote for President or Vice President in national elections. Any American citizen that moves from one of the 50 States to Puerto Rico immediately loses the right to vote for the President or Vice President and the right to elect Senators or voting Representatives. However, any American citizen of Puerto Rico who desires to obtain those rights must abandon the island and move to any of the 50 States. This is political discrimination plain and simple. It sends a clear message to the residents of Puerto Rico that their American citizenship, simply because of their territorial residence, is less valuable than that of their fellow American citizens who reside on the 50 States. Furthermore, because their American citizenship is inferior, they cannot aspire to political and economic equality or to enjoy the exercise of their full rights of citizenship unless they relocate to any one of the 50 States.

The Effects of Political and Economic Discrimination

This political discrimination is not limited to suffrage alone; it also applies to the distribution of federal funds to Puerto Rico and to other Territories and their local jurisdictions. The amount of federal funds allocated to Puerto Rico and to the other Territories under most federal programs is capped at amounts that are much lower than the amounts that they would be entitled to receive if those Territories were States. Thus, Puerto Rico and the other Territories receive a much smaller share of these federal programs because they are not States. The federal funding levels of many public assistance programs, such as Medicaid or SNAP, are also substantially lower in the Territories than in the States. Some key federal assistance programs are not available to the American citizens residing in the Territories. One such program is Supplementary Security Income, which is a lifeline for poor, blind, disabled, and elderly persons. It is not available to American citizens that are residents of Puerto Rico, although the program is available to American citizens that reside in each of the 50 States, the District of Columbia, and even in the Commonwealth of Northern Mariana Islands.

Political and economic discrimination has forced the government of Puerto Rico to increase its unsustainable debt burden by compelling it to borrow large amounts of funds from the national capital markets to finance infrastructure projects as well as to fund public assistance programs for those eligible elderly or disabled citizens. Significantly, this political discrimination also forces those American citizens of Puerto Rico who seek political and economic equality to leave their homes and families on the island and migrate to the different States. In addition, the poor and disabled are also forced to migrate to the United States mainland to be entitled to benefit from those federal assistance programs that are enjoyed by their fellow American citizens.

As a result of political and economic discrimination, more than 700,000 residents of the Territory of Puerto Rico already have migrated in a diaspora to the United States mainland during the past ten years alone. Most of these migrants are highly educated and constitute the most productive and entrepreneurial American citizens of Puerto Rico. Like all American citizens on the mainland, these migrants from Puerto Rico are freely willing to bear their fair share of the general obligations of citizenship, including the payment of their federal income taxes, in exchange for the opportunity to exercise their full citizenship rights under the Constitution.

The political and economic discrimination of Puerto Rico also sends a message to all the world - if you are a resident of the island, your American citizenship is inferior to the American citizenship of your fellow citizens that reside on the 50 States. This is a slap on the face of the more than 3,200,000 American citizens that remain on Puerto Rico and especially to the 375,000 Puerto Ricans that have served in the armed forces of the United States since 1917, including nine who have been awarded the Congressional Medal of Honor. To this day the American citizens of the Territory of Puerto Rico who volunteer to defend our Nation's interests in distant fields of battle, unlike their brethren on the fifty States, cannot vote to elect their Commander-in-Chief, or any Senators or voting Representatives. This is a shameful state of discrimination against American citizens residing on Puerto Rico that should not be condoned by this 118th Congress. This Senate must end this political and economic discrimination by providing the American citizens on the island with an opportunity to exercise their self-determination.

Repeated Inaction by the Senate

While the House of Representatives, in a bipartisan manner, has voted three times since 1998, in favor of legislation providing for a federally sanctioned political status referendum in Puerto Rico, the Senate has failed to act every time.

On July 14, 1998, during the 105th Congress, nearly a quarter of a century ago, I appeared before this Committee as President of the Puerto Rican American Foundation, a non-profit, non-partisan, grass-roots public policy organization dedicated to promoting political and economic equality for Puerto Rico. I appeared in support of H.R.856, “The United States-Puerto Rico Political Status Act”, and S.472, its Senate counterpart bill. H.R. 856 was passed on a bipartisan vote by the House of Representatives on March 4, 1998. It provided for the first congressionally sponsored status referendum in which the American citizens of Puerto Rico could vote for Statehood, Independence, or continued Territorial status. Much to the disappointment of the American citizens of Puerto Rico, the Senate failed to act on the bill, thereby depriving them of their right to exercise their political self-determination and prolonging the colonial status of the Territory.

During the 111th Congress a second federally sponsored political status referendum bill for Puerto Rico was passed by the House of Representatives. H.R. 2499, the “Puerto Rico Democracy Act of 2010”, was passed by the House on April 29, 2010, with a bipartisan majority by a recorded vote of 223-169. Unfortunately, the Senate failed to act once again.

During the recently ended 117th Congress, a third bill providing for a federally sponsored political status referendum for Puerto Rico was again passed by the House of Representatives. H.R. 8393, the “Puerto Rico Status Act”, was passed by the House on December 15, 2022, with a bipartisan majority by a recorded vote of 233 to 191. The bill provided a plan that would implement a process of informed political self-determination by the American citizens of Puerto Rico and the termination of the colonial status that currently afflicts the Territory. The bill also set forth the procedures that would have to be complied with by Puerto Rico to be admitted as a State. Once enacted, the bill would authorize the holding of the first federally sponsored and binding referendum on the island under which the eligible voters on the island would decide whether to become a State. The process established by the bill was patterned on the process that was used regarding the admission of Alaska and Hawaii, respectively as the 49th and 50th States of the Union. It provided a straightforward and fair process. Once again, unfortunately, the Senate failed to act.

Why has the Senate failed to grant the American citizens of Puerto Rico an opportunity to exercise their constitutional right of self-determination? Is it because they are still viewed as an “alien race,” a “savage people”, or “unfit to govern themselves”? Is it because some of the same prejudices that motivated Justice Henry B. Brown and other Justices of the Supreme Court to adopt *Plessy* in 1896 and *Downes* in 1901 are lurking in the Senate? Is it because the Senate believes that Puerto Rico should remain as a discriminated and unequal American colony forever? Is it because many Senators are insensitive to political and economic discrimination unless that discrimination affects them or their constituents? Is it because of raw politics – the

belief by one political party that they would lose control of the Senate if they allowed two new Senators from Puerto Rico to join that exclusive club? I will remind you that the American citizens of Puerto Rico have always been very loyal to those who prove their loyalty to them. Accordingly, you can be sure that those American citizens of Puerto Rico will bestow their loyalty to the political party that frees them from the bondage of colonialism and grants them an opportunity to attain political and economic equality. The granting of an opportunity to exercise self-determination by American citizens on Puerto Rico should not be the exclusive domain of any one political party. It should be supported by all freedom loving Senators in this 118th Congress regardless of party and should be done in furtherance of those democratic values that our Nation holds so dear. Silence and inaction by this Senate is not an option – the Senate must act, and act now during this 118th Congress. Inaction would betray the loyalty of 3.2 million fellow American citizens and, without their consent, condemn them to an undetermined extension of their current discriminatory colonial status. Let this be the Senate that delivers freedom from unconsented colonialism to all American citizens of Puerto Rico and fulfills the implied promise of Statehood when American citizenship was granted. Let this be the Congress that ends the 125 years of waiting for political and economic equality with our fellow citizens on the mainland!

Local Referenda

As a reaction to the Congressional failure to enact legislation allowing the American citizens of Puerto Rico to exercise their political self-determination, the Territory of Puerto Rico has held three locally sponsored referenda during the past ten years: on November 6, 2012, June 11, 2017, and November 3, 2020. In the referendum held on November 6, 2012, the people of Puerto Rico were asked two questions: do you prefer to maintain the current territorial Commonwealth status, or do you prefer a non-territorial option. If a person voted for a non-territorial option, then the person was asked to choose a non-territorial option between Statehood, Independence, or Free Association. The people of Puerto Rico answered the first question by rejecting the current Commonwealth status by a 54% to 46% vote. They then answered the second question by voting 61.3% for Statehood, 32.2% for Free Association, and 5.5 for Independence. Voting turnout was 79% of eligible voters! The results of the November 6, 2012, referendum were incredibly significant for Puerto Rico because, not only did the voters express a clear preference for Statehood, but their vote also constituted an explicit revocation of Puerto Rico's consent to their current colonial political status. By their vote, the American citizens of Puerto Rico sent a clear message to the United States and to the world that they clearly rejected the island's current colonial political status.

The referendum held on June 11, 2017, offered three alternatives: Statehood, Independence/Free Association, or the current Territorial status. The results were as follows: Statehood 97.13%, Independence/Free Association 1.52%, and the Current Territorial Status 1.35%. Because of a boycott by several parties supporting the current territorial status and Independence, the voting turnout was only 23.23% of the eligible voters. As a result, this referendum has lost much of its significance.

However, the most recent referendum, which was held on November 3, 2020, presented the voters with a simple question: do you want Puerto Rico to become a State – yes or no. The

results favored Statehood by a 52.52% to 47.48% of the vote. The voting turnout was 54.72% of eligible voters and there were no boycotts by any of the major political parties. By voting for Statehood, the American citizens of Puerto Rico once again confirmed their desire to seek equality with their fellow American citizens on the mainland and again confirmed their repudiation of their current political status as one of the oldest colonies in the world. The time has come for this 118th Congress to enact legislation providing for a federally sponsored binding referendum that would allow the American citizens of Puerto Rico to exercise their full right of self-determination.

Why The Statehood Movement Has Grown So Much

Statehood has always enjoyed a dedicated support in Puerto Rico. When American citizenship was granted to the island's residents, people became confident that Puerto Rico would become a State soon. However, during the decades that followed, because of a policy of benign neglect by the federal government, the lack of progress in attaining Statehood, and the poor relations between the presidentially appointed Governors and the local legislature, the electorate began to favor political autonomy and even independence.

During the 1940's, a combination of factors moved the island towards its current territorial political status. The Roosevelt Administration's New Deal injected significant economic resources into the island, which helped elect a new and more effective local pro-colonial political leadership. In 1948, President Truman signed into law legislation providing for the popular election of the island's governor. Luis Muñoz Marín, a former Independence advocate, was elected as the first native-born governor. He was committed to the economic development of the island under an autonomous regime. That was followed in 1952 by the congressional enactment of legislation approving a constitution for the island and the establishment of the current colonial status - the Commonwealth of Puerto Rico.

In addition, special tax incentives were enacted by Congress in the 1960's and 1970's that, together with local tax exemptions enacted by the island's government, promoted the attraction of new industries and enterprises to the island. The colonial administration on Puerto Rico had adopted a strategy that, in effect, traded the people's right to full political equality in exchange for the opportunity to attract to the island many employment-generating manufacturing enterprises from the mainland. The federal administration agreed with this strategy because, as part of its Cold War posture, it wanted to create a favorable contrast between democratic Puerto Rico's improving capitalist economic system and communist Cuba's disastrous socialist economic deterioration. The strategy was successful, and employment was increased substantially. The strategy was also successful in boosting support for the colonial status. As a result, at this time support for Statehood waned significantly. Puerto Rico's first political status referendum was held on the island on July 23, 1967, and 64% of the voters participated. Statehood only garnered support from 39% of the voters while the colonial status gained 60% support. The residents of Puerto Rico appeared to have rejected Statehood for the time being.

However, the special temporary tax and economic incentives that had been granted to the colonial Territory of Puerto Rico by Congress and the United States Government in the 1970s only served to mask the intrinsic flaw of that colonial status – the inherent weakness that results

from the corrosive poisons of colonialism and inequality. Those temporary tax and economic incentives attracted many Fortune 500 manufacturing companies from the United States, especially pharmaceuticals, and induced them to establish operations on the island to avail themselves of the tax benefits. These companies and their local employees, consultants, lawyers, and other local professionals that provided services to these companies became a particular politically powerful special interest group whose purpose was to guarantee the preservation of their tax and economic privileges through the continuation of the colonial Territorial status. This special interest group protected their pecuniary interests by financially supporting politicians and parties that promoted the colonial Territorial status and opposed Statehood. They knew that if Statehood were to be granted, they would lose their tax and economic privileges and so, they opposed Statehood. The financial support of the parties and politicians that opposed Statehood by this special interest group was strong enough to delay the push for Statehood for many years.

However, in 1995, concerned about the large loss of federal tax revenues resulting from the special tax incentives given to Puerto Rico, Congress phased out those special tax incentives over the following ten years. Once the colonial Territory lost its tax-advantaged status, its economic base began to shrivel, and Puerto Rico's economy began its current long descent into financial and political bankruptcy. A strong, highly educated middle class had been created during the decades of economic growth and relatively low unemployment brought about by the special tax incentives enjoyed by the new industries. However, with their economic future in doubt, many of those well-educated and entrepreneurial Puerto Ricans commenced their diaspora to the United States mainland in search for economic and political equality. They did not migrate to Cuba, Venezuela, Nicaragua, or other such socialist countries. They migrated to Florida, Texas, North and South Carolina and other similar States that afforded them an opportunity to exercise the full rights, benefits, and obligations of their American citizenship. At present, about six million Puerto Ricans live on the United States mainland and 3.2 million live on the Territory of Puerto Rico. Those who migrated to the mainland are not afraid to pay their fair share of Federal and State income taxes, or to bear their fair share of our national burdens and obligations provided they can enjoy the blessings of full political and economic equality.

Other members of that middle class elected to remain in Puerto Rico. Witnessing the true weakness, inequality, discrimination, and many failures of Puerto Rico's colonial political status, most of those who remained on the island soon realized that a change in political status was essential to their future. Thus, those who chose not to emigrate from Puerto Rico soon wisely realized that they could enjoy full equality under American citizenship while remaining in Puerto Rico simply by opting for Statehood. They saw how Alaska and Hawaii have prospered once they were admitted to the Union in 1959. The financial support for the pro-colonial Commonwealth status and anti-Statehood party dried up and their political fortunes collapsed. As a result, political support for the current colonial Territory status has disappeared while support for Statehood has skyrocketed, as evidenced by the referenda discussed earlier.

The United States Congress shares in the tragedy that is unfolding in Puerto Rico. For too long it has adopted a policy of "benign neglect" toward the island. It has ignored multiple petitions by the American citizens of the island to address the economic and political inequality that negatively affects the island. Through my more than a half century of trudging through the hallowed halls of Congress seeking support from Congress for the end of political discrimination

and the granting of political equality for the island, I have seen how supporters of Statehood have increased on the island from a modest minority to an overwhelming majority. As I pointed out earlier, support for Statehood has increased from 39% in the first plebiscite held in 1967, to 52.52% in the sixth and most recent plebiscite held in 2020. A significant majority of eligible voters participated in that plebiscite. This majority vote for Statehood is more remarkable when you consider that over 700,000 highly educated, productive, and enterprising persons, the typical Statehood supporters, did not vote in that plebiscite because, like me, they had previously voted with their feet and migrated to the United States mainland seeking the blessings of political and economic equality. If the island's voters were to be asked the question: "Do you want to be a State of the Union" as part of a congressionally sanctioned binding referendum, I am sure the "yes" votes would win by an even larger margin. As people have become better educated, more exposed to life in the United States through travel or the medium of television, their eyes have been opened to the iniquities of inequality. Thousands already have opted for the equality of opportunity attained through Statehood by voting with their feet and migrating to the mainland – thus the Puerto Rican diaspora.

The time has come for Congress to remove this colonial blemish from our collective souls by allowing the American citizens of Puerto Rico to break free from those colonial shackles. Let a new spirit of freedom and equality provide the spark that will deliver the American citizens of Puerto Rico from the vestiges of colonial bondage and inequality that has held them back for so many decades. All American citizens cannot be deemed to be equal while some American citizens truly remain unequal. This Senate and this 118th Congress must grant the American citizens of Puerto Rico the opportunity to exercise their right of self-determination and put an end to this colonial status to which they no longer consent.

Full Political Equality through Statehood is the Preferred Way Forward

When the Preamble of the Constitution of the United States declares: "in Order to form a more perfect Union", it makes it clear that the United States is not a finished product; it still a work in process seeking to attain that "more perfect union". The work that you undertake regarding the decolonization of Puerto Rico is but another link in the great chain of events that links our glorious past to an even more illustrious future. The United States is far better off today because federal legislators like you had the vision and the courage to continue assembling our great Republic through a process of political self-determination. The ultimate choice that Puerto Rico makes is yet to be decided. However, you need not be fearful. If, in the exercise of their political self-determination the American citizens of Puerto Rico elect to join our national union of States, future generations shall praise your vision and courage for making possible the many benefits that will flow to the Union from Puerto Rico's accession as our 51st State.

The struggle for full political equality has been a long and arduous struggle for those American citizens of Puerto Rico who love the United States and treasure its values. They have seen how other previously unequal American citizens have had to endure long struggles to achieve equality: women were not granted the right to vote until 1920; African Americans attained the end of the abhorrent practice of racial segregation in the 1960's; and the gay and lesbian community has only recently been granted petitioned rights. Puerto Rico's struggle for equality

has been long but not futile. From modest beginnings, the struggle for Puerto Rican political equality and the end to discrimination against Puerto Rico has grown into a powerful rising tide that has swept the island from one end to the other. This struggle for political equality is unstoppable. The ongoing diaspora to the mainland is but one manifestation of that struggle for equality. The majority votes for Statehood in the 2012 and 2020 referenda are another. The pleas that we are articulating here are also part of that struggle. The American citizens of Puerto Rico will not stop, will not hesitate, will not falter, and they will not fail in their quest for political equality.

Puerto Rico Has Revoked Its Consent to Remain a Colony

It has been argued by many, including some in the Congress, that Puerto Rico consented to being a colony when their voters accepted the colonial Commonwealth status that was offered by Congress in 1952. To those who hold such a view, I must then say that in 2012 and in 2020, in voting against the continuation of colonial Commonwealth status by an overwhelming margin in those referenda, Puerto Rico, again through the ballot box, revoked such consent. The United States now finds itself to be the master of one of the oldest colonies in the world without the consent of its residents - one hundred twenty-five years and counting! No other territory of the United States has had to endure such a long struggle for equality. How can the United States preach anti-colonialism in world fora when it holds 3.2 million of its citizens in a vile colonial state against their will! How can the United States aspire to be "a shining city on a hill" when some of its citizens are not allowed to enter that city? All 32 territories that have petitioned to be admitted to Statehood have been admitted. The American citizens of Puerto Rico have favorably voted for Statehood multiple times during the past ten years; they are hereby respectfully petitioning Congress to grant them an opportunity to finally end their politically discriminatory colonial status as an "unincorporated territory" and attain their long-sought goal – Statehood. They have earned the right to petition for equality because of their demonstrated loyalty to the values set forth in our Nation's Founding Documents. They have purchased this right with the ultimate sacrifice made by their sons and daughters – their lives and the blood they have shed in support of all our Nation's wars since 1917.

Another argument that has been wielded by opponents of Statehood for the island is that its residents do not pay federal taxes. That argument is false. Currently, residents of Puerto Rico pay federal payroll taxes such as Social Security and Medicare taxes just as their counterparts on the mainland do. Residents of the island who are federal employees or contractors must pay federal income taxes on that income. Residents of the island must pay federal income taxes on any income earned outside of Puerto Rico. Residents also pay United States custom duties. Only income from sources within Puerto Rico generally is exempt from federal income taxes under Section 933 of the current United States Internal Revenue Code. The United States Treasury reports that residents of Puerto Rico currently pay more income taxes to the federal government than five States. If this Congress wants to immediately repeal Section 933 and tax that income, I for one would not have an objection, but only if that repeal is an integral part of a transition to Statehood by a date certain within not more than three years. With taxation comes the right of voting representation, and under such a condition, I am sure that the great majority of the American citizens of Puerto Rico would agree to the repeal of the current limited exemption from federal income taxation that only exempts income from local Puerto Rico sources.

Statehood Would be Good for Puerto Rico and for the United States

The granting of Statehood would resolve Puerto Rico's current debilitating political and economic situation. In one stroke Statehood would send a message to one and all that Puerto Rico is and will always be an integral and equal part of the Union; with full representation in Congress and a voice that may not be silenced; with full participation in the benefits of the Union; with equal obligations and privileges; with the knowledge that one day a child born in a small town in Puerto Rico not unlike Farmington, West Virginia, Reading or Scranton, Pennsylvania, may aspire to the highest offices in the land, including the Senate or the Presidency. American and foreign investors would be able to invest in the island's economy with confidence in the knowledge that United States laws applied by federal courts would always be there to protect their interests. In addition, a full Puerto Rican congressional delegation consisting of four or five Representatives and two Senators would ensure that the current discrimination in the allocation of federal funding would be replaced with parity funding in all programs, especially those relating to health and welfare. The new State government could afford to downsize as the federal government assumes more of the functions now carried out by the former, just as in the several States. A smaller State government would require fewer financial resources to maintain it and would be more affordable.

Perhaps the biggest boon of Statehood for Puerto Rico to both the island and the United States is the energy that it would bring to the island. Freed from the inequalities of colonial status, instead of expending all their energies in the age-old political battles over ultimate political status, the island's residents would be able to dedicate all their energies to a singular purpose – the economic development of the island and the well-being of its residents. Statehood would jumpstart progress for the island, just as it did for Alaska and Hawaii. Tourism, especially from the United States mainland, is sure to increase as our fellow citizens would flock to visit their new State and enjoy our Old-World culture and traditional customs. Residents of other States would feel as comfortable retiring in the State of Puerto Rico as they do in the State of Florida. Mainland banks would find the island to be a great place to do business and would likely expand their branch networks to the island, thereby enhancing the local availability of credit. Uncertainty deters investment. Ending the conundrum of status politics would free the entrepreneurial spirit of American citizens on the island to develop and grow Puerto Rico's economy to levels previously unattained. As conditions on the island improved, we would see a large portion of the Puerto Rican diaspora return to the island and bring their talents and resources to join in the development of its economy. As the fears that someday Puerto Rico could become just another poor Caribbean republic begin to subside, confidence in the island's potential by internal and external investors will begin to rise and so will the well-being of its residents. The dignity and self-respect of American citizens of Puerto Rico would be enhanced as they finally begin to experience the fruits of equality and the plenary exercise of their citizenship.

The granting of Statehood to Puerto Rico is good for the United States as well. Admission of the first Hispanic State to the Union would demonstrate to the world that the United States truly is committed to equality and diversity. Granting Statehood to Puerto Rico would remove the ugly stain of colonialism that blemishes our Nation's honor, which is caused by subjecting some of its

citizens to discriminatory colonial rule without their consent. It would end the specious charge that the United States government is anti-Hispanic. After all, at least 63 million Hispanics in the United States accounted for 19% of its population in 2020. It would contribute the valuable Spanish culture that characterizes Puerto Rico to our Nation's rich melting pot. It would serve as a bridge to our neighbors in this Hemisphere. Statehood would allow the American citizens on the island to contribute to the coffers of our Nation's treasury by paying their fair share in federal taxes on income that currently is exempt from such taxes. It would demonstrate that America still is a work in process and that Manifest Destiny is alive and well. In short, granting Statehood to Puerto Rico would be a win-win proposition for both parties and would strengthen the Nation as a whole.

American Citizenship and the Implied Promise of Statehood – This Senate Must Give the People of Puerto Rico an Opportunity to Vote

Puerto Rico's admission to Statehood would finally redeem the implied promise of Statehood made to the residents of Puerto Rico when American citizenship was granted to them in 1917. For too long they have suffered patiently from the discriminatory "separate and unequal" standard imposed by the same bigoted Supreme Court that imposed the odious "separate but equal" doctrine that justified the basis of racial segregation. The *Dowdes* decision, which denied equality of citizenship rights to the American citizens of Puerto Rico because of the island's political status as an "unincorporated territory", must be overturned judicially or by this Congress. This is the reason why the American citizens of Puerto Rico by an overwhelming vote in 2012 and 2020 revoked their consent to remaining an unincorporated Territory and voted for Statehood. This is the reason why their struggle for Statehood will not end until they attain nothing less than full equality with our fellow American citizens on the mainland.

One hundred and six years ago Congress extended statutory American citizenship to all residents of the island; albeit a truncated second-class citizenship that still condemns Puerto Ricans to political and economic inequality to this day. And yet, an overwhelming number of Puerto Ricans dearly cherish their American citizenship because of its implied promise of Statehood, which they hope will be attained someday soon. How long must the American citizens of Puerto Rico wait before Congress grants them the opportunity to gain the full rights and obligations of their citizenship through the exercise of their political self-determination? If this Congress intends to willfully continue to condemn the American citizens of Puerto Rico to a status of political and economic inferiority by forcing them to suffer a discriminatory second-class citizenship and an unconsented colonial political status, then Congress should state its intention publicly and unequivocally. Otherwise, it should adopt legislation that allows those American citizens to exercise their right of political self-determination by allowing them the opportunity to vote for Statehood. This Senate must let the people of Puerto Rico vote.

The great wave of colonialism that swept the world during the 17th through the 19th centuries has receded into the dark pages of history. Even the formerly disenfranchised people of atavistic colonial empires have long exercised their right of political self-determination in accordance with international law and the most cherished principles of the League of Nations and its successor, the United Nations. And yet, after 125 years of acting as a colonial master, the United

States, that beacon of freedom, that “shining city on a hill”, continues to deny the right of political self-determination to its own citizens of Puerto Rico. Mr. Chairman and Members of this Committee, you must adopt legislation providing for a status referendum and let the American citizens of Puerto Rico vote freely to end their colonial political status so that the concept of political self-determination can again truly become the keystone of our democracy and does not become just a hollow and expeditiously meaningless expression of our diplomacy. This Senate must let the people of Puerto Rico vote.

How many more times must the American citizens of Puerto Rico come before you to plead for their right of political self-determination? Must they wait another century? Let the first rays of a new dawn of freedom and equality begin to break over our America the Beautiful. Can you not see the ugly stain of colonialism and discrimination that stains the collective soul of our gallant republic? These same rays are warming in the breasts of Puerto Ricans a new yearning for the sweet breath of equality that cannot be long contained by a policy of indifference or of “benign neglect”. No, Mr. Chairman and Members of this Committee, the question before this body is one of awful moment to our Nation – what is the real meaning of political self-determination to this Congress? Is it merely a convenient, self-righteous slogan with which to flagellate our adversaries in China, Russia, Cuba, Venezuela, Iran, North Korea, and other “undemocratic societies”? Why do we advocate for the worldwide exercise of political self-determination while denying its exercise to our own American citizens of Puerto Rico? Is political self-determination available in the United States to all citizens, except those that are poor, weak, and politically disenfranchised? What manner of Congress is this that would deny the right of political self-determination to the American citizens of Puerto Rico out of a fear that they may opt to seek equality of rights and obligations under Statehood? Now is the time for this Congress to end the double standard and decide whether those great democratic principles that have formed the bedrock of our republican form of government shall be denied to some citizens because they are perceived to be different. For my own part, I consider this question as nothing less than a question of political equality versus colonialism. As I stated earlier, all Americans cannot be deemed to be equal as long as one American remains unequal. Enact legislation providing for a referendum and let the American citizens of Puerto Rico vote for political equality under our Constitution. This Senate must let the people of Puerto Rico vote.

You ask, what type of political self-determination do they seek? I submit that they seek informed political self-determination. Because of Puerto Rico’s current colonial status, any federal legislation providing for the exercise of the Territory’s political self-determination must unambiguously set forth the Constitutional procedures that the Territory must follow to validly implement such political self-determination. Those Constitutional procedures must not be discriminatory or more onerous than those which have been required for the admission of the other Territories. In simple English, you are the colonial power; you must tell them what is acceptable to you, and you must not discriminate. The conditions must be sufficiently clear and in conformance with our national Constitution and rule of law so that they cannot be misconstrued by self-serving politicians during the referendum that would soon follow. The American citizens of Puerto Rico are willing and prepared to accept and fulfill all reasonable Constitutional procedures or conditions that previously have been required for the admission of any State. Enact legislation that establishes such a Constitutional procedure and, if enacted by this Congress, I cannot discern any Constitutional, legal, or political impediment that can keep

the American citizens of Puerto Rico from opting for Statehood and its long-awaited concomitant political equality. This Senate must let the people of Puerto Rico vote.

The residents of Puerto Rico seek these rights not by force of arms or through violent protest. They are not illegal aliens seeking to break immigration laws; they are and have always been loyal American citizens for 106 years. They are seeking the right to exercise their political self-determination just as thirty-two other American territories have done before. As loyal American citizens, they seek redress by Congress through the pursuit of reason and in reliance on the moral imperative of their position. They seek the redress of their grievances from Congress because, as American citizens, our National Constitution grants them that right. Because they wish to be equal with our fellow citizens of the fifty States and because they wish to secure those blessings for which they have so long struggled, they shall continue to press on until they are successful. In this new era of instant communications that has truly turned our world into a global village, the nations of the world will be watching with interest what you do here. Over 63 million Hispanics who are already an integral and productive part of our nation will also be watching with interest. What message will you convey to them? Will your message be that equality and self-determination in America is not available to those of Hispanic heritage? That at the American table of plenty, Puerto Ricans need not apply? The only way to disprove such a message finally and completely is to adopt legislation providing for a federally approved referendum and let the American citizens of Puerto Rico vote.

Only Congress has the requisite authority under the Territorial Clause of the United States Constitution to set forth the parameters pursuant to which a process of informed political self-determination may properly be held. No new federal referendum legislation should automatically create a State, nor should it do so. Instead, it should establish a process to determine what is the popular will of the people of Puerto Rico, and what steps need to be taken to democratically implement that will. It is up to the American citizens of Puerto Rico ultimately to decide if the conditions set forth by Congress to attain Statehood are acceptable to them. Let the people vote.

I would like to end as I started – by thanking the supporters of Statehood for our Puerto Rico on this Committee. Members of this Committee who support such outcome must and will be commended not only by freedom-loving people in Puerto Rico, but by all freedom-loving citizens of our great American Republic. Through your words and your deeds, many of you have repeatedly demonstrated your support for the driving cause of the American citizens of Puerto Rico – the termination of their political and economic discrimination. By granting them an opportunity to exercise their political self-determination, you are strengthening our democracy and our Republic. For correcting this injustice, the American citizens of Puerto Rico will thank you from the bottom of their hearts. This Committee should look not just at Puerto Rico's current impoverished situation, which is a direct by-product of its colonial condition for the last 530 years. This Committee should look at the values that those American citizens of Puerto Rico hold dear in their hearts: undying love for this great Nation, a commitment to the democratic principles enshrined in the Constitution of the United States, a strong commitment to the defense of our Nation, a deep love for their families and the faith of their fathers, a respect for the traditions and the rule of law, and the abiding faith that our Nation will grant us equality.

Let this 118th Congress here and now commit to adopting legislation providing for a federally sanctioned political status referendum and thereby to offer Puerto Rico the opportunity to be admitted as the 51st State of our glorious Union. Let that great enterprise bring honor to our Nation by ending 125 years of United States colonialism and discrimination, and by granting political equality to the people of the new State. Let this be the Congress that finally fulfills the implied promise of political equality given to Puerto Rico when citizenship was granted to all. Let this be the Congress that redeems the national honor of America and redresses a grievous wrong by ending colonialism and inequality in Puerto Rico and granting to the United States citizens of Puerto Rico the opportunity to freely exercise their informed political self-determination. Let your actions be a beacon of hope for all remaining colonialized people of the world. You have the sole power to make this happen. This Senate must provide for a federally sanctioned political status referendum and let the people of Puerto Rico vote!

Thank you.



**Statement for the Record: U.S. Senate Committee on Energy and Natural Resources hearing to
"Examine the State of the U.S. Territories."**

**Roberto Pando-Cintrón
President
Medicaid and Medicare Advantage Products Association of Puerto Rico**

February 9, 2023

Chairman Manchin, Ranking Member Barrasso, and Members of the Committee, thank you for holding this important hearing to assess the current state of the U.S. Territories. The Medicaid and Medicare Advantage Products Association of Puerto Rico ("MMAPA")¹, which I am honored to preside, appreciates this opportunity to once again bring to the Committee's attention some specific concerns regarding the significant impact of the enduring inequities in the application and implementation of federal health care policy and programs on the 3.2 million American citizens residing on the Island, and the highly detrimental effect they have had on Puerto Rico's ability to overcome the unprecedented challenges facing the Island.

I. State of the Puerto Rico Healthcare System

Puerto Rico has faced an array of longstanding fiscal and healthcare delivery challenges which have only been exacerbated by recent natural disasters and the COVID-19 pandemic. Inequities in Medicaid financing, including a statutory cap and an arbitrarily set matching rate, as well as differences in the application of the Medicare program, have contributed to even broader fiscal and health system challenges for the Island.

i. Medicaid Funding is Limited

Unlike in the 50 states and the District of Columbia, annual federal funding for Medicaid in Puerto Rico and the other U.S. territories is subject to a statutory cap and a fixed federal matching rate. Both the capped federal allocation (known as the Section 1108 allotment) and the territories' federal matching rate (known as the

¹ Established in 2009 as a non-profit association to promote public policy in support of the Puerto Rico healthcare system, MMAPA members include all the leading Medicaid and Medicare Advantage organizations on the Island: First Medical, Humana, MMM/PMC, Plan de Salud Menonita, Triple-S Advantage, and MCS.

federal medical assistance percentage, or FMAP) are established by statute. This funding arrangement is unlike federal Medicaid funding for the States, where federal dollars are uncapped and the FMAP is adjusted annually based on a State's relative per capita income. Once a territory exhausts its capped federal funds, it no longer receives federal financial support for its Medicaid program during that fiscal year. This limit on federal Medicaid funding ultimately risks coverage for patients and places financial strain on the territories' health care systems and providers, including health centers, that continue serving Medicaid patients, even if the federal funding to support the costs of those services is no longer available.

Over the years, Congress has provided increases in federal funds for the territories broadly and in response to specific emergency events. Temporary funding can provide short-term relief, but also creates fiscal funding cliffs that require ongoing Congressional action. Most recently, the *Consolidated Appropriations Act of 2023* passed by Congress and signed into law by President Biden on December 29, 2022, provided a much needed 5-year funding deal for the Puerto Rico Medicaid program. While still short of what the Island would be entitled to as a state,² this new Medicaid funding allocation will provide essential stability to Puerto Rico's health care delivery system and clearly constitutes a meaningful step in closing the disparity gap for the Island's nearly 1.5 million Medicaid beneficiaries.

We are deeply thankful for this achievement, but also emphasize the continued need to address Puerto Rico's other health care related inequities not covered in the 2023 Omnibus legislation. Substantial inequalities remain in areas such as the ever-widening gap in the Medicare Advantage benchmark, where Puerto Rico's rates are now over 40% below the national average, the Island's lack of participation in the Medicare Savings Program (MSP), and the Medicare Part D Low Income Subsidy (LIS) program, among others.

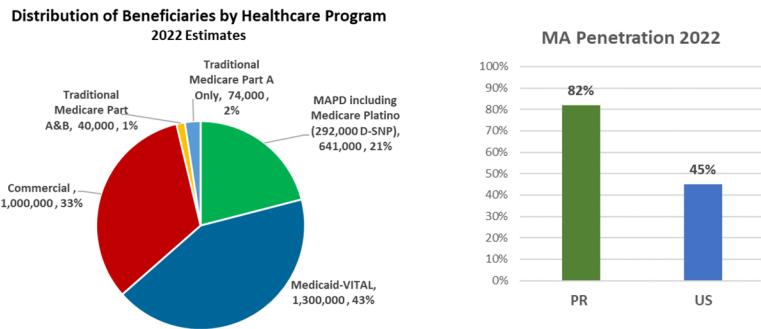
ii. Medicare Advantage rates are substantially lower than in the States and other Territories

As noted above, Puerto Rico's unequal treatment in health care policy is not limited to Medicaid, and any true effort to address the Island's health care inequities must also include the Medicare Advantage (MA) program.

Puerto Rico is a unique jurisdiction in that its population has overwhelmingly embraced the MA program. Over the years, MA has grown to become the

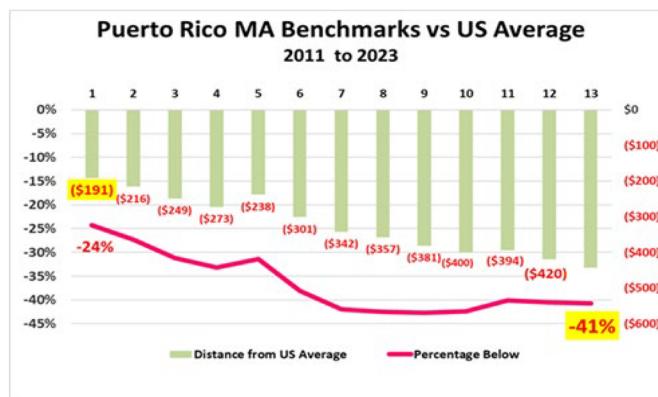
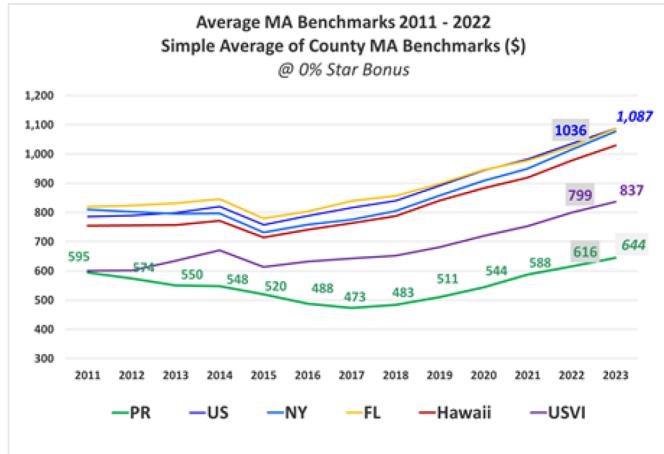
² Despite this increase in Puerto Rico's base year allotment, the Island government still anticipates additional funding is needed to serve beneficiaries' current needs and to implement various Medicaid program enhancements and sustainability measures – such as paying the Medicare Part B premium for the dual eligible population as in the States – currently available in the States but not in Puerto Rico.

cornerstone health care program for patients and providers on the Island. However, even though the residents of Puerto Rico pay the same Medicare payroll taxes as their fellow American citizens in the States, enduring federal payment disparities are severely affecting this Medicare program.



More than 640,000 seniors in Puerto Rico are covered by MA, representing over 80% of the territory's Medicare beneficiaries, which constitutes the highest MA penetration in the nation and the 17th largest MA population in the United States. This number includes close to 300,000 dual eligible seniors in the Latino Program, the Island's most vulnerable population, for whom Medicare funding is essential considering the existing limitations in Puerto Rico's Medicaid program. Furthermore, Puerto Rico's dependence on MA is high because of the combined effect of (a) unique poverty and socio-economic conditions, and (b) the lack of other federal health benefits due to the accumulated effects of long-standing statutory inequities in Medicare and Medicaid since the start of the programs in the 1960s.

Regrettably, several Congressional actions have stifled federal support for MA in Puerto Rico. Payment methodologies instituted under the *Affordable Care Act* ("ACA") effectively reduced MA rates in Puerto Rico by over 20%. Further, the very limited corrective actions implemented by HHS and CMS in recent years have not eliminated the huge disparities in the MA payment rate level for beneficiaries residing on the Island. The fact is that MA rates in Puerto Rico have fallen for 8 consecutive years to a benchmark that is now 41% below the national average, 37% lower than in the lowest state (Hawaii), and even 23% below our neighboring territory of the U.S. Virgin Islands. The gap between the MA rates in the States and Puerto Rico continues to expand every year.



In spite of this, MA is the option selected by 94% of all the Medicare A&B beneficiaries in Puerto Rico, including 99% of the dual eligible with A&B. It is also important to note that approximately 30% of the FFS beneficiaries in Puerto Rico switch to an MA plan annually. This is in contrast to a 3 - 5% national average switch rate to MA.

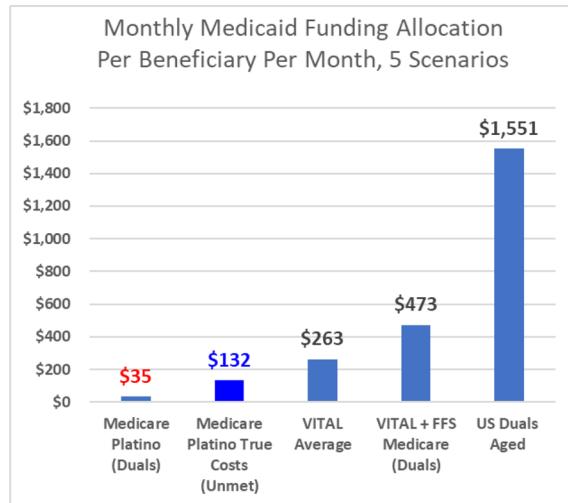
Given that the MA program is the primary source of health care for seniors in Puerto Rico, these disparities not only endanger appropriate health care access, but also put additional fiscal pressure on the Island's already struggling economy. They also force thousands of beneficiaries and health providers to move to the States where,

as American citizens, they are entitled to equal treatment and access to all federal healthcare programs.

H.R. 7997, bipartisan legislation introduced by Representative Jenniffer González-Colón in the 117th Congress, would provide a sensible solution that, at least partially, resolves not only Puerto Rico's MA benchmark payment rate disparities, but also those for other U.S. jurisdictions where heightened MA penetration has begun to artificially decrease MA base payments. This legislation would establish a 0.70 Adjusted General Average floor to help stabilize MA base payment rates in any U.S. county with an average base payment rate under this benchmark. The bill would also support health care providers by requiring at least half of this additional funding be used to increase provider payments. While the legislation will require re-introduction, we ask the members of this Committee to consider these policy proposals as a way of stabilizing Puerto Rico's healthcare system while preventing other counties in the States from suffering our same fate. In our view, these provisions should be incorporated into any comprehensive health care legislation that Congress might entertain to further address the current inequities applicable to Puerto Rico and the other U.S. territories.

iii. Contrary to the States, the Medicare Savings Program (MSP) is not mandatory and not available for citizens residing in Puerto Rico

Puerto Rico is the only U.S. jurisdiction where the application of MSP is not mandated by law. Implementing MSP in Puerto Rico, as it is in the States and other U.S. territories, would have immediate benefits. Primarily, the Island's total (Platino + Vital) dual population of close to 350,000 seniors would be able to keep their Social Security income without having to endure the Part B monthly premium deduction, which is crucial for daily living and especially burdensome for citizens residing in Puerto Rico that are not eligible to the Supplemental Security Income (SSI). Moreover, the dual population was the hardest hit after natural disasters such as Hurricanes Irma and María, the 2020 earthquakes, COVID-19, and most recently Hurricane Fiona. The implementation of MSP would help these dual beneficiaries that currently pay the Part B monthly member premium of \$164.90 from their own pockets, even when they are 85% FPL and below. Further, it would allow over 50,000 Medicaid beneficiaries currently in the VITAL program to enroll in Part B and in the Platino D-SNP for the first time ever. By enhancing the D-SNP platform, MSP would support the capacity of our providers to be better compensated and continue evolving in the most developed performance-based coordinated care model on the island, Platino.



Monthly Medicaid Funding for the Dual Eligible Beneficiaries³

Platino/MA plans currently offer supplemental benefits to cover a portion of the Part B premium for the approximately 300,000 dually eligible members. This monthly support averaged approximately \$68 pmpm in 2022, which still leaves a significant out-of-pocket burden for our poorest beneficiaries. Moreover, charging the payment for Part B as a subsidy from MA, instead of a Medicaid benefit under MSP as it works everywhere else, reduces the funding available for much needed provider compensation and supplemental benefits.

Even with the supplemental benefits from Platino plans, Puerto Rico's dually eligible beneficiaries currently have on average \$100 deducted from their Social Security checks each month to pay for premium expenses. For these low-income, vulnerable, older adults, this deduction results in deprivation and foregone expenditures on necessities. Implementing the MSP benefit would result in an immediate increase in social security checks for dually eligible beneficiaries that would be immediately directed back into the local economy.

Furthermore, should Puerto Rico implement MSP, the Island could also shift higher-income individuals from being uninsured directly into Medicare, preventing them

³ Data based on information from the Puerto Rico Health Insurance Administration, and US Data found at <https://www.medicaid.gov/state-overviews/scorecard/how-much-states-spend-per-medicaid-enrollee/index.html>.

from becoming Medicaid eligible in the first place. Some of the individuals who would become eligible for Medicaid through the planned increase in income eligibility could enroll into Medicare instead, if MSP was implemented. Those lower-income Medicare beneficiaries who are currently paying their premiums in full and who would qualify for MSP would also receive increased social security payments.

iv. *Low Income Subsidies (LIS) under the Medicare Part D prescription drug benefit are unavailable to beneficiaries who reside in Puerto Rico or the other U.S. territories*

Currently, low-income Medicare beneficiaries in Puerto Rico and other U.S. territories are ineligible for Medicare Part D subsidies under the LIS (also known as "Extra Help") federal program. This program provides federal subsidies to low-income seniors for monthly premiums and other out-of-pocket prescription drug costs. Instead of receiving this benefit, each territory receives a fixed amount of federal grant funding to provide low-income Medicare beneficiaries with prescription drug assistance. Meanwhile, low-income Medicare beneficiaries in the U.S. territories who move to the mainland and register their new permanent address with the Social Security Administration automatically become eligible to apply for "Extra Help" subsidies. This unequal treatment of American seniors results in far less assistance for low-income seniors living in any of the U.S. territories than seniors on the mainland who are eligible for Part D subsidies.

It is also noteworthy that the recently enacted *Inflation Reduction Act of 2022* (IRA), did not address the precarious situation confronting the American citizens residing in Puerto Rico. The Part D LIS eligibility was expanded to 150% FPL, but Medicare beneficiaries in Puerto Rico remained fully excluded from this benefit. Moreover, the benefit design changes to the standard Part D benefit in a context that lacks a Part D LIS, will imply that the real effect of the IRA is to reduce the benefits for the poorest citizens.

In the 117th Congress, U.S. Senator Bob Menéndez was joined by Senators Cory Booker, Richard Blumenthal, Kirsten Gillibrand, and Ben Lujan in reintroducing legislation to provide parity for American seniors living in Puerto Rico and other U.S. Territories in Medicare Part D. The *Territories Medicare Prescription Drug Assistance Equity Act* (S. 3778) would make Medicare beneficiaries across the U.S. territories eligible for the Medicare Part D LIS program.

v. *The Puerto Rico Health Care System is Strained by an Older, Sicker, and Poorer Population*

According to the most recent U.S. Census, over the past decade, Puerto Rico's population has declined by 11.8%. The younger population groups make up the majority of this exodus into the U.S. mainland, increasing the median age of the

Island's residents to 43 years in 2018, surpassing the median U.S. average age. Conversely, the population over 65 years of age has the lowest rate of migration from Puerto Rico over the last ten years.

The historical underfunding of health care in Puerto Rico is a contributing factor to the mass exodus of residents to the continental United States. The migrating residents include doctors, nurses, and other medical personnel, seeking better salaries and reimbursement for their services. Over the past decade, approximately 5,000 doctors have left Puerto Rico, primarily for economic reasons, leaving fewer professionals to treat a more complex and older patient base.

According to the Puerto Rico College of Physicians and Surgeons, there are currently only five doctors for every 2,000 residents on the Island. Further, the prevalence of chronic conditions among adults over 65 in Puerto Rico is substantially higher than the U.S. mainland average. Additionally, the median household income in Puerto Rico is by far the lowest of any U.S. jurisdiction, while the unemployment rate is the highest.

II. Conclusion

The time has come for a long-term and equitable solution for the chronic underfunding of Puerto Rico's health care programs. We are sincerely appreciative that Congress took a significant step to fund Medicaid last year with the enactment of a 5-year funding deal for Puerto Rico through the *Consolidated Appropriations Act*. However, we must continue to emphasize the disparate treatment in other federal healthcare programs of more than 3 million U.S. citizens in Puerto Rico. Action by Congress and/or the Administration is needed in the next two months to enhance, or at the very least protect, the 2024 Puerto Rico MA rates from continuing to fall behind those of the States. No effort to achieve equity in healthcare can be fulfilled without addressing this disparate scenario.

We in MMAPA look forward to continuing our work with Congress to ensure that the people of Puerto Rico have access to the same standards of quality health care under Medicaid enjoyed by their fellow citizens in the States and to address the ever-widening gap in both reimbursements and services for Puerto Rico's Medicare Advantage beneficiaries and providers. Decades of unequal treatment, coupled with the Island's ongoing economic and fiscal crisis, the catastrophic devastation of Hurricanes Irma, María and Fiona, the 2020 earthquakes and the COVID-19 pandemic, have resulted in a fragile health care system with poor quality infrastructure, significant inequities for our seniors, and a massive, untenable exodus of healthcare professionals to the U.S. mainland. Together, we must ensure Puerto Rico does not fall further behind.

Thank you.



February 9, 2023

The Honorable Joe Manchin III
 Chairman
 U.S. Senate Committee on Energy and Natural
 Resources
 304 Dirksen Senate Building
 Washington, DC 20510

The Honorable John Barrasso
 Ranking Member
 U.S. Senate Committee on Energy and Natural
 Resources
 304 Dirksen Senate Building
 Washington, DC 20510

Dear Chairman Manchin and Ranking Member Barrasso:

On behalf of the Puerto Rico Statehood Council, I thank you for holding the “[*Full Committee Hearing to Discuss the State of the U.S. Territories*](#),” and providing the opportunity to address the root cause of the current inequality the 3.1 million U.S. citizens in Puerto Rico are subjected to everyday: the undemocratic territory status of the island. As the oldest and most populous colony of the U.S., the indifference to the needs of Puerto Ricans by their own federal government precedes the devastating impacts of the debt crisis, recent natural disasters, or any recent political turmoil. Therefore, I urge the members of the Senate Committee on Energy and Natural Resources (Committee) to finally address the root cause of the island’s inequality and bring an end to Puerto Rico’s unjust territorial status.

After nearly 125 years of Puerto Rico becoming a U.S. territory, Congress must resolve the island’s political status for it to fully recover and become truly resilient. Over the last decade the residents of Puerto Rico have recognized this reality and have voted on three separate occasions to reject the current territory status and to join the Union as a state. This includes the most recent plebiscite held on November 3, 2020, when 52.52 percent of voters said “Yes” to Puerto Rico’s admission as a state.¹ However, despite the plebiscites being constitutional and valid exercises of self-determination,² the results were not binding on Congress.

In accordance with Article 4, Section 3 of the U.S. Constitution, Congress has the sole authority to admit new states into the Union. In fact, no territory that has requested admission as a state has been denied before. While statehood would guarantee that U.S. citizens residing in Puerto Rico have the same civil rights, opportunities, and congressional representation afforded to U.S. citizens in the 50 states, that is for the island’s voters to decide. Congress only needs to use its authority and establish the means to provide a free, fair, and binding process among the constitutionally viable non-territory options. Only then will the U.S. meet its highest ideals of a true and equal democracy.

Territory Status Discriminates Against and Disenfranchises U.S. Citizens

The undemocratic territory status of Puerto Rico not only silences the needs of U.S. citizens on the island, but also stifles the island’s prosperity and resilience. As the U.S. Supreme Court recently emphasized in

¹ P.R. State Elections Comm’n, *Official Plebiscite Results 2020* (Mar. 12, 2021), https://elecciones2020.ceepur.org/Escrutinio_General_93/index.html#es/default/PLEBISCITO_Resumen.xml.

² *Aponte-Rosario, et al., v. President EEC, et al.*, 2020 PRSC 119 (P.R. 2020).

Vaello-Madero,³ Congress can discriminate against the U.S. citizens of Puerto Rico merely for residing in the territory. When the political status of a territory allows unequal treatment of its citizens and prevents voting representation in the governing bodies that enact and administer the laws that impact their everyday life, it is no surprise when their needs go unnoticed or disregarded.

As a U.S. territory Puerto Rico has a single non-voting member in the U.S. House, no representation at all in the U.S. Senate, and its residents are unable to vote for President. This is despite 375,000 Puerto Rican servicemembers having fought in every military conflict of the U.S. since World War I. From the honorable service of the Army's 65th Infantry Regiment, the Borinqueneers, to present day, Puerto Rican service members continue to fight, defend, and at times pay the ultimate sacrifice to defend the U.S. However, despite their honorable service and sacrifice, Puerto Ricans are denied the right to vote for their Commander in Chief merely for residing in Puerto Rico.

Additionally, as long as Puerto Rico remains a territory Congress can and will discriminate against U.S. citizens there under federal laws and programs. A perfect example of this differential treatment was apparent following the relief provided to Puerto Rico after Hurricanes Irma and Maria when compared to the federal support provided to states that endured similar storms in the same year. On September 21, 2022, a U.S. Commission on Civil Rights (USCCR) report found that during a six-month period following storm landfall, the federal government's disaster recovery response and assistance for the territory of Puerto Rico after Hurricane Maria was unequal and worse than that provided to the state of Texas following Hurricane Harvey.⁴ The failure to provide the lifesaving resources and emergency aid following Hurricanes Irma and Maria led to the deaths of over 3,000 of the island's residents,⁵ and set up the island for the destruction we saw with Hurricane Fiona.

While in recent years Congress has enacted legislation to treat Puerto Rico's residents equally to fellow citizens living in the states under certain federal laws and programs, these fixes are sometimes temporary and ultimately offer a piecemeal approach to the island's systemic inequality under the territorial governance structure. Moreover, under territory status there is no guarantee that a subsequent Congress could not pass legislation to backtrack and continue to discriminate against Puerto Rico's residents. That is why an end to the island's current territory status is needed for Puerto Rico to achieve full equality through statehood, or self-reliance through independence with or without a compact of free association.

Territory Status Prolongs Economic Instability & Limits Economic Growth

Puerto Rico's territory status further perpetuates the economic disparities its citizens endure on an everyday basis. According to an analysis of the latest U.S. Census data, in the last two decades the local population in Puerto Rico has dropped by over 18 percent which represents over 700,000 people.⁶ The mass exodus to the U.S. mainland from the island is caused by the economic turmoil and uncertainty of its territorial status, which robs the island's entrepreneurs and highly skilled professionals of their ability

³ *United States v. Vaello-Madero*, 596 U.S. ____ (2022).

⁴ U.S. Commission on Civil Rights, 2022 Statutory Enforcement Report, *Civil Rights and Protections During the Federal Response to Hurricanes Harvey and Maria* (Sept. 21, 2022), <https://www.usccr.gov/files/2022-09/2022-statutory-report-fema.pdf>.

⁵ Daniella Silva & Nicole Acevedo, *A week without power after Fiona, Puerto Ricans experience echoes of Hurricane Maria*, NBC News, Sept. 25, 2022, <https://www.nbcnews.com/news/latino/week-power-fiona-puerto-ricans-experience-echoes-hurricane-maria-rna49323>.

⁶ Génesis Ibarra Vázquez, *The island "loses" 174,000 residents*, El Nuevo Dia, Aug. 17, 2022, <https://www.elnuevodia.com/english/news/story/the-island-loses-174000-residents/>.

to prosper in their chosen fields in Puerto Rico. Thus, further depleting the revenue sources for the local government and exacerbating the island's economic hardships.

Time and time again, we've heard the irrational excuse of having to wait until Puerto Rico's economy recovers or until its debts are restructured as precondition for resolving the island's status -- all while subjecting Puerto Rico to an uneven playing field that inhibits its economic progress. Regardless, the island's progress in restructuring of 80 percent of the \$72 billion debt through the recent plan of adjustment,⁷ demonstrates the economic advancement Puerto Rico has made in recent years. If admitted as a state the existing debt would be the island's exclusive debt like any other state, limited to Puerto Rico's residents and taxpayers. Furthermore, Puerto Ricans are already U.S. taxpayers who contribute to federal payroll taxes and pay federal taxes if their income derives outside of Puerto Rico. Federal tax revenues in Puerto Rico have at times exceeded the revenues from some states.⁸ This clearly demonstrates that if Puerto Rico were to become a state, it would unleash the island's economic potential and ultimately bolster the revenues to the U.S. treasury.

Senate Needs to Continue Legislative Momentum

Given the aforementioned reasons and the history of local plebiscites in 2012, 2017, and 2020, Congress finally began to address the issue of Puerto Rico's colonial territory status during the 117th Congress. After two Congressional hearings in the House Committee on Natural Resources, an advisory analysis from the U.S. Department of Justice (DOJ) detailing the only constitutional viable options for Puerto Rico,⁹ over a year of negotiations, a forum open to the general public in Puerto Rico, the House introduced and passed H.R. 8393, *Puerto Rico Status Act*. H.R. 8393 was successful in that it received the support of the entire Democratic caucus and 16 Republicans in the House with the bipartisan vote of 233-191.¹⁰ Moreover, the Biden Administration released a *Statement of Administration Policy* (SAP)¹¹ in support of H.R. 8393 on the day of the House floor vote. H.R. 8393 would have allowed the island the ability to choose between "Statehood," "Independence, or "Free Association" with the U.S.¹² The legislation would have also included mechanisms for the implementation of these options. Unfortunately, the U.S. Senate did not have time to consider the legislation in the 117th Congress.

In fact, the House has passed three bills to resolve Puerto Rico's status since 1998, but the Senate has failed to address the issue.¹³ It is now incumbent upon the Committee and the Senate to continue the

⁷ *Puerto Rico's Debt Restructuring Process*, Fin. Oversight & Mgmt. Bd. for P.R., <https://oversightboard.pr.gov/debt/> (last visited Feb. 7, 2023).

⁸ *SOI Tax States- Gross Collections, by Type and State – IRS Data Book Table 5*, Internal Revenue Service, <https://www.irs.gov/statistics/soi-tax-stats-gross-collections-by-type-of-tax-and-state-irs-data-book-table-5> (last visited Feb. 7, 2023).

⁹ *U.S. Department of Justice: Analysis of H.R. 1522, the Puerto Rico Statehood Admission Act*, H. Comm. on Natural Resources (June 14, 2021), <https://naturalresources.house.gov/imo/media/doc/DOJ%20Analysis%20of%20HR%201522.pdf>; see also *U.S. Department of Justice: Analysis of H.R. 2070, the Puerto Rico Self-Determination Act of 2021*, H. Comm. on Natural Resources (June 14, 2021), <https://naturalresources.house.gov/imo/media/doc/DOJ%20Analysis%20of%20HR%202070.pdf>.

¹⁰ *Roll Call 529, Bill No. H.R. 8393, On Passage Puerto Rico Status Act*, Clerk of the U.S. H. of Representatives, <https://clerk.house.gov/Votes/2022529> (last viewed on Feb. 7, 2023).

¹¹ *Statement of Admin. Policy, H.R. 8393-Puerto Rico Status Act*, Exec. Office of the President, Office of Mgmt. & Budget, Dec. 15.2022, <https://www.whitehouse.gov/wp-content/uploads/2022/12/HR8393-SAP.pdf>.

¹² Puerto Rico Status Act, H.R. 8393, 117th Cong. §5(a)(2) (2022).

¹³ *United States-Puerto Rico Political Status Act*, H.R. 856, 105th Cong. (1998); see also *Puerto Rico Democracy Act of 2010*, H.R. 2499, 111th Cong. (2010); see also *Puerto Rico Status Act*, H.R. 8393, 117th Cong. (2022).

momentum of the House in the 117th Congress, and use its authority under Article 4, Section 3 of the U.S. Constitution to bring an end to the colonial status of the island. Puerto Rico's political future is inextricably tied to the future of American democracy. As the oldest U.S. colony, it is time to finally provide voters in Puerto Rico a definitive choice among the constitutionally viable options for the island's political future. Merely dealing with the symptoms of Puerto Rico's inequality and disenfranchisement is woefully insufficient.

Conclusion

In addition to the sacrifice Puerto Ricans have given through their military service, our people have contributed to the success and shaping of the U.S.' identity and culture. Several notable Puerto Ricans include Supreme Court Justice Sonia Sotomayor, numerous members of Congress, NASA Chief of Astronaut Office Joseph Acabá, astrophysicist Neil deGrasse Tyson, Olympian Gigi Fernández, Philadelphia Eagle Robert Quinn, actress Rita Moreno, and musical artists such as Marc Anthony and Bad Bunny. Each of them and many others making contributions to the fabric of the American ethos. However, to truly advance Puerto Rico's full recovery and enable real and lasting prosperity on the island, the U.S. citizens of Puerto Rico deserve a direct vote on the only constitutionally viable status options outside of the territorial clause of the U.S. Constitution.

For this reason, I urge the Committee to go beyond merely dealing with the symptoms of Puerto Rico's inequality and vulnerability by finally addressing the root cause of the island's problems. Your Committee has direct jurisdiction over these issues and has a moral responsibility to take action, hold hearings, and pass legislation to uphold the fundamental American principle of government by consent of the governed. Justice delayed is justice denied. It is time to finally give voters in Puerto Rico a free, fair, and binding choice among the constitutionally viable non-territory options. By directly addressing this injustice, you will reaffirm the highest ideals of American democracy and make America *a more perfect Union*.

Sincerely,



George H. Laws Garcia
Executive Director
Puerto Rico Statehood Council

7 February 2023

Dear Senator Manchin

The Congress of the United States is obliged to approve legislation to end the actual colonial status in Puerto Rico. Congress has to allow the people of Puerto Rico to exercise their constitutional right to choose their political future based on the resolution approve by the United Nations General Assembly Resolution 2200A (XXI) 16 December 1966 Entry in force 23 March 1976

UNITED NATIONS

HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER
International Covenant on Civil and Political Rights

Preamble

The States Party to the present Covenant
Considering that, in accordance with the principles proclaimed in the Charter of the United Nations.
recognition of the inherent dignity of the equal and inalienable rights of all members of the human
family is the foundation of freedom, justice and peace in the world. Recognizing that these rights
derive from the inherent dignity of the human person. Recognizing that, in accordance with the
Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political
freedom and freedom from fear and want can only be achieved if conditions are created whereby
everyone may enjoy his civil and political rights, as well his economic, social and cultural rights.
Considering the obligation of the States under this Charter of the United Nations to promote universal
respect for, and observance of, human rights and freedoms. Realizing that the individual, having duties
to other individuals and to the community to which he belongs, is under a responsibility to strive for the
promotion and observance of the rights recognized in the present Covenant. Agree upon the following
articles.

PART I**Article 1**

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. The State Parties to the present Covenant, including those having responsibility for the administration on Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and should respect that right, in conformity with the provisions of the Charter of the United Nations. It is time to Congress to act without no more delay. I thank you in advance for your time and consideration.

Best Regards,
Hector Ramos Andujar
Puerto Rico Congressional Delegate
Staff Sergeant U.S. Army (Retired)
hector.ramos.andujar@gmail.com



DR. RICARDO ROSELLÓ NEVARES
UNITED STATES REPRESENTATIVE
PUERTO RICO (SHADOW)

Written Statement
Dr. Ricardo Rosselló Nevares
US Congressional Delegate (Shadow) of Puerto Rico,
On behalf of the members Extended Congressional Delegation of Puerto Rico
Senate Committee on Energy & Natural Resources
Full Committee Hearing To Discuss The State Of The U.S. Territories
February 9th, 2023

Dear Chairman Manchin, Ranking Member Barrasso, and members of the Committee.

“...We simply must begin with, and mould from, disorganized and discordant elements... that no exclusive, and inflexible plan can safely be prescribed as to details and colatterals...Important principles may, and must, be inflexible.”

Those were the words of President Lincoln during his last speech, 3 days before that fateful day he was shot at the Ford’s Theatre.

Thank you for the opportunity to submit a written statement on the state of the U.S. territories. Last year, I asked this committee to “to address with priority the status issue of Puerto Rico. Democracy cannot continue to wait. Colonialism cannot continue to prevail.” I recognize that this – in Lincoln’s words – must have looked like an effort to deal with “*disorganized and discordant elements*”.

At that point in time, the House of Representatives had two very different projects attempting to solve the status issue, with distinct objectives. It seemed unlikely that any of the projects was going to move forward, given the division. The momentum from the 2020 plebiscite results in Puerto Rico had slowed down due to friction and attrition. As was typically the case with the status issue in Congress, there were “more pressing matters” to attend to. And so... the 3.2 million U.S. citizens that reside on the island seemed destined to continue waiting.

Last year – almost to the day – I proposed a path forward with a consensus bill to this Senate Committee (statement attached). Hoping that the Senate could help untangle the gridlock, my goal – and those of the members of the Extended Delegation for Puerto Rico – was to establish a set of principles and core commonalities that would allow proponents of both projects to unite under one pragmatic solution.

Some were skeptical this could move forward. Nonetheless, as with many others, the 8,000 members of the Extended Delegation stressed the importance of this action to their congress members.

And so, it was accomplished. A consensus bill that had support on both sides of the isle, and that provided a path towards ending colonialism and empowering the people of Puerto Rico. An unprecedented step had been taken – the clear rejection of the colonial status as an alternative for Puerto Rico. I have attached the executive summaries for my office and the extended delegation, which narrate how much of this unfolded.

Leader Hoyer demonstrated true leadership and commitment by setting the table for the parts to come together, and afterwards, give the bill its day on the floor of the House.

With unanimous support from the Democrats in the House, the bill passed comfortably. Unfortunately, it was on the next to last day of the calendarized congressional session and this project could not be thoroughly examined by the Senate.

But alas, there is a road map. There is institutional validation. There is a recognition that the United States citizens of Puerto Rico are treated unequally through the vestiges of the oldest and most populated colonial territory in the world.

I am aware that the Senate acts independently and would evaluate any project on the status of Puerto Rico with much debate, rigor and analysis. I am not asking for an “*exclusive and inflexible plan [that] can be prescribed into detail.*”

What I humbly petition this body is to recognize that clear principles have been laid out. And those “*important principles may, and must, be inflexible.*”

[Principles]

To put it succinctly, these principles are: (1) to let the United States citizens in Puerto Rico vote on a; (2) federally mandated plebiscite that would give them; (3) a choice between the; (4) internationally accepted, non-colonial alternatives.

The details, well, those are for the Senate and the House to deliberate on.

[Ask]

Prefaced by the same spirit of love for democracy and for the people of Puerto Rico, what we ask is somewhat different, and it is: To provide the necessary steps to (1) submit a bill in the spirit of H.R. 8393; (2) deliberate to see if the bill could be made more robust; and (3) have its day for a vote on this committee with the goal of making it to the Senate floor for a vote.

The 52-word preamble of the Constitution focuses on six (6) key concepts that make our Nation what it is. I'd like to highlight three:

- (1) **Union:** How can we have a union when we are drawing distinct lines between types of citizenship?
- (2) **Justice:** How can there be justice if the same citizens that go to war for the values of our nation, get treated in an inferior fashion just by virtue of their zip code?
- (3) **Liberty:** how can there be full freedom and liberty when there are citizens being held back by the shackles of colonialism.

Let's be on the right side of history, but more importantly, let's do the right thing. The action has already started. The power is in your hands to push it through.

Respectfully submitted,



Ricardo Rossello
U.S. Shadow Congressmember (Puerto Rico)
Former Governor of Puerto Rico

Senate Committee on Energy and Natural Resources
Full Committee Hearing to Discuss the State of the U.S. Territories
February 9, 2023

Chairman Manchin, Ranking Member Barrasso, distinguished Committee members:

Thank you for making it a priority to hold a hearing on the state of U.S. territories at the start of this new Congress. I am Neil Weare, and I am the President and Founder of Equally American. We seek to obtain full constitutional rights, and economic and political equality for residents of U.S. territories while also supporting their right to determine their own future relationship to the United States through a democratic process of self-determination.

What is the state of U.S. territories? Unfortunately, if I had to describe it in a word, that word would be “colonial.” As jarring as the word “colony” or “colonial” may be to most Americans, this is simply a factual description of the relationship between the United States and its overseas territories since 1898. If anything, the word “colonial” has become *more, not less*, of an accurate description over the last 5-10 years following a string of Supreme Court decisions reinforcing largely unrestricted federal power over the territories, the passage of the undemocratic Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), and the federal government’s response to Hurricanes Irma and Maria in Puerto Rico and the U.S. Virgin Islands.

We now find ourselves at a crossroads where the United States and each of the territories must decide whether to continue forward with this failed colonial experiment, or to recognize the colonial framework governing U.S. territories is a problem that urgently needs to be addressed.

This year marks 125 years since the United States chose to ignore the anti-colonial principles of its Founding to establish an overseas colonial empire following the 1898 Spanish-American War. As we approach this regrettable milestone, Congress has the opportunity to take historic action to (1) formally recognize that the colonial relationship between the United States and its territories is a problem that urgently needs to be solved; and (2) take action to begin dismantling the racist colonial framework established by the Supreme Court’s decisions in the *Insular Cases* through a process centered on self-determination.

Where we find ourselves today was never inevitable. On July 28, 1898, just days after U.S. forces landed in Puerto Rico, General Nelson A. Miles proclaimed that America’s occupation was motivated by “liberty, justice, and humanity,” promising the people of Puerto Rico “the immunities and blessings of the liberal institutions of our Government.” On December 10, 1898, the United States signed the Treaty of Paris, ending its war with Spain and simultaneously acquiring sovereignty over Puerto Rico, Guam, and other Spanish colonies. In doing so, the United States promised that “[t]he civil rights and political status of the native inhabitants” of these newly acquired overseas U.S. territories would “be determined by Congress.”

Now, nearly 125 years later, the 3.6 million residents of Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, and the Northern Mariana Islands – 98% of whom are people

of color – continue to wait for these promises to be kept, and for the United States to live up to its own Founding ideals. Unable to vote for President and without voting representation in Congress, residents of U.S. territories are treated as “separate and unequal” because of the *Insular Cases*, a series of racist, segregation-era Supreme Court decisions. At the same time, the federal government has failed to provide the people of these areas a meaningful opportunity to exercise their right to self-determination, despite the obligation to do so under both international law and our country’s own ideals.

In June 2021, President Biden [expressed](#) in response to the denial of Supplemental Security Income (SSI) benefits to residents of U.S. territories that “there can be no second-class citizens in the United States of America.” Since then, the President and Congress have made important progress toward that goal by helping to close Medicaid funding disparities in U.S. territories, extending the Child Tax Credit, expanding the Earned Income Tax Credit, improving federal disaster response, addressing many economic and infrastructure needs in the territories, and more.

But in other ways, the President and Congress have fallen short – *sometimes far short* – of these values. This year, more than 400 thousand low-income elderly and disabled U.S. citizens living in the territories will *continue* to be denied SSI benefits. This follows a missed opportunity where Congress could have extended SSI benefits to residents of U.S. territories in anticipation of a Supreme Court decision that ultimately recognized it was the role of Congress, not the courts, to address questions of federal benefits disparities in U.S. territories. The U.S. Justice Department has also continued to embrace the indefensible *Insular Cases*, expressly opposing calls for the Supreme Court to overrule them and even arguing that people born in U.S. territories have no constitutional right to U.S. citizenship at all. A U.S. House Resolution that would have condemned the *Insular Cases* failed to pass despite robust, bipartisan support, and no such resolution was even introduced in the U.S. Senate.

In his recent State of the Union Address, President Biden declared that, “[w]ith democracy, everything is possible. Without it, nothing is.” Simply put, democracy is incompatible with colonialism. But as President Biden went on to explain, “[e]very generation of Americans has faced a moment where they have been called on to protect our democracy, to defend it, to stand up for it. And this is our moment.” 125 years of colonialism is enough. We are, indeed, at an “inflection point,” and “the decisions we make now will decide the course of this nation and of the world for decades to come.” We are not, as President Biden observed, “bystanders to history.” We can, and should, acknowledge where we have failed to live up to our Nation’s founding ideals and correct course.

Ultimately, the many ways the 3.6 million residents of U.S. territories continue to be treated like second-class citizens are merely symptoms of something broader: a colonial problem that the United States must first recognize if it is to have any chance of addressing. It is no longer sufficient to simply acknowledge that residents of U.S. territories face unequal treatment and discrimination. The United States must recognize it has colonies and that this is a problem that demands urgent action to solve.

As you map out the priorities for your Committee over the next two years, we offer the following recommendations:

Recognize the U.S. has Colonies and that This is a Problem that Urgently Needs to be Solved

As we approach 125 years since the United States established an overseas empire in 1898, it is time to formally recognize that the United States has colonies and that this is a problem that warrants serious and urgent action to resolve through a process of self-determination. While recognizing situations where the United States falls short of its ideals is never comfortable, sometimes uncomfortable conversations are necessary. Historically, there are times Congress has taken bipartisan leadership to help the country grapple with situations it is not proud of. In 1988, Congress and President Reagan recognized the United States was wrong to intern Japanese Americans during World War II based “solely on race.” In 1993, Congress and President Clinton apologized to Native Hawaiians a century after the United States overthrew the Kingdom of Hawaii, recognizing “the deprivation of the rights of Native Hawaiians to self-determination.” In 2009, Congress apologized to Native Peoples “for the many instances of violence, maltreatment, and neglect inflicted on Native Peoples by citizens of the United States.” That year the U.S. Senate also adopted a concurrent resolution apologizing to African-Americans “for the wrongs committed against them and their ancestors who suffered under slavery and Jim Crow laws,” mirroring language passed in a House Resolution the prior year. 125 years is a long time - more than half as long as the United States has existed. It is time for the United States to return to its anti-colonial roots and recognize that its racist colonial experiment has gone on long enough.

Condemn the *Insular Cases* and the Colonial Framework they Established

The shift from a United States that was founded on anti-colonial ideals to one that has now held colonies for almost 125 years is a result of a series of Supreme Court cases known as the *Insular Cases*. Decided by nearly the same court that decided *Plessy v. Ferguson*, the Supreme Court in the *Insular Cases* labeled residents of overseas territories “alien races” and “savages” as justification for denying them constitutional rights and the promise of any future political participation. The *Insular Cases* have been widely condemned by liberals and conservatives alike. Justice Neil Gorsuch recently declared the *Insular Cases* “deserve no place in our law” because they “have no foundation in the Constitution and rest instead on racial stereotypes.” Justice Sonia Sotomayor agreed, emphasizing they “were premised on beliefs both odious and wrong.”

Nonetheless, the U.S. Department of Justice has to date avoided calls to condemn the racist *Insular Cases* and the colonial framework they established.¹ To the contrary, the Justice Department has in fact opposed calls for the Supreme Court to overrule the *Insular Cases*.² In May 2021, the House Committee on Natural Resources held an historic, first-ever congressional hearing focused on formally condemning the *Insular Cases* and the colonial framework they established. Unfortunately, the House did not act despite bipartisan support, and no similar resolution has so far been considered in the U.S. Senate. As the failed U.S. colonial experiment approaches 125 years, we urge both chambers of Congress to finally condemn the racist *Insular Cases* in unequivocal terms.

¹ [Letter from Members of Congress to President Biden](#), July 12, 2023; [Letter from Civil Rights Groups to Attorney General Garland and Solicitor General Prelogar](#), February 10, 2022.

² Robert Barnes, [Biden administration urges Supreme Court not to take citizenship case](#), Washington Post, August 29, 2022.

Improve Data Equity and Digital Services for Residents of U.S. Territories.

The invisibility and marginalization of residents of U.S. territories are compounded because they are too often excluded from important U.S. census and federal statistical programs.³ Further, government digital services are often not designed to accommodate the unique needs of territorial residents, sometimes leaving them out altogether.⁴ We urge Congress to ask the Government Accountability Office (GAO) to comprehensively examine the ways that territorial residents—the vast majority of whom are communities of color—are excluded from federal data collection and digital services and how that exclusion impacts those communities. Based on that information, Congress could work with President Biden to build on a [1992 Presidential Memorandum](#) that was limited to Puerto Rico to strengthen the standards, policies, and norms that govern federal departments and agencies regarding the treatment of U.S. territories in the statistical system as a whole. Finally, Congress could work with the President to prioritize improvements to digital services for residents of U.S. territories as part of broader efforts to improve equity in the federal government.

Continue Promoting Equity for U.S. Territories in Federal Benefits Programs

Living in a U.S. territory should not mean losing access to federal benefits programs that every other community in the United States is able to take for granted. We urge Congress to take the final steps to achieving full parity for residents of U.S. territories when it comes to critical programs such as Supplemental Security Income (SSI), the Supplemental Nutrition Assistance Program (SNAP), closing remaining gaps in the Medicare and Medicaid programs, and increasing funding for federal matching for the Earned Income Tax Credit (EITC). While the Supreme Court held in *United States v. Vaeillo Madero* that residents of U.S. territories do not have a constitutional right to be treated equally to their fellow citizens living elsewhere in the United States when it comes to basic social safety net programs, it is immoral to exclude vulnerable U.S. citizens from these programs based solely on where they happen to live.

Wind Down PROMESA and Return Local Governance to Puerto Rico

The most visible example of the colonial framework governing U.S. territories today is the undemocratic and unaccountable financial oversight board created in 2016 under the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA). With much of the process for restructuring Puerto Rico's public debt and liabilities now complete and the "break glass" emergency now past, the democratic deficiencies inherent in PROMESA can no longer be justified, if they ever could be. It is time to reexamine the standards for winding down PROMESA to ensure a quick and orderly transition to returning democratic governance over local affairs to the people of Puerto Rico, where it belongs.

In conclusion, as the United States approaches 125 years of overseas empire, Congress has an historic opportunity to shift the federal mindset from simply making improvements to the colonial status quo to dismantling it altogether. America's failed colonial experiment has lasted long enough. It is time we return back to the unequivocal rejection of colonialism our nation was founded upon.

³ Jae June Lee, Cara Brumfield, and Neil Weare, [Advancing Data Equity for U.S. Territories](#), November 29, 2022.

⁴ Meghan O'Meara and Scott Reuber, [10x Phase 1 Final Report - Improving Government Digital Service Delivery to U.S. Territories](#), June 29, 2022.

