

No. _____

In The
Supreme Court of the United States

Juan Dalmau Ramirez,
Petitioner,

v.

Estado Libre Asociado de Puerto Rico,
Respondent.

On Petition for Writ of Certiorari to
the Supreme Court of
the Commonwealth of Puerto Rico

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Does the ballot for the upcoming 2024 Plebiscite in Puerto Rico violate petitioner's and the electorate's federal constitutional rights to freedom of speech and association by not including a column to cast a vote for the "incorporation of Commonwealth" among the already-included options of Statehood, Independence and Free Association.

RELATED PROCEEDINGS

Dismissal (without opinion) by the Puerto Rico Supreme Court of Petitioner's Petition for Order to the Puerto Rico State Elections Commission to include a column for the "incorporation of Commonwealth" in the ballot for the 2024 Plebiscite. Order issued on July 30, 2024, with two justices in dissent.

There are no lower court proceedings since the case arose in original jurisdiction in the Puerto Rico Supreme Court as provided in Section 8.1 of Act 165-2020.

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OPINIONS BELOW

None.

JURISDICTION

This Court has jurisdiction to issue the Writ of Certiorari pursuant to 28 USC 1258 (Supreme Court of Puerto Rico; certiorari).

CONSTITUTIONAL PROVISIONS INVOLVED

First and Fourteenth Amendments of the Constitution of the United States.

STATEMENT OF THE CASE

Should this Court allow the Government of Puerto Rico to exclude territorial incorporation in the upcoming 2024 Plebiscite called for to vote on status options other than territorial non-incorporation?

Rule 10 Compliance:

This is a petition for Writ of Certiorari requesting that this Court overturn the Supreme Court of Puerto Rico's dismissal (without opinion) of Petitioner's request that the ballot in the upcoming 2024 political status plebiscite include a column for voters to choose "incorporation of Commonwealth", and that an order be issued to the Puerto Rico State Elections Commission to include such a column in the ballot for the upcoming plebiscite.

Petitioner Juan Carlos Albors is admitted to this Court and is the founder of Estadolibristas Unidos, an organization seeking the incorporation of the Commonwealth of Puerto Rico to the United States. In 2019, Petitioner was certified by the Popular Democratic Party of Puerto Rico as a candidate for Resident Commissioner, Puerto Rico's non-voting delegate in Congress, but withdrew from the race in January, 2020 for personal reasons. Estadolibristas Unidos has joined Albors as Petitioner.

As explained below, this petition for Writ of Certiorari complies with Rule 10 of the rules of this Court inasmuch as a state court (in this case, the Puerto Rico Supreme Court) has decided an important question of federal law that has not been, but should be, settled by this Court. The important question of federal law that has not been, but should be, settled by this Court by issuance of the Writ of Certiorari and resolution of the case is whether or not it is constitutionally mandated by the Equal Protection Clause of the Fourteenth Amendment of the Constitution that the ballot for the plebiscite to be held in Puerto Rico on November 5, 2024 must provide a column for the significant portion of the Puerto Rico electorate made of Commonwealth supporters—petitioner included—to vote for the incorporation of Commonwealth, among the options already included in the ballot, namely Statehood, Independence and Free Association.

Rule 11. Imperative Public Importance

This petition and the subsequent case is of imperative public importance, given that the outcome of this case will determine if a significant portion of the Puerto Rico electorate—Commonwealth supporters—will have the option to cast a vote in the upcoming 2024 plebiscite on Puerto Rico political status options. The imperative public importance of this writ and the subsequent case to protect federally mandated constitutional rights is enhanced to the extreme when we consider that the Supreme Court of Puerto Rico has held that blank votes cast in any election in Puerto Rico—including plebiscites—are NOT to be counted. *See Suárez Cáceres v. CEE*, 2020 DTS 19 (2009).

Rule 12(e).

Introduction

Puerto Rico enacted Public Law 165-2020 to authorize the Governor of the Commonwealth to call for a plebiscite to be held between political status options to be chosen and defined by the Governor. On July 1, 2024, Governor Pedro Pierluisi Urrutia issued Executive Order Number 2024-016, calling for a plebiscite to be held on November 5, 2024 between the options of Statehood, Independence and Free Association. The Executive Order defines Free Association as independence.

It is settled law that the Commonwealth of Puerto Rico came to existence on July 25, 1952 in what this Court described in a 2016 decision as “Puerto Rico’s constitutional moment”. *See Puerto Rico v.*

Sánchez Valle, infra. It is also settled law that the Commonwealth of Puerto Rico is a non-incorporated territory of the United States. *See Balzac v. Porto Rico*, 258 U.S. 298 (1922); *Financial Oversight and Management Bd. for Puerto Rico v. Aurelius Investment, LLC*, 590 U.S. __ (2020; providing for the constitutionality of the PROMESA Act, Public Law 114-187). During the period between the 1952 establishment of Commonwealth and the 2020 *Aurelius* decision of this Court, however, it was an open legal question whether or not Puerto Rico, once it became a Commonwealth, had ceased to be a non-incorporated territory (or, for that matter, a territory) of the United States. That open question was settled in *Aurelius*.

Once it became the law of the land in 2020 that Puerto Rico, as a Commonwealth, remained a non-incorporated territory of the United States, a federal constitutional right was born for the pro-Commonwealth as incorporated territory-electorate to cast a vote in any upcoming plebiscite to be held in Puerto Rico that includes the options of Statehood and Independence. This is the case because it is now settled law that Puerto Rico is both a Commonwealth and non-incorporated, which makes the current status of Puerto Rico one of the only two available classifications recognized by American Constitutional Law for organized territories. Therefore, the portion of the Puerto Rico electorate seeking a change in the current territorial status as a non-incorporated territory may now seek as a constitutionally recognizable option an incorporated Commonwealth.

This Court has held that states cannot infringe upon the federal constitutional right to freedom of speech and association of significant portions of the electorate to be represented in the ballot as protected by the First Amendment. *Williams v. Rhodes*, 393 U.S. 23 (1968) (“We have repeatedly held that freedom of association is protected by the First Amendment. And, of course, this freedom protected against federal encroachment by the First Amendment is entitled under the Fourteenth Amendment to the same protection from infringement by the States.”) It remains an open question for this Court to decide in this case whether those federal constitutional provisions prevent the Government of Puerto Rico from excluding the Commonwealth as an incorporated territory of the United States-option from the 2024 Plebiscite ballot, which plebiscite is called for the electorate to decide between options other than the “current territorial status”.

It is without question that Commonwealth status supporters constitute a significant portion of the Puerto Rico electorate. In the last such plebiscite held in 1993 between the options of Statehood, Commonwealth and Independence, Commonwealth obtained 48 percent of the vote and prevailed over a 46 percent vote for Statehood.

It is for this Court to acknowledge the existence of a federal constitutional right to freedom of speech and association for Commonwealth supporters in Puerto Rico at this time and under current circumstances, to be able to cast a vote for the incorporation of the Commonwealth of Puerto Rico to

the United States in the 2024 Plebiscite that will also include the options of Statehood and Independence (in Free Association or not).

Discussion

In a series of cases commonly referred to as the Insular Cases, decided between 1901 and 1922, this Court held that, under the Territory Clause of the Constitution, Congress created two types of territories, namely incorporated territories and non-incorporated territories, and held that Puerto Rico had become a non-incorporated territory.

In 1950, Congress enacted Public Law 600, enabling Puerto Rico to adopt its own Constitution. Puerto Rico adopted the Constitution of the Commonwealth of Puerto Rico in 1952. A legal question as to whether or not Puerto Rico, through enactment of the 1952 Commonwealth, had ceased to be a territory of the United States, remained open throughout the following almost seventy-year period, and was finally settled by this Court in 2020 in *Aurelius, supra*. In *Aurelius*, this Court recognized the constitutionality of an act of Congress transferring Commonwealth-held governmental authority to a board of federal appointees. Before *Aurelius*, this Court had held that the Commonwealth of Puerto Rico was “sovereign over matters not ruled by the federal Constitution”; citing with approval First Circuit Judge Magruder’s reasoning in a series of First Circuit Court of Appeals cases deciding that the Commonwealth of Puerto Rico was to be treated as a state rather than as a territory. *Calero-Toledo v. Pearson Yacht*, 416 US 63

(1975). That ruling —that the Commonwealth, like a state, is “sovereign over matters not ruled by the federal constitution”, restated in the 1982 case *Rodriguez v. PPD*, 457 U.S. 1 (1982), let a majority of the Puerto Rico electorate to believe that, in 1952, Congress had relinquished its territorial powers under the Territory Clause over Puerto Rico and that, therefore, the Commonwealth of Puerto Rico had become something different than a non-incorporated territory of the United States. In 2016, contrary to all previous First Circuit Court of Appeals precedent, this Court held in *Puerto Rico v. Sanchez Valle*, 579 U.S. ____ (2016) that Commonwealth’s sovereignty emanates from Congress, and not from the people of Puerto Rico (the latter, as is the case of the states of the Union). Therefore, during the 2016-2020 period, this Court settled the legal question as to whether or not Puerto Rico was both a Commonwealth and a non-incorporated territory of the United States that had remained open during the 1952-2016 period. Since 2020, Puerto Rico is, and has been since 1952, both a Commonwealth and a non-incorporated territory.

In 2012, a plebiscite held in Puerto Rico returned a 54 percent majority in favor of a change in Puerto Rico’s “current territorial status”. At the time the 2012 plebiscite, it was still an open legal question whether or not Commonwealth status had made Puerto Rico something different than a non-incorporated territory of the United States. In 2017, Puerto Rico held another plebiscite between the options of Statehood, Independence and Free Association, which returned a majority for Statehood. In 2020, Puerto Rico held a “Yes or No” referendum on

Statehood, which returned a 52 percent “Yes” vote. In none of these plebiscites and referendum was the people of Puerto Rico consulted as to whether or not they want Puerto Rico to transition from non-incorporation to incorporation and remain the 1952 Commonwealth.

The option for Puerto Rico to remain as a Commonwealth of the United States but transition from a non-incorporated territory into an incorporated territory arose in the 2016-2020 period as this Court closed the open legal question on Commonwealth status that had remained open since 1952. Therefore, it is only after 2016, and more determinative since 2020, that the Puerto Rico electorate which favors Commonwealth status to transition between its current non-incorporation status to become an incorporated territory, has been denied representation in the ballot in both the 2017 plebiscite and, more determinative, in the 2020 referendum. To hold the 2024 plebiscite, once the open legal question on Commonwealth has become settled for four years, without allowing Commonwealth supporters in Puerto Rico to vote for incorporation of Commonwealth status as an option to change the “current territorial status” would be an infringement upon the federal constitutional right to freedom of speech and association which American citizens living in Puerto Rico are entitled to.

It is hereby requested that this Court issue an order directed to the Puerto Rico State Elections Commission (“Comisión Estatal de Elecciones”, in Spanish), that a separate column entitled for

“incorporation of Commonwealth” (“incorporación del Estado Libre Asociado”, in Spanish) be included in the ballot for the November 5, 2024 Plebiscite to be held in Puerto Rico and the votes cast below said column be counted in the same manner as votes cast for Statehood, Independence and Free Association.

Act Number 2020-016 calls for a plebiscite between political status options that are other than the current political status of Puerto Rico. This is key to a complete understanding of the particular question presented here. While defining the plebiscite this narrowly—by excluding the current political status of Puerto Rico—the Governor, through Executive Order 2024-016, further excluded incorporation of the existing non-incorporated Commonwealth as an option available for the electorate to cast a vote on. If there is an argument that can be made for excluding the current non-incorporated status from the ballot, given that the 2024 Plebiscite is called for to vote for political status alternatives other than the existing political status (given the 2012 fifty-four percent mandate to do that), there is certainly no constitutionally-protected argument for excluding a distinct political status - incorporation of the current 1952 non-incorporated Commonwealth- from the alternatives available to be chosen from in the ballot. And this unconstitutional imposition by the pro-Statehood Governor of Puerto Rico against the will of a significant portion of the electorate is further enhanced by the fact that, under Puerto Rico law, pursuant to the *Aponte* 2009 Supreme Court of Puerto Rico decision referenced in Executive Order 2024-016, blank votes are not to be counted for

any reason whatsoever in any status vote such as the upcoming 2024 Plebiscite.

The Government of Puerto Rico excludes from the 2024 Plebiscite ballot a political status option that is expressly recognized by American Constitutional Law—incorporated territorial status—and includes two other options which have no place in American Constitutional Law—independence and free association. The latter two options are defined by International Law, but not by American Constitutional Law. This Court is mandated by the Constitution of the United States to determine what American Constitutional Law is, which is preemptive of any form of International Law in any territory under American sovereignty. That is the case in Puerto Rico. A plebiscite called to consult the Puerto Rico electorate on political status options available for a change in the current non-incorporated territorial status that includes only one option under American Constitutional Law—Statehood—is clearly in violation of the federally mandated constitutional rights to freedom of speech and association of those of us in Puerto Rico that, given the option between Statehood and incorporated territorial status as a Commonwealth, would choose the latter as defined in American Constitutional Law.

Time is of the essence. The 2024 Plebiscite will be held on November 5, 2024, in three months-time. As of the date of this filing, the Puerto Rico Elections Comptroller has already enacted the required regulation allowing for political organizations (such as Estadolibristas Unidos, co-petitioner here) to register

with the Office of the Elections Comptroller to represent any one of the three political status options included in Executive Order Number 2024-016 and conduct a political campaign on behalf of one of three political status option included in the ballot. See www.oce.pr.gov As of the time of this filing, Estadolibristas Unidos, as a promoter of incorporation of Commonwealth status, is being discriminated against by the Office of the Elections Comptroller regulation's not providing for the same opportunity to register with the Office and conduct a political campaign for voters to choose the incorporation of Commonwealth in a plebiscite unconstitutionally limited to the options of Statehood and Independence (with or without a Free Association treaty) in violation of Estadolibristas Unidos' constitutional right to free speech and association. The Puerto Rico Elections Commission has already determined the order in which the three status options will appear in the ballot, and has issued a model ballot including the only three status options of Statehood, Independence and Free Association not providing for a fourth write-in column. Ballot printing may be happening soon.

The federal question involved was properly raised by Petitioner in its Petition to the Puerto Rico Supreme Court. See Appendix.

CONCLUSION

The Supreme Court of Puerto Rico dismissed Petitioner's petition that the ballot for the 2024 Plebiscite include incorporation of Commonwealth status. Petitioner claims that allowing the

Government of Puerto Rico to hold the vote as provided for in Executive Order 2024-016 is unconstitutional in violation of the Equal Protection Clause of the Constitution of the United States and First Amendment protections to freedom of speech and association. The Supreme Court of Puerto Rico's dismissal of Petitioner's petition should be overruled by this Court and this Court should order the Puerto Rico State Elections Commission to include a column in the 2024 Plebiscite ballot for voters to vote for incorporation of Commonwealth status vis a vis the other options of Statehood, Independence and Free Association.

Respectfully submitted,

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APPENDIX A

[Petitioner's English Translation of the Puerto Rico Supreme Court Order in Spanish Denying Petitioner's Request]

RESOLUTION

In San Juan, Puerto Rico, on July 31, 8:24 p.m.

Examined the Motion to Request to Intervene as a Party pursuant to Rule 17 of Civil Procedure or to Appear as Amicus Curiae and to Order the State Elections Commission to include a Column for the Incorporation of the Commonwealth as a Status Option in the Plebiscite called by Executive Order OE-2024-16, presented by Mr. Juan Carlos Albors, the motion is DENIED.

It was agreed upon by the Court and certified by the Secretary of the Supreme Court. Chief Justice Oronoz would have granted the motion of Mr. Juan Carlos Albors to be admitted as intervening party. Associate Justice Mr. Colón Pérez, in relation to the epigraph case, would admit Mr. Juan Carlos Albors as intervening party, as requested.

Javier O. Sepúlveda Rodríguez
Secretary of the Supreme Court

APPENDIX B

GOVERNMENT OF PUERTO RICO LA FORTALEZA SAN JUAN, PUERTO RICO

Administrative Bulletin No. OE-2024-016

EXECUTIVE ORDER OF THE GOVERNOR OF PUERTO RICO, THE HON. PEDRO R. PIERLUISI, TO CALL A BALLOT MEASURE ELECTION TO IMPLEMENT THE PETITION FOR STATEHOOD OF THE 2020 PLEBISCITE

WHEREAS: Act No. 51-2020, as amended, known as the "Act to Define Puerto Rico's Ultimate Political Status" ("Act No. 51"), established the rules for the holding of a plebiscite to resolve the century-old issue of Puerto Rico's status as a territory of the United States of America (the "United States"). In doing so, the U.S. citizens of Puerto Rico were guaranteed the exercise and reassertion of their right to self-determination, through a direct vote and without intermediaries, and their right to demand the federal government for redress of grievances.

WHEREAS: Said statute captured the will of the voters expressed by a majority of the U.S. citizens of Puerto Rico, which is

still current: (i) a direct demand for equal rights and obligations through statehood and permanent union to the United States; (ii) a direct rejection of the current territorial and colonial status, as well as (iii) the rejection of the option of independence with a treaty of free association or full independence. Such expression stemmed from the plebiscite held in Puerto Rico on November 6, 2012, which was reasserted by voters in the plebiscite of June 11, 2017.

WHEREAS: After statehood became the decolonization option that polled a majority support from voters in the plebiscites of 2012 and 2017, the Legislative Assembly of Puerto Rico -through Act No. 51- 2020- directed the holding of a third plebiscite on November 3, 2020, to express to the Congress of the United States of America an unequivocal claim for statehood, with "Yes" or "No" options, through the application of the same final voting mechanism that former territories employed, after various voting events, to ultimately become states of the Union, including Alaska and Hawaii, the most recent states to have been admitted. On November 3, 2020, 52.52% of voters, an absolute majority of the voting U.S. citizens in

Puerto Rico who went to the polls, exercised their direct, free, and voluntary consent to statehood by choosing the "Yes" option. It is evident that, in each of the plebiscites held, the support for decolonization has increased, thus prevailing the option for equality through statehood.

WHEREAS: The Supreme Court of Puerto Rico expressed in *Aponte Rosario et al. v. Pres. CEE II*, 205 DPR 407 (2020), that the claim for self-determination and the will for change expressed by our people in 2012 and 2017 must be upheld just as in 1967, 1993, and 1998. Likewise, the Supreme Court of Puerto Rico validated the public purpose of the plebiscite of November 3, 2020, based on the existence of a people's mandate at the polls, as evidenced in the previous plebiscites.

WHEREAS: The direct vote rejecting our current territory status said plebiscites, also constituted a revocation of the consent to the territory status supposedly granted by the U.S. citizens of Puerto Rico to the government of the United States of America in the Referendum for Public Law 81-600 on June 4, 1951.

WHEREAS: Act No. 165-2020, known as the "Act to Implement the 2020 Plebiscite Petition

for Statehood" ("Act No. 165-2020"), was enacted to set forth the public policy of the Government of Puerto Rico on the implementation of the petition for statehood. In Section 2.1 of said Act, the Legislative Assembly of Puerto Rico empowered the Governor of Puerto Rico to call -through an Executive Order- when deemed necessary:

- a. A voting or electoral process to enforce the will of an absolute majority of U.S. citizens of Puerto Rico in favor of statehood, according to the results of the November 3, 2020 Plebiscite.
- b. The Governor may also exercise this authority to call and coordinate a voting when any electoral petition, proposal, response, or ratification related to the political status of Puerto Rico is presented or requested by one or the two legislative houses of Congress, the President of the United States of America, or both.
- c. The Governor may hold a ballot measure election with a ballot authorized by the U.S. Department of Justice as provided in P.L. 113-76.

- d. A ballot measure election to ratify the will of the People of Puerto Rico.
- e. A voting to resolve the future political status of Puerto Rico.

The voting called by the Governor pursuant to Act No. 165-2020 may coincide with voting events called pursuant to other laws and even with the General Election. To hold such event together with the General Election promotes a greater voter turnout, renders the process more economic, and encourages fiscal responsibility by avoiding additional spending charged to the public treasury.

WHEREAS: It should be noted that in *Aponte Rosario et al. v. Pres. GEE II, supra*, the Supreme Court explained that the decisions of the political branches of conducting plebiscites warrant deference. *Id.*, p. 436. Along these lines, it reasserted that the Judicial Branch does not intervene in legislative decisions regarding public policy nor in the manner in which the Legislative Assembly enforces the voters' mandate. *Id.*, pp. 421 and 440. In the exercise of said legislative discretion that warrants deference, the Legislative Assembly delegated to the Executive Branch the power to call a plebiscite and established appropriate guidelines to exercise said power. *See,*

Dominguez Castro v. E.L.A., 178 DPR 1, 90-100 (2010).

WHEREAS: Section 402 of PROMESA sets forth that "nothing in this Act shall be interpreted to restrict Puerto Rico's right to determine its future political status, including by conducting the plebiscite as authorized by Public Law 113-76 [...]."

WHEREAS: On July 15, 2022, H.R. 8393 known as the "Puerto Rico Status Act," was filed with the United States House of Representatives to enable the people of Puerto Rico to exercise their right to self-determination and choose a permanent and nonterritorial political status for Puerto Rico and to provide for a transition to the alternative favored by voters. It shall be a plebiscite binding on the United States Congress, which shall include the following options:

- Statehood
- Independence
- Sovereignty in Free Association with the United States

At a historical voting, the federal House approved the measure. On the

one hand, the full delegation of the Democratic Party - two hundred fifteen (215) congressmen and women- and sixteen (16) Republican congressmen and women voted in favor of the measure. On the other hand, one hundred ninety-one (191) Republican congressmen and women voted against it. However, because it was approved at the end of the legislative session, the federal Senate did not have enough time to bring the measure to the floor to consider and vote upon it.

The approval of the "Puerto Rico Status Act" is a historical achievement for it is the first time that one of the houses of the United States Congress passes a measure for a self-executing solution to our status that recognizes the right of Puerto Ricans to become a state, binding it to the Union.

It should be noted that, after the last transaction of the legislative process of H.R. 8393, the bill was once again filed with the U.S. House of Representative as H.R. 2757 and an equal version was filed with the Senate as S.3231, for the pertinent legislative process. The Senate bill has the support of twenty-seven (27) federal Democrat congressmen and women as cosponsors.

WHEREAS: On December 15, 2022, the President of the United States of America, Joseph R. Biden Jr., published a Statement of Administration Policy, showing his Administration's support to the passage of H.R. 8393. In his statement, the President called on Congress to act swiftly to put the future of Puerto Rico's political status in the hands of Puerto Ricans, where it belongs.

WHEREAS: The success of the "Puerto Rico Status Act," a bill for a binding plebiscite without colonial options, in the United States House of Representatives constitutes a milestone in the fight for the self-determination of Puerto Rico. As the late Associate Justice of the Supreme Court of the United States, the Hon. Ruth Bader Ginsburg, once said "real change, enduring change, happens one step at a time." With this in mind, our commitment to Puerto Rico is to take all the necessary steps to vindicate their civil rights, starting with achieving its decolonization and equal rights as U. S. citizens.

WHEREAS: The status is the direct cause of the inequality between the U. S. citizens who live in Puerto Rico and those who live in the states. We cannot endorse nor perpetuate said inequality. To

delay equality is to perpetuate inequality. Our commitment to the people on the past elections was to fight for statehood and it was thus supported by the people upon casting their vote demanding a change of status. We have made significant progress in Congress, and with this Executive Order, we shall continue to moving forward in that direction.

WHEREAS: Abraham Lincoln once said that the elections belong to the people. Hence, the people do not need permission from the United States Congress to go to the polls; its will is enough. A similar message prompted a significant step at the federal level with H.R. 8393 and we will not cease in our fight. In close attention to the will of the people expressed in the past plebiscites, we are compelled to continue our journey and keep raising our voice until our claim is heard and validated. "Power concedes nothing without a demand. It never has and it never will." Frederick Douglas (1857). We believe that Act No. 165- 2020 provides us with a legitimate mechanism to demand the decolonization of Puerto Rico and we shall use any tools available to further our cause and put an end to our territorial, colonial, and undignified relationship. This is the public policy of

our Government.

THEREFORE: I, PEDRO R. PIERLUISI, Governor of Puerto Rico, by virtue of the powers inherent to my office and the authority conferred unto me by the Constitution and the laws of Puerto Rico, hereby decree and order the following:

SECTION 1: PLEBISCITE. In order to enforce the will of the voters expressed in the 2020 Plebiscite, I deemed it necessary to call a ballot measure election in accordance with the grounds set forth in Section 2.1 of Act No. 165-2020. Hence, I hereby order the holding of a plebiscite pursuant to the provisions of said statute. The voting event for this plebiscite shall be held on the day of the General Election, on November 5, 2024. The rules for this plebiscite are established in this Executive Order. Given that Election Day is already considered a holiday, the rules established in the act shall be followed with respect to the opening of commercial establishments.

SECTION 2: PROCLAMATION. The plebiscite ordered hereby shall be called through a Proclamation of the Governor to be published in accordance with the provisions of Act No. 165-2020. The proclamation shall be published -in its

entirety and as signed in at least two (2) newspapers of general circulation in Puerto Rico in both Spanish and English. It shall include, in addition to the seal of the Governor in the header of the proclamation, the date and the title: "Act to Implement the 2020 Plebiscite Petition for Statehood."

The content of the proclamation -as required verbatim by the Act- is the following:

The Legislative Assembly and the Governor of Puerto Rico approved Act No. 165-2020, known as an "Act to Implement the 2020 Plebiscite Petition for Statehood," which provides for the holding of a voting in order to enforce the will of an absolute majority of voters as expressed in the November 3, 2020 Plebiscite, including such voting as are necessary arising from any electoral petition, proposal, response or ratification related to the political status of Puerto Rico presented or requested by one or the two houses of Congress, the United States President or both.

Act No. 165-2020 provides that all citizens who meet the requirements of this Act and the Puerto Rico Election Code shall be considered qualified

voters, to wit: be a citizen of the United States of America and legally domiciled in the jurisdiction of Puerto Rico; be eighteen (18) years of age by the date of this voting; be duly qualified as such before the holding of the voting, and not have been declared mentally incompetent by a Court. Interested citizens, including new voters, who need to carry out any transaction in the General Voter Registry before the registration deadline, shall have up to fifty (50) days before the holding of the voting to update their status, restore their registration, or register to vote. In addition, if necessary, the aforementioned date shall serve as the deadline for voters to request transfers or relocations, as well as request Early Voting and Voting at an Accessible Polling Place. Voters eligible for Absentee Voting shall have up to forty-five (45) days before the holding of the voting to request Absentee Voting. The Permanent Registration Boards (JIP) of the State Election Commission shall be open to the public to conduct all of these transactions during regular business hours.

In the exercise of the powers and duties conferred to the Governor by this Act, it is hereby proclaimed that:

FIRST: Voting Date

On Tuesday, November 5, 2024, a voting authorized under Act No. 165-2020, known as the "Act to Implement the 2020 Plebiscite Petition for Statehood" shall be held in every election precinct of Puerto Rico, and all qualified voters are hereby called to participate therein.

SECOND: Voting Hours

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

THIRD: Options to be Presented in the Voting

The plebiscite shall offer eligible voters the opportunity to choose one (1) of the options included in the "Puerto Rico Status Act," HR 8393. Hence, the following options shall be included in the ballot:

(A) Statehood.

(B) Independence.

(C) Sovereignty in Free Association
with the United States

FOURTH: Meaning of the Options

The ballot shall include the following
explanation of the options:

A. Statehood:

1. The State of Puerto Rico is admitted into the Union on an equal footing with the other States in all respects whatever and is a part of the permanent union of the United States of America, subject to the United States Constitution, with powers not prohibited by the Constitution to the States and reserved to the State of Puerto Rico or to its residents.
2. The residents of Puerto Rico are fully self-governing with their rights secured under the United States Constitution, which shall be fully applicable in Puerto Rico and which, with the laws and treaties of the United States, is

the supreme law and has the same force and effect in Puerto Rico as in the other States of the Union.

3. United States citizenship of those born in Puerto Rico is recognized, protected, and secured under the United States Constitution in the same way such citizenship is for all United States citizens born in the other States.
4. Puerto Rico will no longer be a possession of the United States for purposes of the Internal Revenue Code. Instead, the State of Puerto Rico will become a State on equal footing with each of the current 50 States in the United States of America. Individuals and businesses resident in the State of Puerto Rico will be subject to United States Federal tax laws as well as applicable State tax laws.

B. Independence:

1. Puerto Rico is a sovereign nation that has full authority and responsibility over its territory and population under a constitution of its own adoption

which shall be the supreme law of the nation.

2. Puerto Rico is vested with full powers and responsibilities consistent with the rights and responsibilities that devolve upon a sovereign nation under international law, including its own fiscal and monetary policy, immigration, trade, and the conduct in its own name and right of relations with other nations and international organizations.
3. Puerto Rico has full authority and responsibility over its citizenship and immigration laws, and birth in Puerto Rico or relationship to persons with statutory United States citizenship by birth in the former territory shall cease to be a basis for United States nationality or citizenship, except that persons who have such United States citizenship have a right to retain United States nationality and citizenship for life, by entitlement or election as provided by Federal law.
4. Puerto Rico will no longer be a possession of the United States for purposes of the Internal

Revenue Code. In general, United States citizens and United States businesses in the nation of Puerto Rico will be subject to United States Federal tax laws (as is the case with any other United States citizen or United States business abroad) and to Puerto Rican tax laws. Puerto Rico's status as an independent, sovereign nation will be the controlling factor in the taxation of Puerto Rican taxpayers.

5. The Constitution and laws of the United States no longer apply in Puerto Rico and United States sovereignty in Puerto Rico is ended.

C. Sovereignty in Free Association with the United States:

1. Puerto Rico is a sovereign nation that has full authority and responsibility over its territory and population under a constitution of its own adoption which shall be the supreme law of the nation.
2. Puerto Rico is vested with full powers and responsibilities consistent with the rights and

responsibilities that devolve upon a sovereign nation under international law, including its own fiscal and monetary policy, immigration, trade, and the conduct in its own name and right of relations with other nations and international organizations, except as otherwise provided for in the Articles of Free Association to be negotiated by Puerto Rico and the United States.

3. Puerto Rico has full authority and responsibility over its citizenship and immigration laws, and persons who have United States citizenship have a right to retain United States nationality and citizenship for life by entitlement or election as provided by Federal law.
4. Birth in Puerto Rico shall cease to be a basis for United States nationality or citizenship. Individuals born in Puerto Rico to at least one parent who is a citizen of the United States shall be United States citizens at birth, consistent with the immigration laws of the United States, for the duration of the first agreement of the Articles of Free Association.

5. Puerto Rico enters into Articles of Free Association with the United States, with such devolution and reservation of governmental functions and other bilateral arrangements as may be agreed to by both Parties under the Articles, which shall be terminable at will by either the United States or Puerto Rico at any time.
6. Puerto Rico will no longer be a possession of the United States for purposes of the Internal Revenue Code. In general, United States citizens and United States businesses in the nation of Puerto Rico will be subject to United States Federal tax laws (as is the case with any other United States citizen or United States business abroad) and to Puerto Rican tax laws. Puerto Rico's status as an independent, sovereign nation will be the controlling factor in the taxation of Puerto Rican taxpayers. In addition, Puerto Rico will enter into an agreement with the United States to provide "Sovereignty in Free Association" between the two nations. This agreement may modify the otherwise applicable tax rules,

subject to negotiation and ratification by the two nations.

7. The Constitution of the United States no longer applies in Puerto Rico, the laws of the United States no longer apply in Puerto Rico except as otherwise provided in the Articles of Free Association, and United States sovereignty in Puerto Rico is ended.
8. All matters pertaining to the government-to-government relationship between Puerto Rico and the United States, which may include foreign affairs, trade, finance, taxation, currency, economic assistance, security and defense, dispute resolution and termination, shall be provided for in the Articles of Free Association.

FIFTH: Certification of Results

The counting of ballots and the certification of the results by the State Election Commission shall only be carried out pursuant to the holding of the Supreme Court of Puerto Rico in *Suarez-Caceres v. Com. Estatal Elecciones*, 176 DPR 31, 73-74 (2009).

A vote not cast and any blank ballot cast and lacking a clear expression of the voter's intent "in no way may be counted for purposes of influencing or affecting the results of an election, referendum, or Plebiscite, among other voting events." Therefore, any interpretation of the results of this voting shall be subject to a valid vote for one of the options printed on the ballot. The absence of voters in the election or void or blank ballots cast shall never be used to suppress the intent of voters who democratically, voluntarily and validly exercised their right.

SIXTH: Vote Counting System

The same electronic vote counting system used in the General Election shall be used in this voting. Said system shall be capable of tallying votes easily, securely, and reliably with security and auditing mechanisms that ensure the transparency of the voting and vote counting processes.

SEVENTH: Voter Identification

In order to vote at the polling places, voters shall be required to provide their Voter Identification Card issued by the State Election Commission,

regardless of the expiration date thereof, or any other valid identification card authorized by the Puerto Rico Election Code.

EIGHTH: Absentee and Early Voting

In accordance with the Puerto Rico Election Code, the Commission shall guarantee the right to apply for an Absentee and Early Voting of all voters domiciled in Puerto Rico who qualify therefor within the period provided in the "Act to Implement the 2020 Plebiscite Petition for Statehood."

NINTH: Right to Vote Guaranteed

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

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

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

TENTH: Education and Disclosure

As part of the continuous efforts to educate and inform citizens and voters of the scope of the Act enabling this voting and the electoral processes related to this Proclamation, not later than fifteen (15) days from the call for this voting, the Chair of the State Election Commission shall publish and continually update in the Agency's website, a prominent space entitled "Act to Implement the 2020 Plebiscite Petition for Statehood" with the SECTION 3: SECTION 4: contents of this Act, this Proclamation, and any official material and information pertaining to this and other related voting.

ELEVENTH: Supplemental Laws

In order to implement the provisions of the "Act to Implement the 2020 Plebiscite Petition for Statehood," the provisions of Act No. 51-2020, known as the "Act to Define Puerto Rico's Ultimate Political Status," Act No. 30-2017, known as the "Act for

Equality and Congressional Representation of the United States Citizens of Puerto Rico," Act No. 58-2020, known as the "Puerto Rico Election Code of 2020," and Act No. 222-2011, as amended, known as the "Puerto Rico Political Campaign Financing Oversight Act," including the regulations adopted thereunder, shall be supplemental to this Act, in those matters that are not preempted by, or inconsistent with this Act.

SECTION 3: INITIAL COORDINATION WITH THE CHAIR OF THE STATE ELECTION COMMISSION. Not later than fifteen (15) days after the publication of the proclamation by the Governor for a voting related to the purposes of Act No. 165-2020, the Alternate Chair of the State Election Commission ("CEE," Spanish acronym or the "Commission") shall submit to the Governor:

- a. A draft of the voting ballot.
- b. A draft of the voting and general canvass regulations ("escrutinio general").
- c. A draft of or proposal for the general design of a strictly objective and nonpartisan mass

voter education campaign on the ballot options.

- d. A draft of the budget plan for the voting expenditures, including the voter education campaign.

SECTION 4: REPRESENTATION OF OPTIONS ON THE BALLOT; FUNDRAISING, CAMPAIGN EXPENSES, AND RULEMAKING. The Commission shall certify as representative of each option printed on the voting ballot the political parties, citizen groups, and political action committees.

Certification Requirements for Representing an Option:

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

action committee shall also notify the Commission, in its request for certification: the names, addresses, personal information, and positions of all the members of the governing body of the organization; if the organization existed prior to the approval of Act No. 165-2020 and had a proven track record advocating for the option it is interested in representing, or if the central governing body thereof is composed of persons affiliated with a political party, group, organization, or entities that existed prior to the request and had a proven track record advocating for the status option they are promoting; or that even if it had not existed prior to the effective date of Act No. 165-2020 or as of the filing date of the request for certification, a substantial number of the members thereof has a proven track record advocating for the option it intends to represent in the voting. Upon filing its request, it shall also notify the Commission whether it intends to represent said option individually as an organization, or shall identify the alliance or coalition

under which it shall be participating. Moreover, it shall also notify whether the only purpose of the certification is to favor or oppose any of the options printed on the ballots, or to promote abstention, any type of voting expression modality, or any other option.

- c. The names of the members of the governing body of the political party, group, or committee that is ultimately certified, shall appear on the certification to be issued by the Commission, if approved.
- d. In accordance with Section 6.2 of Act No. 165-2020, any natural or juridical person who fraudulently violates any of the provisions of said section or who being duly required hereunder, voluntarily fails or refuses to comply therewith, shall be guilty of an election offense and, upon conviction, shall be punished by imprisonment for a term not to exceed two (2) years, or by a fine not to exceed ten thousand dollars (\$10,000) for every violation, or both penalties, at the discretion of the Court.

Certification to Represent an Option:

- a. No organization that has failed to meet the requirements of Act No. 165-2020, the Commission, and Act No. 222- 2011, as amended, known as the "Puerto Rico Political Campaign Financing Oversight Act," shall be certified as representative of an option.
- b. The State Election Commission shall certify as representative of each option printed on the voting ballot the political parties, parties by petition, citizen groups, or political action committees that so request and meet the requirements of Act No. 165-2020.
- c. Nothing shall prevent political parties, parties by petition, citizen groups, or political action committees from forming alliances or coalitions to represent the same political status option; provided, that they all meet the requirements of Act No. 165-2020.
- d. Without prejudice to the provisions of Act No. 165-2020, the Commission and the Office of the Election Comptroller shall adopt the rules that shall govern

all that pertains to the requests, forms, and procedures to be followed to implement all that pertains to the certification as representative, including alliances or coalitions.

- e. No political party, party by petition, citizen group, political action committee, alliance, or coalition may represent more than one (1) option in these voting events.
- f. Any political party, party by petition, citizen group, political action committee, and natural or juridical person, that is certified as representative of any of the options printed on the ballot, which receives or uses contributions, engages in fundraising activities, and/or incurs campaign advertising expenditures or any kind of canvassing activity in support or against any of the options, including, to promote abstention, any type of voting expression modality, or any other status option shall meet the registration and certification requirements in the Office of the Election

Comptroller, as a prerequisite to engage in canvassing activities or to its certification in the Commission.

- g. No political party, party by petition, citizen group, or political action committee that has failed to meet the certification and reporting requirements provided in above subsection (f) may assign, contribute, and/or lend financial or in-kind resources to any political party, party by petition, citizen group, or political action committee certified as representative or that is part of an alliance.
- h. In accordance with Section 6.1 of Act No. 165-2020, any natural or juridical person that fraudulently violates any of the provisions of this Section or that, being required hereunder, voluntarily fails or refuses to comply therewith, shall be guilty of an election offense and, upon conviction, shall be punished by imprisonment for a term not to exceed two (2) years or by a fine not to exceed ten thousand dollars (\$10,000) for every violation, or both penalties, at the discretion of

the Court.

Electoral Balance Representation in Polling Place Boards, Electoral Unit Boards, Precinct Local Commission, and the Absentee and Early Voting Administrative Board (JAVAA, Spanish acronym):

- a. At the voting authorized by Act No. 165-2020 and call through this Order, the number of election officials at all Electoral Balance levels shall always be equal for each option, regardless of the number of parties, groups or individuals that support them, including alliances or coalitions.
- b. Polling place boards, electoral unit boards, and local commissions shall be composed of election officials of each political party or group certified by the Commission.
- c. This Electoral Balance mechanism shall also be used by the Absentee and Early Voting Administrative Board (JAVAA) during the voting cycles authorized by Act No. 165-2020. The number of election officials at all JAVAA levels shall always be

equal for each option, regardless of the number of parties, groups, or individuals that support them, including alliances or coalitions.

- d. The Commission shall prescribe by regulations the number of election officials needed at each Electoral Balance level for each one of the voting options as well as their duties.
- e. Not later than forty-five (45) days before the voting, political parties, parties by petition, citizen groups, or political action committees that are certified as representatives of an option shall notify the Commission in writing and in the forms provided by the latter, the information about their respective officials and their location by precinct, electoral unit, and polling place.

Lack of Public Funding and Obligations:

- a. Every political party, party by petition, citizen group, political action committee, and natural or juridical person that engages in canvassing activities during the campaign of any of the voting

events authorized by Act No. 165-2020, shall defray campaign expenditures from their own financial resources. However, if any of the foregoing solicits, receives or uses contributions, engages in fundraising activities, and/or incurs campaign advertising expenditures or in any kind of canvassing activity to favor or oppose any of the options on the ballot, including, to promote abstention, any type of voting expression modality, or any other option, they shall meet the financial reporting requirements set forth by the Office of the Election Comptroller by virtue of Act No. 165-2020, and Act No. 222-2011, as amended, known as the "Puerto Rico Political Campaign Financing Oversight Act." Notwithstanding the foregoing, in the case of nonprofit entities organized under Section 501 of the U.S. Internal Revenue Code, which are required to submit registration and operations documents and reports to the U.S. Internal Revenue Service (IRS), they may only be required to register with the Office of the Election Comptroller for the sole purpose of reporting

expenditures specifically related to any plebiscite or ballot measure called under the "Act to Implement the 2020 Plebiscite Petition for Statehood," but shall not be required to disclose their membership or the contributions received, as ordinarily required by Act No. 222-2011, as amended. Furthermore, said entities shall neither be required to report to the Election Comptroller expenditures or disbursements of any other nature that are not related to said ballot measures or plebiscites under Act No. 165-2020.

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

Rulemaking Authority

Not later than twenty (20) days after the approval of this Order, the Office of the Election Comptroller shall draft and adopt regulations, documents, and

forms as are necessary for the implementation of the provisions of Act No. 165-2020 and this Order on fundraising and campaign expenditures.

SECTION 5: BUDGET. In accordance with Section 1.3 of Act No. 165-2020, as well as the holding in *Aponte Rosario et al. v. Pres. GEE II*, supra, conducting this plebiscite constitutes a valid public interest based on the existence of a mandate of the people set forth in previous plebiscites. With this in mind, and by virtue of Section 1.7 of Act No. 165-2020, the Executive Director of the Office of Management and Budget (OMB), the Secretary of the Treasury, and the Executive Director of Fiscal Agency and Financial Advisory Authority (FAFAA) are hereby directed to prioritize, identify, and make financial resources available as necessary to comply with this Order.

In accordance with Section 3.1 of Act No. 165-2020, within fifteen (15) days after the publication of the proclamation issued by the Governor, the Alternate Chair of the CEE shall submit to the Governor a draft of a budget plan for the voting expenditures, including the voter education campaign. The final budget

shall be approved by the Governor, with the consent of the OMB, FAFAA, and the Department of the Treasury, and shall become, for all fiscal and legal purposes, the budget request that shall govern the financial allocations needed to fulfill the purposes of Act No. 165-2020 and this Executive Order. Said final budget shall be approved based on the proposed budget plan for voting expenses, always considering fiscal responsibility factors, including available budgetary resources, the use of technology, coordination of existing resources, and administrative efficiencies. The disbursement of budget transfers and fund allocations shall be made within a maximum period of thirty (30) calendar days, counted from the filing date of the budget request for such purposes.

No provision of general or special law, regulation, executive or administrative order, or any plan may be invoked to alter or postpone the budget transfers and fund allocations as necessary for the Governor, the Commission, and other officials to fulfill the voting events called and authorized by Act No. 165-2020, as SECTION 6: SECTION 7: these are related to the right to self-determination of the U. S.

citizens of Puerto Rico. These transfers and allocations must remain within the parameters of the applicable certified budget.

All matters and allocations of public funds in connection with Act No. 165-2020 are unequivocally related to the right of the U. S. citizens of Puerto Rico to determine their political status. Therefore, as expressly provided in Section 402 of Public Law 114-187, 2016, "Puerto Rico Oversight, Management, and Economic Stability Act" ("PROMESA"), and consistent with the determinations of the of the Financial Oversight and Management Board ("FOMB") of not intervening with Puerto Rico's right to self-determination of their political status, no matter or allocation of funds related to this plebiscite shall require to be submitted to the consideration nor consent of the FOMB for the latter lacks jurisdiction and authority therefor.

SECTION 6: RESULTS. Not later than forty-eight (48) hours after the conclusion of the general canvass, the Alternate Chair of the State Elections Commission (CEE) shall deliver the certification of the results to the Governor, the Resident Commissioner of Puerto Rico in

Washington, D.C., the presiding officers of the Legislative Assembly, the U.S. President, the presiding officers of Congress, and the U.S. Attorney General. Not later than five (5) days from the certification of the results of the voting, the Governor shall deliver a copy of the certification to each member of Congress.

SECTION 7: INTERPRETATION. The mandate of the people at the polls as well as the voters' intent are the pillars of our democracy. Therefore, in addition to the aforementioned laws, the options to be presented at the voting event ordered in this Executive Order shall be interpreted in accordance with the purposes and definitions included in H.R. 8393, known as the "Puerto Rico Status Act," as approved by the United States House and Representatives.

Furthermore, in order to implement the provisions of this Order, the provisions of Act No. 51-2020, known as the "Act to Define Puerto Rico's Ultimate Political Status," Act No. 30-2017, known as an "Act for Equality and Congressional Representation of the United States Citizens of Puerto Rico," Act No. 58-2020, known as the "Puerto Rico Election Code of 2020," and Act No. 222- 2011, as amended,

known as the "Puerto Rico Political Campaign Financing Oversight Act," shall be supplemental thereto, in those matters that are not preempted by, or inconsistent with Act No. 165-2020.

SECTION 8: PREVAILING LANGUAGE. This Executive Order shall be adopted and published in the two official languages of Puerto Rico, Spanish and English. Should a conflict arise between the English and Spanish text in the interpretation or application of this Executive Order, the English text shall prevail.

SECTION 9: REPEAL AND EFFECTIVENESS. This Executive Order shall render without effect any other Executive Order that is, whether in whole or in part, inconsistent therewith to the extent of such inconsistency. This Executive Order shall take effect immediately upon its approval.

SECTION 10: SEVERABILITY. The provisions of this Executive Order are separate and independent from each other, and if any part, section, provision, or sentence of this Executive Order is held to be unconstitutional, void, or invalid by a court with competent jurisdiction, such holding shall not affect the validity of the remaining

provisions, which shall remain in full force.

SECTION 11: PUBLICATION. This Executive Order shall be filed immediately with the Department of State, and the broadest publication thereof is hereby ordered.

[SEAL] IN WITNESS WHEREOF, I hereby issue this Executive Order under my signature and cause the Great Seal of the Government of Puerto Rico to be affixed in San Juan, Puerto Rico, on this 1st day of July 2024.

/s/
PEDRO R. PIERLUISI
GOVERNOR

Promulgated in accordance with the law, on this 1st day of July 2024.

/s/
OMAR J. MARRERO
SECRETARY OF STATE

[SEAL OF PUERTO RICO]

**PROCLAMATION OF THE GOVERNOR
OF PUERTO RICO**

Holding of a Ballot Measure Election "Act to
Implement the 2020 Plebiscite Petition for
Statehood" November 5, 2024

Administrative Bulletin No.: P-2024-277

WHEREAS: The Legislative Assembly and the Governor of Puerto Rico approved Act No.165-2020, known as an "Act to Implement the 2020 Plebiscite Petition for Statehood," which provides for the holding of a voting in order to enforce the will of an absolute majority of voters as expressed in the November 3, 2020 Plebiscite, including such voting as are necessary arising from any electoral petition, proposal, response or ratification related to the political status of Puerto Rico presented or requested by one or the two houses of Congress, the United States President or both.

WHEREAS: Act No. 765-2020, provides that all citizens who meet the requirements of this Act and the Puerto Rico Election Code shall be considered qualified voters, to wit: be a citizen of the United States of America and legally

domiciled in the jurisdiction of Puerto Rico; be eighteen (18) years of age by the date of this voting; be duly qualified as such before the holding of the voting, and not have been declared mentally incompetent by a Court. Interested citizens, including new voters, who need to carry out any transaction in the General Voter Registry before the registration deadline, shall have up to fifty (50) days before the holding of the voting to update their status, restore their registration, or register to vote. In addition, if necessary, the aforementioned date shall serve as the deadline for voters to request transfers or relocations, as well as request Early Voting and Voting at an Accessible Polling Place. Voters eligible for Absentee Voting shall have up to forty-five (45) days before the holding of the voting to request Absentee Voting. The Permanent Registration Boards (JIP) of the State Election Commission shall be open to the public to conduct all of these transactions during regular business hours.

THEREFORE: I, PEDRO R. PIERLUISI, Governor of Puerto Rico, in the exercise of the powers and duties conferred to me by Act No. 165-2020, hereby proclaim that:

FIRST: Voting Date

On Tuesday, November 5, 2024, a voting authorized under Act No.165-2020, known as the "Act to Implement the 2020 Plebiscite Petition for Statehood," shall be held in every election precinct of Puerto Rico, and all qualified voters are hereby called to participate therein.

SECOND: Voting Hours

The voting process for this plebiscite shall be similar to that of the General Election in "open polling places" from nine o'clock in the morning (9:00 am) to five o'clock in the afternoon (5:00 p.m.). The Voting Day shall be a holiday. The "Dry Law" shall apply only during the aforementioned hours and with the exceptions provided in the Puerto Rico Election Code.

THIRD: Options to be Presented in the Voting

The plebiscite shall offer eligible voters the opportunity to choose one (1) of the options included in the "Puerto Rico Status Act," HR 8393. Hence, the following options shall be included in the ballot:

(A) Statehood.

(B) Independence.

(C) Sovereignty in Free Association with the United States.

FOURTH: Meaning of the Options

The ballot shall include the following explanation of the options:

A. Statehood:

1. The State of Puerto Rico is admitted into the Union on an equal footing with the other States in all respects whatever and is a part of the permanent union of the United States of America, subject to the United States Constitution, with powers not prohibited by the Constitution to the _States and reserved to the State of Puerto Rico or to its residents.
2. The residents of Puerto Rico are fully self-governing with their rights secured under the United States Constitution, which shall be fully applicable in Puerto Rico and which, with the laws and treaties of the United States, is the supreme law and has the same force and effect in Puerto Rico as in the other States of the Union.
3. United States citizenship of those born in Puerto Rico is recognized, protected, and secured under the United States Constitution in the

same way such citizenship is for all United States citizens born in the other States.

4. Puerto Rico will no longer be a possession of the United States for purposes of the Internal Revenue Code. Instead, the State of Puerto Rico will become a State on equal footing with each of the current 50 States in the United States of America. Individuals and businesses resident in the State of Puerto Rico will be subject to United States Federal tax laws as well as applicable State tax laws.

B. Independence:

1. Puerto Rico is a sovereign nation that has full authority and responsibility over its territory and. population under a constitution of its own adoption which shall be the supreme law of the nation.
2. Puerto Rico is vested with full powers and responsibilities consistent with the rights and responsibilities that devolve upon a sovereign nation under international law, including its

own fiscal and monetary policy, immigration, trade, and the conduct in its own name and right of relations with other nations and international organizations.

3. Puerto Rico has full authority and responsibility over its citizenship and immigration laws, and birth in Puerto Rico or relationship to persons with statutory United States citizenship by birth in the former territory shall cease to be a basis for United States nationality or citizenship, except that persons who have such United States citizenship have a right to retain United States nationality and citizenship for life, by entitlement or election as provided by Federal law.
4. Puerto Rico will no longer be a possession of the United States for purposes of the Internal Revenue Code. In general, United States citizens and United States businesses in the nation of Puerto Rico will be subject to United States Federal tax laws (as is the case with any other United States citizen or United States business abroad) and to Puerto Rican tax laws. Puerto Rico's status as an

independent, sovereign nation will be the controlling factor in the taxation of Puerto Rican taxpayers.

5. The Constitution and laws of the United States no longer apply in Puerto Rico and United States sovereignty in Puerto Rico is ended.

C. Sovereignty in Free Association with the United States:

1. Puerto Rico is a sovereign nation that has full authority and responsibility over its territory and population under a constitution of its own adoption which shall be the supreme law of the nation.
2. Puerto Rico is vested with full powers and responsibilities consistent with the rights and responsibilities that devolve upon a sovereign nation under international law, including its own fiscal and monetary policy, immigration, trade, and the conduct in its own name and right of relations with other nations and international organizations, except as otherwise provided for

in the Articles of Free Association to be negotiated by Puerto Rico and the United States.

3. Puerto Rico has full authority and responsibility over its citizenship and immigration laws, and persons who have United States citizenship have a right to retain United States nationality and citizenship for life by entitlement or election as provided by Federal law.
4. Birth in Puerto Rico shall cease to be a basis for United States nationality or citizenship. Individuals born in Puerto Rico to at least one parent who is a citizen of the United States shall be United States citizens at birth, consistent with the immigration laws of the United States, for the duration of the first agreement of the Articles of Free Association.
5. Puerto Rico enters into Articles of Free Association with the United States, with such devolution and reservation of governmental functions and other bilateral arrangements as may be agreed to by both Parties under the Articles, which shall be

terminable at will by either the United States or Puerto Rico at any time.

6. Puerto Rico will no longer be a possession of the United States for purposes of the Internal Revenue Code. In general, United States citizens and United States businesses in the nation of Puerto Rico will be subject to United States Federal tax laws (as is the case with any other United States citizen or United States business abroad) and to Puerto Rican tax laws. Puerto Rico's status as an independent, sovereign nation will be the controlling factor in the taxation of Puerto Rican taxpayers. In addition, Puerto Rico will enter into an agreement with the United States to provide "Sovereignty in Free Association" between the two nations. This agreement may modify the otherwise applicable tax rules, subject to negotiation and ratification by the two nations.
7. The Constitution of the United States no longer applies in Puerto Rico, the laws of the United States no longer apply in Puerto Rico except as otherwise provided

in the Articles of Free Association, and United States sovereignty in Puerto Rico is ended.

8. All matters pertaining to the government-to-government relationship between Puerto Rico and the United States, which may include foreign affairs, trade, finance, taxation, currency, economic assistance, security and defense, dispute resolution and termination, shall be provided for in the Articles of Free Association.

FIFTH: Certification of Results

The counting of ballots and the certification of the results by the State Election Commission shall only be carried out pursuant to the holding of the Supreme Court of Puerto Rico in *Suarez-Caceres v. Com. Estatal/ Elecciones*, 776 DPR 37, 73-74 (2009). A vote not cast and any blank ballot cast and lacking a clear expression of the voter's intent "in no way may be counted for purposes of influencing or affecting the results of an election, referendum, or Plebiscite, among other voting events." Therefore, any interpretation of the results of this

voting shall be subject to a valid vote for one of the options printed on the ballot. The absence of voters in the election or void or blank ballots cast shall never be used to suppress the intent of voters who democratically, voluntarily and validly exercised their right.

SIXTH: Vote Counting System

The same electronic vote counting system used in the General Election shall be used in this voting. Said system shall be capable of tallying votes easily, securely, and reliably with security and auditing mechanisms that ensure the transparency of the voting and vote counting processes.

SEVENTH: Voter Identification

In order to vote at the polling places, voters shall be required to provide their Voter Identification Card issued by the State Election Commission, regardless of the expiration date thereof, or any other valid identification card authorized by the Puerto Rico Election Code.

EIGHTH: Absentee and Early Voting

In accordance with the Puerto Rico

Election Code, the Commission shall guarantee the right to apply for an Absentee and Early Voting of all voters domiciled in Puerto Rico who qualify therefor within the period provided in the "Act to Implement the 2020 Plebiscite Petition for Statehood."

NINTH: Right to Vote Guaranteed

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

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

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

TENTH: Education and Disclosure

As part of the continuous efforts to

educate and inform citizens and voters of the scope of the Act enabling this voting and the electoral processes related to this Proclamation, not later than fifteen (75) days from the call for this voting, the Chair of the Commission shall publish and continually update in the Agency's website, a prominent space entitled "Act to Implement the 2020 Plebiscite Petition for Statehood" with the contents of this Act, this Proclamation, and any official material and information pertaining to this and other related voting.

ELEVENTH: Supplemental Laws

In order to implement the provisions of the "Act to Implement the 2020 Plebiscite Petition for Statehood," the provisions of Act No. 57-2020, known as the "Act to Define Puerto Rico's Ultimate Political Status," Act No. 30-2077, as amended, known as the "Act- for Equality and Congressional Representation of the United States Citizens of Puerto Rico," Act No. 58-2020, known as the "Puerto Rico Election Code of 2020," and Act No. 222-2077, as amended, known as the "Puerto Rico Political campaign Financing Oversight Act," including the regulations adopted thereunder,

shall be supplemental to this Act, in those matters that are not preempted by, or inconsistent with this Act.

IN WITNESS WHEREOF, I hereby issue this Executive Order under my signature and cause the Great Seal of the Government of Puerto Rico to be affixed in San Juan, Puerto Rico, on this 1st day of July 2024.

Promulgated in accordance with the Law, on this 1st day of July 2024.

/s/

OMAR J. MARRERO
Secretary of State

/s/

PEDRO R. PIERLUISI
Governor

[SEAL]

APPENDIX C

[Petitioner's English Translation of his own Motion
filed with the Puerto Rico Supreme Court in Spanish]

**SUPREME COURT OF THE
COMMONWEALTH OF PUERTO RICO
MOTION REQUESTING TO INTERVENE AS A
PARTY UNDER RULE 17 OF CIVIL
PROCEDURE OR TO APPEAR AS AMICUS
CURIAE, AND TO ORDER THE STATE
ELECTIONS COMMISSION TO INCLUDE A
COLUMN FOR THE INCORPORATION OF
COMMONWEALTH AS A STATUS OPTION IN
THE PLEBISCITE CALLED FOR BY
EXECUTIVE ORDER OE-2024-16**

TO THE HONORABLE SUPREME COURT OF
PUERTO RICO:

The undersigned Juan Carlos Albors appears, in this act acting in his own right as an intervening party under Rule 17 of Civil Procedure, or as a friend of the court, as determined by this Honorable Court, and respectfully EXPOSES, ALLEGES and REQUESTS:

1. This honorable court has before it to resolve the captioned lawsuit filed by the Puerto Rico Independence Party (PIP) to declare unconstitutional the Governor's Executive Order OE-2024-016, calling for a plebiscite in accordance with Act 165-2020.

2. For the reasons set forth below, we understand

that this honorable court must uphold the constitutional validity of the plebiscite as long as it orders that the incorporation of the Commonwealth created in 1952 be included in the ballot as a political status option for Puerto Rico.

3. The original jurisdiction of this honorable court to accept this document—either recognizing the undersigned as an intervening party under the cited Rule 17, or as a friend of the court under Rule 43 of this Supreme Court of Puerto Rico—and resolve the controversy raised through the issuance of an order to the State Elections Commission requested herein, emanates from Article 8.1 of Act 165-2020.

4. The undersigned is a lawyer and promoter of the incorporation of the Commonwealth. He is a registered voter in Puerto Rico and resides in the municipality of Dorado. He has published a book and several op-ed pieces on the incorporation of the Commonwealth. He is founder of the organization Estadolibristas Unidos, which advocates for the incorporation of Commonwealth status.

5. **The Aponte case.** In *Aponte v. CEE*, 2020 TSPR 111 (2020), this honorable court ruled that the “Statehood, Yes or No” referendum held in 2020 was constitutional despite the fact that it did not include other status options. This honorable court reasoned that the 2020 consultation was not discriminatory, nor did it violate the constitutional rights of freedom of speech or association recognized in federal and Puerto Rico constitutional law, since it arose from the mandate given by the electorate in the referendum

held in 2012 to change “the current territorial status.” This Court decided that the 2020 consultation was part of the same process (1) begun with the vote of 54% of the electorate in favor of a change of status in 2012 and (2) continued with the 2017 consultation, which yielded a first place for statehood, a second place for independence and a third place for “the current territorial status”. For this honorable court, the 2020 referendum was not unconstitutional because, firstly, the mandate to change the “current territorial status” arose from the 2012 consultation and, secondly, in 2017 independence and the “current territorial status” were discarded by the electorate. Therefore, it was not discriminatory nor did it violate the constitutional right to freedom of speech and association to limit the 2020 referendum to Statehood.

6. **Aurelius and Vaello Madero.** In Aponte, furthermore, this honorable court recognizes that, if it were not for the plebiscites of 2012 and 2017, the 2020 “Yes or No” Statehood referendum would have been discriminatory and unconstitutional in accordance with federal and state constitutional law for not including in it the other status options recognized by the voters of Puerto Rico (until then, independence and “the current territorial status”). In this writing we argue that, based on the cases of Aurelius and Vaello Madero, decided by the Supreme Court of the United States in 2020 and 2022, respectively, the same constitutional principles that would have made the 2020 consultation unconstitutional in the absence of the 2012 and 2017 plebiscites apply to the next plebiscite in 2024 regarding the option of Commonwealth as an incorporated territory, for which

the voting ballot for said electoral event must include the incorporated Commonwealth as an alternative status for said plebiscite to be constitutional. See *Financial Oversight and Management Bd. for Puerto Rico v. Aurelius Investment, LLC*, 590 U.S. ____ (2020). *United States v. Vaello Madero*, 596 U.S. ____ (2022).

7. **Main allegation.** Beginning with *Vaello Madero*, in an incorporated territory that will pay the federal income tax, the residents of Puerto Rico would enjoy a federal constitutional right to be treated equally in federal transfer payment programs. This is the case because, in *Vaello Madero*, the federal Supreme Court justified not extending a constitutional right to parity in the benefits granted by the federal Social Security Income program to the residents of Puerto Rico for the sole reason that we do not pay the federal income tax. According to *Vaello Madero*, this federal constitutional right to parity is not available to residents of Puerto Rico in the “current territorial status.” As we know, the discriminatory treatment that residents of Puerto Rico receive in federal social assistance programs is a core issue in the public discussion in Puerto Rico regarding the issue of political status. It is a matter that concerns every voter. Parity in federal funds is an issue that would impact the entire Puerto Rican society, regardless of the income level of the voter. It affects the functioning of the Puerto Rican economy and, therefore, impacts us all. The statehood movement has advocated for statehood since the 1970s mainly to extend to the residents of Puerto Rico the same benefits that, in terms of these programs, residents of the states receive. Likewise, pro-Commonwealth advocates have

made demands in the past (even some candidates of the Popular Democratic Party for the upcoming election still do so—despite Vaello Madero) for parity in federal funds to be extended to Puerto Rico. As of Vaello Madero, (1) statehood is not required to obtain parity, since Puerto Rico would receive equal treatment in said programs through incorporation and the resulting payment of the federal income tax, and (2) under the “current territorial status”, the residents of Puerto Rico will never benefit from a constitutional right to parity. Faced with this new legal reality that goes to the core of our political controversies regarding the political status issue, the option of incorporating the Commonwealth created in 1952 arises as a new status alternative that, like statehood, would extend to the residents of Puerto Rico a federal constitutional right to parity and, contrary to the “current territorial status”, it is not a legal obstacle to said parity by constitutional mandate.

8. **Secondary allegation.** To the previous core approach we must add that, in *Aurelius*, the federal Supreme Court ruled, for the first time since the creation of the Commonwealth in 1952, that said political status continues to be subordinated to the plenary power of Congress through the Territorial Clause of the federal Constitution. By declaring the PROMESA Act constitutional, the United States Supreme Court authorized Congress to modify the provisions of the Constitution of the Commonwealth of Puerto Rico that establish our constitutional order of separation of powers, reassigning legislative, executive and judicial powers in the Commonwealth to the Puerto Rico Oversight Control Board. By doing so, the

Supreme Court eliminated any possibility that “the current territorial status” had obtained self-government and the degree of state sovereignty that pro-Commonwealth supporters previously understood had been obtained through the Commonwealth constitutional process from 1950 to 1952. Aurelius established new federal constitutional law regarding the legal nature of the “current territorial status” that closed a chapter in the political history of Puerto Rico that makes the incorporation of Commonwealth a necessary alternative to channel the will of a great mass of voters in Puerto Rico who do not want Statehood at this time, but who wish to continue a relationship in permanent union with the United States. If, as we have said, the Commonwealth is subject to the plenary powers of Congress, then the United States can unilaterally make Puerto Rico independent from “the current territorial status,” which we pro-Commonwealth voters understood was not possible due to the very text of Federal Public Law 447-1952 that establishes “a pact” between Puerto Rico and the United States. The foregoing is indicative that, with the federal constitutional law established in Aurelius, which affects the possibility of Puerto Rico being steered towards independence against its will during a second presidency of Donald Trump, there is immediate need to allow voters in this next plebiscite to cast a vote for the incorporation of the 1952 Commonwealth that demonstrates, first of all, the intention of the great mass of voters in Puerto Rico in favor of permanent union with the United States (the votes for the Commonwealth as incorporated territory added to the pro-statehood vote) and, secondly, an expression against any attempt at the federal level to

make Puerto Rico independent.

9. **The blank vote.** In 2009, this honorable court introduced the legal rule that blank votes in any status plebiscite or referendum will not be counted. *Suárez Cáceres v. EEC*, 2020 DTS 119 (2009). It is public knowledge that the Popular Democratic Party has called on its voters to cast a blank ballot in this next plebiscite. In accordance with what has already been established by this honorable court, blank votes in this next plebiscite cannot be interpreted as a vote in favor of anything. Therefore, they cannot be added to the votes that Statehood obtains in the next plebiscite as voter expression in favor of permanent union between Puerto Rico and the United States. Nor can they be interpreted as a vote against independence or free association. The latter is our main concern. If the option of an incorporated Commonwealth is not included in this next consultation, the non-statehood and anti-independence voters will have no way to express their intention for Puerto Rico to continue in permanent union with the United States. If, as we explain later, what a blank vote does is artificially increase the percentage of votes that will be awarded to independence or free association in the plebiscite, the real effect of having voted blank would be openly contrary to the elector's intent. Even more so at this time when the relationship between Puerto Rico and the United States is threatened by the possible election of the first president in the history of the United States who has publicly declared himself in favor of unilaterally making Puerto Rico independent. In order for this next consultation not to be unconstitutional in violation of the right of voters who

are both, anti-Statehood and anti-Independence, to free speech and association in these moments of profound uncertainty regarding the political future of Puerto Rico, nor that it is discriminatory in accordance with federal and state constitutional law, it is necessary that this honorable court order the inclusion of a column in the ballot so that voters can express their support for the incorporation of Commonwealth.

10. The blank vote in the 2024 plebiscite artificially increases the pro-independence vote and acts against the will of the pro-permanent union voter. In a scenario in which the federal Supreme Court has recognized the plenary powers of Congress over Puerto Rico and that - consequently, the United States can unilaterally make Puerto Rico independent - the result of this next consultation as designed would artificially dilute the anti-independence vote and would artificially magnify the pro-independence vote to the detriment of those of us who favor a permanent union with the United States. By eliminating the votes cast blank from the voting result, applying the Aponte caselaw, the universe of votes would be reduced, and the percentage of votes in favor of independence (or its form in free association) would artificially increase. Let us use arithmetic to prove the above. Let us say that today's electorate in Puerto Rico is made up of 60 percent voters in favor of Statehood, 10 percent voters in favor of Independence or Free Association, and 30 percent of the electorate in favor of Commonwealth as an incorporated territory. If the consultation were held without including Commonwealth as an incorporated territory, that 30 percent of the electorate, not seeing

themselves represented on the ballot, would cast a blank ballot (as the Popular Democratic Party has requested of its voters). Let us say that the universe of votes is 100 voters, of which 60 cast their vote by marking the Statehood column in the ballot, and 10 voted for Independence (or Free Association). The result of the contest would be 60/70 for Statehood and 10/70 for Independence or Free Association. Percentage wise, that is equivalent to 85 percent for Statehood and the remaining 15 percent for Independence or Free Association, when the reality of that same electorate that expressed itself at the polls (either by marking an option in the ballot or by depositing it blank) is that Independence or Free Association has only 10 percent support. Therefore, this exercise in arithmetic confirms what was said previously: that the plebiscite as ordered by Executive Order OE-2024-016 artificially increases support for Independence or Free Association. In our example, support for Independence or Free Association increases from a real 10 percent to a fictitious 15 percent. In a political scenario like the one we are experiencing right now, with the possibility that the next president of the United States will be a promoter of independence for Puerto Rico, this magnified support for Independence or Free Association could have a catastrophic effect for Puerto Rico. Let us remember that the Republican Party has just approved a “Trumpist” platform that, for the first time in fifty years, excludes statehood for Puerto Rico. So, what if support for real Independence or Free Association was 20 percent, and not 10 percent as in our example? Then the result of the vote that the State Elections Commission would certify next November would be

20/70, or 28 percent, for Independence or Free Association, artificially increasing said political status option by 8 percentage points. So what if actual support for Independence or Free Association was 25 percent? Well, then the result of the vote would be (25/70) 35 percent of the electorate; a significant and fictitious increase of 10 percentage points. And so on. The more votes obtained by Independence or Free Association in the Plebiscite, the greater the distortion and the corresponding increase in the percentage of votes obtained. That, tied to the possible upcoming reelection of President Trump that same day of the event, and the election of a Congress dominated by Republicans under a Trumpist Republican platform, could be the end of the “current territorial status” for which the Statehood movement advocates so much, but (ironically for that sector and tragically for the entire non-independence electorate in Puerto Rico) in the opposite direction.

11. Forcing the voter to vote for something that is not his or her wish to avoid a greater evil. Another approach that deserves the attention of this honorable court in these moments of great political uncertainty is that, to avoid this artificial increase in the percentage of votes in favor of Independence or Free Association in this next plebiscite, it is possible to assume a scenario in which some anti-Statehood and anti-Independence voters are forced to ignore the Popular Democratic Party's demand that the ballot be cast blank and cast their vote in favor of the Statehood option. In that scenario, such voters, by definition, would be forced to vote for a status option in which they do not believe to avoid further harm. That would

clearly be the best evidence that, in effect, the exclusion of an incorporated Commonwealth in the voting ballot is discriminatory and violates the federal and state constitutional protection of freedom of speech and association. This electoral behavior, which will be easily verified once the electoral behavior in the elections of that day is compared with the vote in the plebiscite, would detract from the legitimacy of the results of the plebiscite. This would make this next plebiscite another inconsequential electoral exercise, as was the 2017 plebiscite that produced a result incompatible with the electoral reality in Puerto Rico (97 percent in favor of Statehood, when the vote in favor of “Yes” in the “Statehood, Yes or No” referendum in 2020 was 52 percent).

12. Incorporated territory and unincorporated territory. We know that “the current territorial status” of Puerto Rico is the Commonwealth created in 1952, which continues to be an unincorporated territory of the United States. This being the case, we understand that the Aponte ruling of this Court requires including the option of an incorporated Commonwealth as an alternative status option in the 2024 plebiscite called for to choose between political status options that would change the “current territorial status.” If, as we will discuss later, the Commonwealth created in 1952 is a different status from an incorporated Commonwealth, for the 2024 Plebiscite not to be discriminatory or in violation of the constitutional right to free speech and association of those of us who advocate for an incorporated Commonwealth, a column will need be included in the voting ballot so that the voter can express his or her

endorsement to having Commonwealth ceased to be an unincorporated territory of the United States and become an incorporated territory. In *Puerto Rico v. Sánchez Valle*, 192 DPR 594 (2015), this honorable court determined that Puerto Rico promulgated its 1952 constitution without that having changed our status as an unincorporated territory of the United States. In the *Insular Cases* (1901-1922), the Supreme Court of the United States determined that there are two types of territories under federal constitutional law, which are incorporated territory and unincorporated territory. *Balzac v. Porto Rico*, 258 U.S. 298 (1922). Therefore, the controversy of this case arises in the context that Puerto Rico is an unincorporated territory of the United States and that federal constitutional law recognizes another type of territory, the incorporated one, different from what Puerto Rico is, which constitutes a political status different from the “current territorial status.”

13. The Commonwealth as an incorporated territory is distinguishable from statehood. The incorporation of Commonwealth is distinguished from Statehood to the extent that the Uniformity Clause of the federal Constitution is not automatically applicable to it. That opens a space for incorporated Commonwealth that is different from Statehood, which is recognized by federal constitutional law. In a Commonwealth as an incorporated territory, we would pay the federal income tax, but the Federal Government would not be constitutionally prevented by the Uniformity Clause from returning to us the portion of said taxes already paid to the federal Treasury that we would need to pay for our Puerto

Rico government expenses. Therefore, in a Commonwealth as an incorporated territory, different from Statehood, in all likelihood the residents of Puerto Rico would pay only the federal income tax. This is the case, for example, of the Virgin Islands, where its residents pay the federal income tax and their government receives back the taxes so paid to pay for government expenses in said islands. Furthermore, the incorporated Commonwealth is distinguished from Statehood to the extent that it does not hold congressional representation or the presidential vote but, unlike a state, could opt for a federal law exclusion mechanism such as that which existed under the Elective Governor's Act of 1947 prior to the establishment of the Commonwealth.

14. Statehood through incorporated territory?

In considering this controversy, this honorable court must recognize that authorizing the Plebiscite without a column so that the voter can vote for the Commonwealth as an incorporated territory would be equivalent to preventing the transition to a future Statehood through the incorporated territory. If the result of this case were contrary to what is requested here, this honorable court, as interpreter of the Constitution of the Commonwealth created in accordance with Federal Public Act 600-1950, would be deciding that Statehood through the incorporated territory is not an option currently available for the Commonwealth created in 1952. In other words, if this honorable court decides to authorize the 2024 Plebiscite without including the transition from unincorporated territory to incorporated territory in the Commonwealth, as we argue in this motion, this

would be equivalent to not recognizing the incorporated territory as a status to which Puerto Rico can aspire in order to leave behind its “current territorial status.” Returning to the same point from another angle, if the 2024 Plebiscite can be held without offering the electorate the option of Commonwealth as an incorporated territory, the Plebiscite would become discriminatory and in violation of the federal and state constitutional right to freedom of speech and association of those of us who favor that status formula, then this court would be holding that the incorporated territory is not a legitimate status option (either for itself—as we understand at Estadolibristas Unidos—or as a transition to Statehood) that is equally protected from being discriminated against, as are Statehood and Independence. This would be so onerous for Puerto Rico in general, and for the Statehood movement in particular, that it would close the door to the way in which the vast majority of the 37 former territories joined the federation as states after the Constitution of 1787 was established. We do not believe that this honorable court will want to do that. Therefore, the only way available at this time for this honorable forum to authorize the 2024 Plebiscite to proceed is by conditioning its constitutionality to the inclusion on the ballot of a column that provides for the transition of the Commonwealth created in 1952, from unincorporated territory to an incorporated territory. Without this, the Plebiscite would be discriminatory and violate the federal and state constitutional right to free speech and association of myself and of many others who, like me, after the decisions in Aurelius and Vaello Madero, want a Commonwealth incorporated to

the United States. Let us remember that this honorable court authorized the 2020 “Yes” or “No” referendum on Statehood because the Independence and unincorporated territory options had already been included in the 2017 consultation, so the electorate had already had the opportunity to express themselves regarding these two status options.

15. Recapitulation and others. As we have said in this writing, recapitulating now, as of 2020 the United States Supreme Court decided the cases of *Aurelius* and *Vaello Madero*. In *Aurelius*, the Supreme Court declared the PROMESA Act constitutional, and thereby established that the Commonwealth of 1952 is subordinate to the plenary powers of Congress. That had not happened before in federal constitutional law. In *Vaello Madero*, for its part, the Supreme Court held that the only reason why parity in federal funding with the states is not extended to Puerto Rico is because, as an unincorporated territory, the residents of Puerto Rico do not pay the federal income tax. Therefore, *Vaello Madero* established that, in the incorporated territory of Puerto Rico, which would pay the federal income tax, parity in federal funds would be extended to its residents by constitutional right. Both cases, *Aurelius* and *Vaello Madero*, have cemented the great differences present today between the “current territorial status” rejected in the 2012 and 2017 votes and incorporation, by maintaining for the first time and without any ambiguity that the 1952 Commonwealth is a unincorporated territory subject to the plenary powers of Congress and that, as a territory incorporated into the federal tax system, Puerto Rico would be extended parity in federal funds. Faced with

this new scenario, the option of carrying out a transition under the Commonwealth, from non-incorporated territory to incorporated territory, comes to light, and the constitutional right of the Puerto Rican voter to be consulted regarding said status option in the upcoming Plebiscite. That's it for the recap. Let's delve deeper now. Before Aurelius, it could still be argued that the current status of Puerto Rico, the so-called "current territorial status" that appeared in the 2012 and 2017 consultations, was not subject to the plenary powers of Congress. After all, the federal Supreme Court had decided in several cases that Puerto Rico was "sovereign over matters not ruled by the federal constitution," which was indicative that Puerto Rico's political status had changed during the 1950-1952 constitutional process. *Calero-Toledo v. Pearson Yacht*, 416 US 663 (1975). *Rodriguez v. PPD* 457 US 1 (1982). Therefore, before Aurelius, there was a mass of voters in Puerto Rico who had sufficient legal grounds to want to express through a blank vote that their vote was an expression in favor of a Commonwealth not subject to the plenary power of Congress (this regardless of the legal consequences of that blank vote, which we have already discussed). Let us remember that, for both votes in 2012 and in 2017, the Popular Democratic Party called on its voters to cast a blank ballot (2012) or to abstain from voting (2017). Therefore, the transition towards an incorporated Commonwealth at that time posed a change in status, from not subordinated to the plenary powers of Congress, to subordinated to said powers upon incorporating the territory. This made the incorporated territory unacceptable to a pro-Commonwealth vote like myself, and therefore any

referendum or plebiscite could be held without including the incorporation of the Commonwealth which, at that time, was understood to represent a political setback for Commonwealth status. But that changed with Aurelius. After Aurelius, the transition from the unincorporated Commonwealth to an incorporated Commonwealth does not represent the loss of previously recognized or obtained powers, since we now know that the doctrine of the federal Supreme Court regarding the current Commonwealth is that it remains subordinate to the plenary powers of Congress. Therefore, it is since Aurelius that the constitutional right of the pro-Commonwealth sector arises to be consulted regarding an incorporated Commonwealth. The right that was born in Aurelius gained even greater validity with the Vaello Madero case, since it is from that case on that the Federal Supreme Court has recognized that Puerto Rico can aspire to equal treatment as the states in federal funds as an incorporated territory whose residents, like in the states, pay federal income tax. Therefore, it is from Vaello Madero that federal constitutional law maintains that, as an incorporated territory, Puerto Ricans would be extended a constitutional right that they do not enjoy under “the current territorial status.” This deepens the differences between the current Commonwealth and an incorporated Commonwealth that make unconstitutional any status vote that does not include the option of a Commonwealth as an incorporated territory.

16. **Request.** In this way, to **proceed with the Plebiscite as described in Executive Order OE-2024-016** — which does not include a column on

the voting ballot so that the voter can express his or her support for the incorporation of the Commonwealth as an alternative to the “current territorial status”, incorporated Commonwealth being a status option recognized by federal constitutional law which has not been presented to the Puerto Rico electorate in any status vote, in light of the principle established by this honorable court that every blank vote does not count for any **purpose—is discriminatory and violates the federal and state constitutional protections of free speech and association enjoyed by all voters in Puerto Rico who are non-Statehooders and anti-Independence, and who long for a relationship of incorporated Commonwealth as a change in political status with respect to the “current territorial condition”**. Our request is that, to overcome said constitutional obstacle, the State Elections Commission be ordered to include a column on the voting ballot for the Plebiscite called by Executive Order 2024-016 that allows the voter to select as alternative status for Puerto Rico “the incorporation of the Commonwealth”.

IN MERIT OF THE ABOVE STATED, we respectfully request this Honorable Court to take cognizance of the above, authorize our appearance, order the State Elections Commission to include a column of incorporated Commonwealth, with any other pronouncement that is legally appropriate.

Respectfully submitted.

I CERTIFY: Having sent a true and exact copy, via

email, to: Puerto Rican Independence Party
cigorrinperalta@gmail.com, licjuanmercado@
gmail.com, jose@torresvalentin.com; via postal mail to
the State Election Commission at PO Box 195552, San
Juan, P.R. 00919-5552, and to the Secretary of Justice
at Box 9020192, San Juan, P.R. 00902-0192.

In Guaynabo, Puerto Rico, on July 30, 2024.

Juan Carlos Albors
Centro Internacional de Mercadeo
100 Carr. 165 Suite 1-706
Guaynabo, P.R. 00968
787-615-6464
C/e: jca@adgpr.net

APPENDIX D

(S. B. 1674)

(No. 165-2020)

(Approved December 30, 2020)

AN ACT

To establish the “Act to Implement the 2020 Plebiscite Petition for Statehood”; amend Articles 2 and 4, repeal current Article 3 and add a new Article 3, add a new Article 6 and renumber current Article 6 as Article 7 of Act No. 30-2017, as amended, known as the “Act for Equality and Congressional Representation of the United States Citizens of Puerto Rico”; in order to set forth the public policy of the Government of Puerto Rico on the implementation of the petition for Statehood and make technical amendments to Act No. 30-2017, as amended; and for other related purposes.

STATEMENT OF MOTIVES

For the third consecutive time in the last eight years (8), an absolute majority of voters of Puerto Rico have claimed equal rights and duties as U.S. citizens through statehood.

In addition to providing for the holding of the

Plebiscite on Statehood Yes or No, last November 3, 2020, simultaneously with the General Election in Puerto Rico, Act No. 51-2020, known as an “Act to Define Puerto Rico’s Ultimate Political Status,” provided in Section 4.2.- Statehood: “Yes,” and in Section 4.4[sic] Implementation of Statehood: “Yes,” the initial actions to be taken by the Governor of Puerto Rico and the Resident Commissioner in Washington D.C., among other officials, to initiate, in conjunction with the Federal Government, a transition process whereby the electoral will in favor of the option “Statehood: Yes,” is honored.

The question presented to voters and printed on this Plebiscite’s ballot was the same used in the referendums held by most former territories that were admitted as states of the Union, including Alaska and Hawaii, which are the most recent states to have been admitted:

“Should Puerto Rico be admitted immediately into the Union as a State?”

Therefore, in this Plebiscite none was excluded from expressing his opinion in favor or against statehood.

Of the 1,190,399 votes, the option “Yes” polled an absolute majority of 623,053 (52%) votes and the option “No” polled 567,346 (48%). Evidently, voter turnout was massive and clear.

To uphold the election results which stem from an absolute majority of a sovereign people constitutes

a public purpose of the highest interest. The people's claim supported by these election results also constitutes a fundamental right protected under the First Amendment to the U.S. Constitution to petition the Congress and the President for a redress of grievances arising out of the current territorial status established 122 years ago.

Since the November 6, 2012 Plebiscite, an absolute majority of U.S. citizens of Puerto Rico have voted against the territorial status. The ballot question was: "Do you agree that Puerto Rico should continue to have its present form of territorial status? (Commonwealth). In said 2012 Plebiscite, an absolute majority of voters also supported statehood.

Since then, U.S. citizens of Puerto Rico have been suffering the disadvantages and discrimination stemming from of the unincorporated territory status which they continue to endure despite having democratically expressed their will in favor of equality through statehood.

After five (5) plebiscites on status have been held in 1967, 1993, 1998, 2012, 2017, and the unequivocal results of the most recent plebiscite held in November 2020, the Federal Government must bring to an end the unfair and failed territorial status. The U.S. citizens of Puerto Rico continue to be the oldest and most populous colonial territory in the world, which is inconsistent with the democratic values of our Nation.

The socioeconomic and financial problems that

Puerto Rico has accumulated over the last 122 years stem mostly from the inequality and disadvantages entailed by the territorial status. It has been demonstrated that Puerto Rico shall never overcome its financial crisis unless it resolves its territory status. Former territories were also poor and subject to the inequality and disadvantages entailed by the colonial status, until they achieved equal rights and duties as U.S. citizens through statehood in plebiscites such as that conducted in Puerto Rico last November. For example, Congress granted statehood to an impoverished Hawaii in 1959 with an eligible voter turnout of only 34%. Hawaii is currently a productive and developed state.

Over the last 50 years, all U.S. presidents have recognized that our political status should be decided through the exercise of the right to self-determination of the citizens of Puerto Rico. In fact, the reports of presidential task forces on Puerto Rico's status have reasserted: "The policy of the Federal Executive Branch has long been that Puerto Rico's future status should be decided by the people of Puerto Rico."

A large majority of Congress members have reiterated so when addressing the subject. Determining the options on the ballot of any plebiscite is inherent in Puerto Rico's right to self-determination, and the Congress and the President have recognized so for decades.

Recently, two (2) federal laws have recognized that the issue on Puerto Rico's political status is yet to be resolved, and have provided that it must be resolved

and that the U.S. citizens of the Island must take the initiative to express the will of the majority in a locally legislated plebiscite. [P.L. 113-76 (2014) and P.L. 114-187 (2016), known as PROMESA.]

For instance, when PROMESA was approved, the Congress and the President recognized in its Section 402 that the U.S. citizens of Puerto Rico are entitled to this democratic expression, and specifically, to self-determine the future political status of Puerto Rico without PROMESA or its Financial Oversight Board intervening or hindering that purposes.

Section 402. Right of Puerto Rico to determine its future political status: Nothing in this Act shall be interpreted to restrict Puerto Rico's right to determine its future political status, including by conducting the plebiscite as authorized by Public Law 113-76, 2014.

In accordance with said federal public policy, Puerto Rico already voted and exercised its right to self-determination. Now, it is the U.S. Government's turn to uphold the claim for equality through statehood, as demanded by an absolute majority of voters.

The U.S. citizens of Puerto Rico have made significant contributions to the economic, commercial, industrial, military, scientific, technological, and cultural development of the Nation. In fact, reliable public opinion surveys conducted at the national level in recent years confirm that an overwhelming majority

of our fellow citizens in the states favor statehood for Puerto Rico.

The number of federal, state, and municipal officials that support equality for Puerto Rico is ever growing. However, not having the right to vote in the federal elections nor the right to vote and to equal representation in Congress as well as the unequal political and economic treatment of Puerto Rico by the Federal Government, contrasts with Puerto Rico's contributions to the development of our Nation.

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

Puerto Rico is prepared to be admitted as a state of the Union on an equal footing with the other states. To place hurdles on the path to this inevitable destiny shall needlessly prolong a colonial crisis that

affects lives and impairs the rights of the People of Puerto Rico as well as inconvenience the Federal Government as it hopelessly attempts to fix an unfixable territory status.

The main objectives of this Act are:

1. To provide that the actions taken and efforts made to honor the petition for statehood made by an absolute majority of voters in the November 3, 2020 Plebiscite constitutes a public purpose of the highest priority as well as a mandate of the people to its government.

2. To guarantee the protection of the U.S. citizens of Puerto Rico's fundamental right protected under the First Amendment to the U.S. Constitution to petition the Government for a redress of grievances arising out of the current territorial status established 122 years ago.

3. To authorize the Governor to take the necessary measures within the "public purpose" framework to uphold the will of a majority of voters as expressed in the 2020 Plebiscite.

4. To implement and support the purposes of Act No. 51-2020, known as an "Act to Define Puerto Rico's Ultimate Political Status," including to coordinate and carry out the transition to statehood directed thereunder.

5. To strengthen the Puerto Rico Equality Commission created by Act No. 30-2017, as amended,

in order to facilitate compliance with its legal functions and duties.

6. To establish the rules to ensure and make it feasible for the people of Puerto Rico to vote again, if necessary, in order to have their will as expressed in the 2020 Plebiscite honored, including any voting as necessary to answer any electoral petition, proposal, response, or ratification related to Puerto Rico's political status presented or requested by one or the two legislative houses of Congress, the United States President or both.

**BE IT ENACTED BY THE LEGISLATIVE
ASSEMBLY OF PUERTO RICO:**

CHAPTER I

GENERAL PROVISIONS

Section 1.1 - Title

This Act shall be known and cited as an “Act to Implement the 2020 Plebiscite Petition for Statehood.”

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Section 1.3.- Declaration of Public Policy

In accordance with Act No. 51-2020, known as an “Act to Define Puerto Rico’s Ultimate Political Status,” and the results of the Plebiscite on “Statehood: Yes or No” conducted by virtue of said Act on November 3, 2020, an absolute majority of voters claimed equal rights and duties as U.S. citizens through statehood. This electoral claim of the people of Puerto Rico constitutes a mandate to its government and a public purpose of the highest priority.

In addition to their claim for statehood, this expression of the U.S. citizens of Puerto Rico also constitutes the exercise of their fundamental right protected under the First Amendment to the U.S. Constitution to petition the U.S. Government for a redress of grievances arising out of the current territorial status established 122 years ago.

This Act provides the procedures and parameters that shall govern the holding of any voting event the purpose of which is to honor the will of an absolute majority of voters expressed in the November 3, 2020 plebiscite including any electoral petition, proposal, response, or ratification related to Puerto Rico's political status presented or requested by one or the two legislative houses of Congress, the United States President or both.

In *Orlando José Aponte Rosario v. Presidente Comisión Estatal de Elecciones* (2020 TSPR 119), the Supreme Court of Puerto Rico held that the Legislative Assembly is empowered to choose lawful mechanisms to further its objective and record the expression of the people. The wisdom or convenience of that legislative determination is a non-justiciable political question. Therefore, according to the people's mandate in the plebiscites of 2012 and 2017, Subchapter VII-B of Act No. 58 of June 20, 2020, known as the "Puerto Rico Election Code of 2020," and Act No. 51 of May 16, 2020, known as an "Act to Define Puerto Rico's Ultimate Political Status," have a public purpose in accordance with Article VI, Section 9 of the Constitution of Puerto Rico.

Therefore, the scope and purposes of this Act fully comply with the "public purpose" principle enshrined in our Constitution and with the interpretations of the Supreme Court.

Section 1.4.- Definitions.

A blank space (_____) in the text of this Act

means that updated information shall be added therein by the official entrusted with said task.

It shall be understood that, in this Act, any term importing the singular shall include the plural unless the context clearly indicates otherwise. Likewise, the terms importing the masculine gender shall include the feminine gender and vice versa.

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

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

(b) “Electoral Balance” - A political oversight and counterbalance mechanism to be implemented at the Local Commissions and the Local Electoral Bodies thereof for the planning, coordination, organization, and operation of the voting within each voting cycle as defined in this Act.

(c) “Cycle” or “Voting Cycle” - In every voting called under this Act, it begins eight (8) months prior to the voting day and ends thirty (30) days after the Commission issues the final certification of the General Canvass or Recount.

(d) “Registration Deadline” - the last date, before the holding of a voting under this Act, to include, exclude, activate or deactivate a voter; update or change voter information; or carry out voter transactions and submit applications for registration,

transfer, or relocation in the Puerto Rico General Voter Registry. The “deadline” shall never be earlier than fifty (50) days before the holding of the plebiscite.

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

(f) “Election Code” - The law in effect in Puerto Rico that governs election processes authorized by law.

(g) “Equality Commission” - means the “Puerto Rico Equality Commission,” created by Act No. 30-2017, as amended, known as the “Act for Equality and Congressional Representation of the United States Citizens of Puerto Rico,” a legal entity of the Government of Puerto Rico to constitute a “congressional delegation” and to enforce electoral mandate given by the U.S. citizens of Puerto Rico in favor of Statehood since the November 6, 2012 plebiscite.

(h) “Commission” or “State Election Commission” or “CEE” - an agency of the Government of Puerto Rico created by law that coordinates the election processes provided in this Act. It is the only competent authority to certify election results. For the purposes of this Act, the regular members of the Commission shall participate and have voting rights, otherwise the Chair thereof shall decide, when its members fail to reach a unanimous decision.

(i) “Resident Commissioner” - means the Resident Commissioner of Puerto Rico in Washington

D.C. who serves as a member of the United States House of Representatives.

(j) “Congress” or “U.S. Congress” - the House of Representatives and the Senate of the United States of America as a whole.

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

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

(m) “Voter,” “Qualified Voter,” “Active Voter,” or “Registered Voter” - any citizen who meets the requirements of this Act and the Election Code to vote and whose personal information appears in the Puerto Rico General Voter Registry. At a minimum, said person must be a United States citizen, be 18 years old on or before the voting day of each electoral process authorized under this Act; and meet the Puerto Rico electoral domicile requirements provided in the Election Code.

(n) “Public Purpose” - Pursuant to Article VI, Section 9 of the Constitution of Puerto Rico, it means the use of public property and funds for the support and operation of state institutions, and pursuant to

law. The concept of public purpose is not static, since it is linked to the general welfare and must adhere to the changing social conditions of the governed, their issues, and the new obligations that governed citizens impose by a majority vote on their governors.

(o) “Governor” - means the Governor of Puerto Rico authorized by this Act to take the necessary measures within the “public purpose” framework such as contracting, appropriating, re-appropriating, obligating, or devoting public funds to uphold in or outside of Puerto Rico the will of a majority of voters expressed in the November 3, 2020 Plebiscite; including to call as voting events as are necessary to uphold said will.

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

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

(r) “Ballot” or “Voting Ballot” - a paper document or electronic medium designed and made available by the Commission, on which the voter shall cast his vote according to law.

(s) “Ballots with no Adjudication Value” - Such

ballots shall not be considered when computing the percentages of the results of the voting held by virtue of this Act. Said ballots may only be counted as a group on the Tally Sheets for tallying purposes at all Polling Places and not as part of the certification of the results of the voting. Ballots with no Adjudication Value, without a valid expression of the voter's intent: "in no way may be counted for purposes of influencing or affecting the results of an election, referendum, or plebiscite, among other Voting events" Supreme Court of Puerto Rico in *Suárez-Cáceres v. CEE*, 176 D.P.R. 31, 73-74 (2009).

(t) "President" - the President of the United States of America.

(u) "Chair of the Commission" - The chief executive officer, nonpartisan figure and chief representative of the public interest in the Puerto Rico State Election Commission.

(v) "Electronic Canvass System (ECS)" or "Optical Scanning Vote Counting System (OpScan)" - Any machine, program, mechanical, or computing device, electronic or cyber system used by the Commission, and under the supervision thereof, to count the votes cast during any election event, as well as any of its components, including, but not limited to, cables, electrical connections, landline, wireless, and telematics network data connections, battery systems, ballot boxes, and any other component needed for the machine or system to count votes and transmit voting tallies and results. This system or the combination of any of the foregoing technological elements shall have

a certification or certifications of compliance with federal standards for voting systems, as applicable. Any of the Electronic Canvass methods used by the Commission shall have security systems in place for the use and transmission thereof, and include the notification mechanism to confirm that the vote was cast pursuant to the Voter's intent.

(w) "Voting" - means the election processes or ballot measures called by the Governor to attain the purposes of this Act.

(x) "Early Voting" - a special Voting method to guarantee the exercise of the right to vote of qualified and active Voters domiciled in Puerto Rico, if they face obstacles or difficulties to attend the Polling Center on the Voting day. This Act establishes the minimum categories under which Voters may qualify for this type of Voting and the Commission may include additional categories, but shall never limit those provided herein.

Section 1.5.- State Election Commission.

It is the agency the primary duty of which is to plan, coordinate, and conduct every voting or electoral process authorized by virtue of this Act, including the general canvass and the certification of the results thereof.

The regular members of the Election Commission, as defined in the Election Code, may vote at sessions and works related to these voting.

Section 1.6.- Supplemental Laws.

For the purposes of implementing the provisions of this Act, the provisions of Act No. 51-2020, known as the “Act to Define Puerto Rico’s Ultimate Political Status”; Act No. 30-2017, known as an “Act for Equality and Congressional Representation of the United States Citizens of Puerto Rico”; Act No. 58-2020, known as the “Puerto Rico Election Code”; and Act No. 222-2011, as amended, known as the “Puerto Rico Political Campaign Financing Oversight Act,” shall be supplemental to this Act, in those matters that are not preempted by, or inconsistent with, this Act.

Section 1.7.- Appropriations.

No general or special provision of law, regulation, executive or administrative order, or plan may be invoked to alter or postpone the budget transfers and appropriations needed for the Governor, the State Election Commission, and other officials to comply with the voting authorized herein and with all the purposes of this Act No. 51-2020, Act No. 30-2017, as amended, and Act No. 222-2011, as amended, in all that pertains to the right of the US citizens of Puerto Rico to determine their political status.

The Executive Director of the Office of Management and Budget, the Secretary of the Treasury, and the Executive Director of the Fiscal Agency and Financial Advisory Authority shall have the ministerial duty to prioritize, identify, and make the necessary financial resources available to achieve

the purposes of the aforementioned laws. Disbursements of budget transfers and appropriations shall not exceed thirty (30) calendar days from the filing of the request therefor.

Section 1.8.- Lack of Jurisdiction of PROMESA.

All matters and public fund appropriations related to this Act, Act No. 51-2020, and Act No. 30-2017, as amended, are unquestionably related to the U.S. Citizens of Puerto Rico's right to self-determination. Therefore, no matter or fund appropriation related to the aforementioned laws shall be consulted with or considered by the Financial Oversight Board for it lacks jurisdiction and authority therefor, as provided in Section 402 of Public Law 114-187, 2016, "Puerto Rico Oversight, Management, and Economic Stability Act" (PROMESA):

Section 402. Right of Puerto Rico to determine its future political status -

Nothing in this Act shall be interpreted to restrict Puerto Rico's right to determine its future political status, including conducting the plebiscite as authorized by Public Law 113-76, 2014.

CHAPTER II

CALL

Section 2.1.- Call.

The Legislative Assembly hereby empowers the Governor of Puerto Rico to call, through Executive Order, when deemed appropriate:

a. A voting or electoral process to enforce the will of an absolute majority of U.S. citizens of Puerto Rico in favor of statehood, according to the results of the November 3, 2020 plebiscite.

b. The Governor may also exercise this authority to call and coordinate a voting when any electoral petition, proposal, response, or ratification related to the political status of Puerto Rico is presented or requested by one or the two legislative houses of Congress, the United States President, or both.

c. The Governor may hold a ballot measure election with a ballot authorized by the U.S. Department of Justice as provided in P.L. 113-76.

d. A ballot measure election to ratify the will of the People of Puerto Rico.

e. A voting to resolve the future political status of Puerto Rico.

The voting called by the Governor pursuant to this Act may coincide with voting events called pursuant to other laws and even with the General Election.

The Governor shall issue the proclamation for these voting not later than ninety (90) days before the date selected for the holding thereof. The proclamation

shall be published in at least two (2) newspapers of general circulation in Puerto Rico in Spanish and English. It shall include, in addition to the seal of the Governor in the header of the proclamation, the date and the title: “Act to Implement the 2020 Plebiscite Petition for Statehood.”

Section 2.2.- Proclamation.

The text of the Proclamation of each voting called by virtue of this Act shall read as follows:

The Legislative Assembly and the Governor of Puerto Rico approved Act No. ____-____ known as an “Act to Implement the 2020 Plebiscite Petition for Statehood,” which provides for the holding of a voting in order to enforce the will of an absolute majority of voters as expressed in the November 3, 2020 Plebiscite, including such voting as are necessary arising from any electoral petition, proposal, response or ratification related to the political status of Puerto Rico presented or requested by one or the two houses of Congress, the United States President or both.

Act No. ____-____ provides that all citizens who meet the requirements of this Act and the Puerto Rico Election Code shall be considered qualified voters, to wit: be a citizen of the United States of America and a legal resident of the jurisdiction of Puerto Rico; be eighteen (18) years of age by the date of this voting; be duly qualified as such before the holding of the voting, and not have been declared mentally incompetent by a Court. Interested citizens, including new voters, who need to carry out any transaction in the General Voter

Registry before the registration deadline, shall have up to fifty (50) days before the holding of the voting to update their status, restore their registration, or register to vote. In addition, if necessary, the aforementioned date shall serve as the deadline for voters to request transfers or relocations, as well as request Early Voting and Voting at an Accessible Polling Place. Voters eligible for Absentee Voting shall have up to forty-five (45) days before the holding of the voting to request Absentee Voting. The Permanent Registration Boards (JIP) of the State Election Commission shall be open to the public to conduct all of these transactions during regular business hours.

In the exercise of the powers and duties conferred to the Governor by this Act, it is hereby proclaimed that:

FIRST: Voting Date.

On _____, _____ a voting authorized under Act No. _____ known as the “Act to Implement the 2020 Plebiscite Petition for Statehood” shall be held in every election precinct of Puerto Rico, and all qualified voters are hereby called to participate therein.

SECOND: Voting Hours.

The voting process for this plebiscite [sic] shall be similar to that of the General Election in “open polling places” from nine o’clock in the morning (9:00 am) to five o’clock in the afternoon (5:00 p.m.). The Voting Day shall be a holiday. The “Dry Law” shall

only apply only during the aforementioned hours and with the exceptions provided in the Puerto Rico Election Code.

THIRD: Options to be presented in the Voting

(The Governor shall include in this section of the Proclamation the options to be presented to voters and the question, if any, to be presented to voters in the same ballot.)

FOURTH: Meaning of the Options

(The Governor shall include in this section of the Proclamation the meaning of each option printed on the ballot to be presented to voters.)

FIFTH: Certification of Results.

The counting of ballots and the certification of the results by the State Election Commission shall only be carried out pursuant to the holding of the Supreme Court of Puerto Rico in *Suarez-Cáceres v. Com. Estatal Elecciones*, 176 DPR 31, 73-74 (2009). A vote not cast and any blank ballot cast and lacking a clear expression of the voter's intent "in no way may be counted for purposes of influencing or affecting the results of an election, referendum, or Plebiscite, among other voting events." Therefore, any interpretation of the results of this voting shall be subject to a valid vote for one of the options printed on the ballot. The absence of voters in the election or void or blank ballots cast shall never be used to suppress the intent

of voters who democratically, voluntarily and validly exercised their right.

SIXTH: Vote Counting System.

The same electronic vote counting system used in the General Election shall be used in this voting. Said system shall be capable of tallying votes easily, securely, and reliably with security and auditing mechanisms that ensure the transparency of the voting and vote counting processes.

SEVENTH: Voter Identification.

In order to vote at the polling places, voters shall be required to provide their Voter Identification Card issued by the State Election Commission, regardless of the expiration date thereof, or any other valid identification card authorized by the Puerto Rico Election Code.

EIGHTH: Absentee and Early Voting.

In accordance with the Puerto Rico Election Code, the Commission shall guarantee the right to apply for an Absentee and Early Voting of all voters domiciled in Puerto Rico who qualify therefor within the period provided in the “Act to Implement the 2020 Plebiscite Petition for Statehood.”

NINTH: Right to Vote Guaranteed.

The State Election Commission shall prescribe measures and remedies in order to guarantee the right

to vote of any voter who, by reasons beyond his control, was unduly omitted from the General Voter Registry of Puerto Rico.

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

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

TENTH: Education and Disclosure

As part of the continuous efforts to educate and inform citizens and voters of the scope of the Act enabling this voting and the electoral processes related to this Proclamation, not later than fifteen (15) days from the call for this voting, the Chair of the State Election Commission shall publish and continually update in the Agency's website, a prominent space entitled "Act to Implement the 2020 Plebiscite Petition for Statehood" with the contents of this Act, this Proclamation, and any official material and information pertaining to this and other related voting.

ELEVENTH: Supplemental Laws

In order to implement the provisions of the "Act to Implement the 2020 Plebiscite Petition for Statehood," the provisions of Act No. 51-2020, "Act to

Define Puerto Rico's Ultimate Political Status," Act No. 30-2017, known as an "Act for Equality and Congressional Representation of the United States Citizens of Puerto Rico," Act No. 58-2020, known as the "Puerto Rico Election Code," and Act No. 222-2011, known as the "Puerto Rico Political Campaign Financing Oversight Act," including the regulations adopted thereunder, shall be supplemental to this Act, in those matters that are not preempted by, or inconsistent with this Act.

CHAPTER III

PRE-VOTING PROCEDURES

Section 3.1.- Initial Coordination with the Chair of the State Election Commission.-

Not later than fifteen (15) days after the publication of the proclamation by the Governor for a voting related to the purposes of this Act, the Chair of the State Election Commission shall submit to the Governor:

- a. A draft of the voting ballot.
- b. A draft of the voting and general canvass regulations.
- c. A draft of or proposal for the general design of a strictly objective and nonpartisan mass voter education campaign on the ballot options.

d. A draft of the budget plan for the voting expenditures, including the voter education campaign.

Section 3.2.- Disclosure and Education.

Not later than fifteen (15) days after the approval of this Act, the Chair of the Commission shall post on and continually update in the Agency's website, a prominent space entitled "Act to Implement the 2020 Plebiscite Petition for Statehood," containing all official communications sent or received regarding this Act and any other document or information deemed relevant for an objective and nonpartisan voter education and orientation.

CHAPTER IV

VOTING TO IMPLEMENT THE 2020 PLEBISCITE PETITION FOR STATEHOOD

Section 4.1.- Ballot Options

Unless the Federal Government has established a question to be presented to voters, if any, and/or the options to be printed on the ballot, both matters shall be established by the Governor through Executive Order and upon the publication of the proclamation of the voting, as provided in this Act.

Section 4.2.- Ballot Design

The State Election Commission, in strict compliance with the provisions of this Act, and without

being subject to any other law or regulation, shall design and print the ballot to be used, which shall be of a solid color other than those used by political parties in Puerto Rico; of a standard size; printed in black ink with the text in both English and Spanish; and in thick paper, in such a manner that the text printed thereon does not show through the back of the sheet so it can be tallied by the electronic vote counting system.

Section 4.3.- Instructions for Voters on the Ballot

The following instructions shall be printed on the voting ballot:

“INSTRUCTIONS FOR THE VOTER

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

Section 4.4.- Lot Draw for Ballot Order

Not later than twenty (20) days after the publication of a voting proclamation by the Governor, the Chair of the State Election Commission shall conduct public lot draws to determine the emblems and the ballot order of the options that shall appear on the ballot. The emblems to be drawn shall be geometric shapes. The Chair of the Commission shall invite to this lot draw the press and the general public and at least two (2) judges of the Court of First Instance, as witnesses. The lot draw process and the results thereof shall be certified by a notary public authorized to practice in Puerto Rico.

Section 4.5.- Education Campaign

Every voter education campaign on each voting authorized by this Act shall be strictly objective and nonpartisan.

The education campaign activities shall include:

- (a) The presentation of the sample ballot to the mass media and information about its contents and how to cast a valid vote.
- (b) The electoral and legal consequences of not casting a valid vote.
- (c) The deadlines for voters to register with the General Voter Registry, update their information therein, and request Absentee or Early Voting.

For this education campaign, the State Election

Commission shall employ all available communications media and public broadcasting techniques, including electronic media

CHAPTER V

VOTING AND GENERAL CANVASS

Section 5.1.- Voting Date

The voting date shall be established by the Governor in his proclamation. The voting date shall be considered a holiday in which all business shall close.

Section 5.2.- Voting Hours

The voting process shall be conducted in “open polling places” from 9:00 am to 5:00 p.m. The “Dry Law” shall only apply during the aforementioned hours and the exceptions provided in the Puerto Rico Election Code shall apply.

Section 5.3.- Purity and Secrecy

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

is honored.

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

Section 5.4.- R e q u i r e m e n t s t o b e
Acknowledged as a Qualified
Voter.

A qualified voter shall be any citizen of the United States of America domiciled in Puerto Rico, who, on the date of the plebiscite has attained eighteen (18) years of age; has an active status in the Puerto Rico General Voter Registry pursuant to this Act and the regulations thereunder; and has not been declared mentally incompetent by a court of law.

Said person must meet all the registration requirements and have his information in the General Voter Registry up-to-date.

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

Section 5.5.- Voter Identification

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

Section 5.6.- Vote Counting System

The same electronic vote counting system used in the General Election shall be used in these voting events. Said system shall be capable of tallying votes easily, securely, and reliably with security and auditing mechanisms that ensure the transparency of the voting and vote counting process.

Section 5.7.- Absentee Voting

In accordance with the Puerto Rico Election Code, the Commission shall guarantee the right to Absentee Voting of all voters domiciled in Puerto Rico who qualify therefor in accordance with the Election Code and the applicable federal laws and who have applied therefor on or before forty-five (45) days before the voting.

Section 5.8.- Early Voting

In accordance with the Puerto Rico Election Code, the Commission shall guarantee the right to Early Voting of all voters domiciled in Puerto Rico who qualify therefor in accordance with the Election Code and the applicable federal laws and who have applied

therefor on or before fifty (50) days before the voting.

In addition to the Early Voting categories and modalities provided in the Election Code, Early Voting shall also be available in this voting to any qualified voter who, on the date of the voting, has attained the age of sixty (60) or more.

Every voter eligible for Early Voting shall do so through the US Postal Service or in advance and in person at an early voting center at the precinct where he is registered.

The Commission shall not treat or process Early Voting applications or the mailing of ballots as any type of certified mail. These ballots shall be mailed to the voter by regular mail at the address stated in his Early Voting application.

All other Early Voting modalities before an Electoral Balance Board shall be deemed to be extraordinary and limited to the voter who, in his application, certified to the State Election Commission at least one of the following:

(a) That he is bedridden at home or at a hospital.

(b) That he suffers from a medical condition that limits or affects his mobility outside of his home.

(c) That he resides at a Residential Care Home.

(d) That he is confined in a penal or juvenile

institution.

Section 5.9.- Right to Vote Guaranteed

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

Pursuant to the Election Code, the Commission shall also implement mechanisms to allow voters with physical disabilities to vote.

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

Voters who are bedridden due to health reasons, whether at a hospital or at home, and who on the date of the voting shall continue so, shall have the option to vote early at the hospital or at home, as the case may be. The Local Commission of each precinct shall constitute Voting Boards as are necessary to tend to these voters. Votes thus cast shall be adjudicated during the General Canvass, in accordance with the provisional voting procedures.

Section 5.10.- Certification and Publication of the Voting Results

(a) The option printed on the ballot that is favored by a majority of one hundred percent (100%) of valid votes and defined as “Adjudicated Ballots” shall

be certified by the Commission as the winning option and the legitimate expression of a majority of voters.

(b) The counting of votes and the certification of the results of the voting by the State Election Commission shall be carried out in accordance with the holding of the Supreme Court of Puerto Rico in *Suárez-Cáceres v. Comisión Estatal de Elecciones*, 176 DPR 31 (2009). A vote not cast, spoiled, and blank ballots, or ballots lacking a clear expression of the voter's intent "in no way may be counted for purposes of influencing or affecting the results of an election, referendum, or plebiscite, among other voting events."

(c) Therefore, any interpretation of the results of the voting shall be subject to a valid vote for one (1) of the options printed on the ballot. The absence of voters in the election or void or blank ballots cast shall never be used to suppress the intent of voters who exercised their right legally, democratically, voluntarily, and validly.

(d) Only "Adjudicated Ballots" may be considered as part of the certification of the results.

(e) "Ballots with no Adjudication Value," as defined in the Election Code, may only be counted as a group on the tally sheets of each polling place for tallying purposes at said polling places and not as part of the certification of the results.

(f) Upon issuing the final certification of the results, in Spanish and English, including the number of valid votes and the percentages obtained by each

one of the ballot options, the State Election Commission shall include the following as a preamble: "These final and official results certified by the State Election Commission of Puerto Rico constitute the legitimate expression of a majority of voters and the exercise of the right to self-determination of the U.S. citizens of Puerto Rico to finally solve their current political status. Furthermore, it constitutes the claim of a majority of voters protected by the First Amendment to the U.S. Constitution to petition the Congress and the President for a redress of grievances arising out of the current territorial status established ____ years ago.

Any other interpretation of these results shall be contrary to the rights of a majority of U.S. citizens of Puerto Rico who cast their vote willingly, validly, and democratically, in accordance with federal law, the laws, and the case law of the Supreme Court of Puerto Rico.

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

(h) Not later than five (5) days from the certification of the results of the voting, the Governor shall deliver a copy of the certification to each member of Congress.

Section 5.11.- Duties of the Commission in
Connection with the Voting.

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

(b) When no unanimity is reached by the voting members of the Commission on any matter related to the voting authorized by this Act, the Chair shall make the final decision that best serves the public interest and that fully complies with the provisions of this Act. No partisan, ideological, or sectarian consideration shall be above the purposes of this Act.

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

(d) To adopt rules for each voting not later than twenty (20) days after the publication of the proclamation by the Governor.

(e) To establish a “Special Polling Place for Provisional Voting” in every electoral unit or polling center for voters who have not been included in the voters’ lists and claim their right to vote. The Commission shall prescribe by regulations the

requirements and procedures for this special polling place for voters who claim that they do not appear on the voters' list of their polling center due to administrative errors attributable to the Commission.

(f) To establish an "Accessible Polling Place" in every electoral unit or polling center to facilitate the voting process for voters with disabilities.

(g) To evaluate whether it is feasible to establish an accessible Vote-by-Telephone system for voters with disabilities, so that said voters may cast their votes secretly and independently. The system shall have the same notification functions as the Electronic Vote Counting system.

(h) To keep all the ballots and tally sheets of these voting for a period of not less than twelve (12) months, from the final certification of the results. Once said period elapses, ballots and tally sheets may be destroyed unless any judicial proceeding is pending or until the Court's decision becomes final and binding.

(i) To strictly comply with all the dates and the calendar provided in this Act

Section 5.12.- General Canvass

(a) The General Canvass may not be stayed, except for the regular rest breaks. Thus, the canvass shall operate uninterruptedly and swiftly, thus ensuring that every vote cast by a voter duly authorized by Law to vote is counted and that the canvass ends within a reasonable timeframe.

(b) The General Canvass shall begin no later than three (3) days after the voting, and shall end not later than thirty (30) days after it began.

(c) The regular Election Commissioners of all political parties that constitute the whole Commission and their representatives in the canvass process shall be proactive in order for the General Canvass to continue uninterrupted. This shall include to provide for the presence of their officials at the appropriate canvass desks from the beginning to the end of the daily works in order to canvass votes.

(d) Any party whose officials are not present shall be deemed to have waived its electoral balance representation at such desk.

(e) Hindering, interrupting, or staying the General Canvass shall constitute a felony as provided in this Act.

(f) The Commission shall not stop all the General Canvass works being carried out at the desks, and any disagreement arising in a particular desk shall be addressed in accordance with the ranking system established in the rules of the Commission.

(g) Whenever it is determined that a voter has cast his vote at the polling place, or cast an early vote, an absentee vote, a provisional vote, or otherwise, unlawfully, such matter shall be referred to the whole Commission to address such matter.

(h) The Commission shall refer the matter to

investigative agencies, namely, the state and the federal Departments of Justice as well as to any other agency with a similar capacity to conduct investigations as appropriate and, if necessary, to initiate any action in connection with the matter.

(i) The finding of an attempted double voting or any other irregularities shall not interrupt the course of the General Canvass; hence, the vote thus cast and in dispute shall be excluded therefrom. Once the matter is referred to the whole Commission, the canvass process shall continue at the appropriate desk.

(j) The poll books of each precinct shall be available to the concerned election officials when the respective precinct election material bag is opened. Only the officials of the appropriate desks shall have access to the poll book concerned with which the works of the specific precinct shall be carried out.

(k) In order to safeguard the right to cast a secret ballot as well as the guarantees of confidentiality over sensitive information protected by the state and federal codes of law, the transfer of poll books outside of the premises where the General Canvass is been conducted is hereby prohibited. The purpose of the foregoing is to safeguard the rights of all voters.

(l) Upon concluding the General Canvass, the poll books shall be placed under the custody of the Commission and any subsequent use thereof shall be legally supported.

(m) To avoid undermining the nature of the General Canvass, it is hereby provided that the representatives of all the options on the ballot shall have access to the poll books without the need to reproduce additional copies for each representative. In doing so, only one copy shall be allowed in addition to the original poll book. Once used, the copy shall be destroyed and the original poll book shall be kept under custody as provided in the preceding subsection.

(n) It is clear that any discrepancies in a canvass desk or the withdrawal of any representative of any of the options, whether voluntarily or due to lack of human resources, shall not constitute an impairment to continue with the General Canvass. If one or various representatives withdraw their staff or fail to be present due to a lack of human resources, the Canvass Director and the members of the Commission shall have the duty to ensure that the representatives of the remaining options carry on with the canvass process together with a representative of the public interest, who shall be designated by the Chair of the State Election Commission.

CHAPTER VI

REPRESENTATION OF OPTIONS ON THE BALLOT

Section 6.1.- Certification to Represent an Option.

(a) No organization that has failed to meet the requirements of this Act, the Commission, and Act No.

222-2011, as amended, known as the “Puerto Rico Political Campaign Financing Oversight Act,” shall be certified as representative of an option.

(b) The State Election Commission shall certify as representative of each option printed on the voting ballot the political parties, parties by petition, citizen groups, or political action committees that so request and meet the requirements of this Act.

(c) Nothing shall prevent political parties, parties by petition, citizen groups, or political action committees from forming alliances or coalitions to represent the same political status option; provided, that they all meet the requirements of this Act.

(d) Without prejudice to the provisions of this Act, the Commission and the Office of the Election Comptroller shall adopt the rules that shall govern all that pertains to the requests, forms, and procedures to be followed to implement all that pertains to the certification as representative, including alliances or coalitions.

(e) No political party, party by petition, citizen group, political action committee, alliance, or coalition may represent more than one (1) option in these voting events.

(f) Any political party, party by petition, citizen group, political action committee, and natural or juridical person, that is certified as representative of any of the options printed on the ballot, which receives or uses contributions, engages in fundraising

activities, and/or incurs campaign advertising expenditures or any kind of canvassing activity in support or against any of the options, including, to promote abstention, any type of voting expression modality, or any other status option shall meet the registration and certification requirements in the Office of the Election Comptroller, as a prerequisite to engage in canvassing activities or to its certification in the Commission.

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

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

Section 6.2.- Certification Requirements for Representing an Option.

(a) Prior to the Commission's certification, every political party, party by petition, citizen group, or

political action committee shall provide proof of registration as required by Act No. 222-2011, known as the “Puerto Rico Political Campaign Financing Oversight Act,” regardless of whether these shall participate individually, as an alliance, or as a coalition.

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

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

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

Section 6.3.- Electoral Balance Representation
in Polling Place Boards, Electoral
Unit Boards, Precinct Local
Commission, and the Absentee
and Early Voting Administrative
Board (JAVAA)

(a) At the voting authorized by this Act, the number of election officials at all Electoral Balance levels shall always be equal for each option, regardless of the number of parties, groups or individuals that support them, including alliances or coalitions.

(b) Polling place boards, electoral unit boards, and local commissions shall be composed of election officials of each political party or group certified by the Commission.

(c) This Electoral Balance mechanism shall also be used by the Absentee and Early Voting Administrative Board (JAVAA) during the voting cycles authorized by this Act. The number of election officials at all JAVAA levels shall always be equal for each option, regardless of the number of parties, groups or individuals that support them, including alliances or coalitions.

(d) The Commission shall prescribe by regulations the number of election officials needed at each Electoral Balance level for each one of the voting options as well as their duties.

(e) Not later than forty-five (45) days before the voting, political parties, parties by petition, citizen groups, or political action committees that are certified as representatives of an option shall notify the Commission in writing and in the forms provided by the latter, the information about their respective officials and their location by precinct, electoral unit, and polling place.

CHAPTER VII

FUNDRAISERS AND CAMPAIGN EXPENDITURES

Section 7.1.- Lack of Public Funding and Obligations.

(a) Every political party, party by petition, citizen group, political action committee, and natural or juridical person that engages in canvassing

activities during the campaign of any of the voting events authorized by this Act, shall defray campaign expenditures from their own financial resources. However, if any of the foregoing solicits, receives or uses contributions, engages in fundraising activities, and/or incurs campaign advertising expenditures or in any kind of canvassing activity to favor or oppose any of the options on the ballot, including, to promote abstention, any type of voting expression modality, or any other option, they shall meet the financial reporting requirements set forth by the Office of the Election Comptroller by virtue of Act No. 222-2011, known as the “Puerto Rico Political Campaign Financing Oversight Act.” Notwithstanding the foregoing, in the case of nonprofit entities organized under Section 501 of the U.S. Internal Revenue Code, which are required to submit registration and operations documents and reports to the U.S. Internal Revenue Service (IRS), may only be required to register with the Office of the Election Comptroller for the sole purpose of reporting expenditures specifically related to any plebiscite or ballot measure called under the “Act to Implement the 2020 Plebiscite Petition for Statehood,” but shall not be required to disclose their membership or the contributions received, as ordinarily required by Act No. 222-2011, as amended. Nor said entities shall be required to report to the Election Comptroller (Act No. 222-2011) expenditures or disbursements of any other nature that are not related to said ballot measures or plebiscites under this Act.

(b) In the absence of public campaign funding, the limitations on expenditures provided by law for

primaries, general elections, and other similar voting events shall not apply, except for the limitations or conditions that may arise from applicable federal and state case law.

Section 7.2.- Rulemaking Authority.

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

CHAPTER VIII

OTHER PROVISIONS

Section 8.1.- Legal Actions.

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

(b) In order to prevent disputes or actions related to the procurement or contracting of goods and services that are necessary for the holding of this plebiscite, from hindering the planning, coordination,

calendar, and holding thereof, the Commission shall directly review and decide thereon in its best judgment. If no unanimity is reached by the voting members of the Commission, the Chair shall make the final decision. No complaint or action filed with a court of law shall stay the determination or administrative adjudication of the Commission, unless the Order, Decision, or Judgment becomes final and binding.

Section 8.2.- Non-Applicability.

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

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

Section 8.3.- Powers of the Governor

The Legislative Assembly hereby empowers the Governor of Puerto Rico to implement the purposes of this Act by Executive Order.

This discretionary power conferred to the Governor shall be exercised always upholding the will of an absolute majority of U.S. citizens of Puerto Rico in favor of equality through statehood as expressed in the November 3, 2020 plebiscite.

Section 8.4.- A new subsection (f) is hereby

added and the subsequent subsections of Article 2 of Act No. 30-2017, as amended, known as the “Act for Equality and Congressional Representation of the United States Citizens of Puerto Rico,” are hereby renumbered, to read as follows:

“Article 2.- Definitions

For the purposes of this Act, the term:

(a) ...

(f) “Revolving Fund” shall be of a permanent and revolving character, thus, any balance at the close of each fiscal year shall remain in the Fund for its capitalization and use for future expenditures.

(g) ...

(h) ...

(i) ...

(j) ...

(k) ...

(l) ...”

Section 8.5.- Current Article 3 is hereby repealed and a new Article 3 is

hereby added to Act No. 30-2017, as amended, known as the “Act for Equality and Congressional Representation of the United States Citizens of Puerto Rico,” to read as follows:

“Article 3.- Declaration of Public Policy

In the November 3, 2020 plebiscite, and for the third consecutive time in the last eight (8) years, an absolute majority of voters of Puerto Rico have claimed equal rights and duties as U.S. citizens with statehood.

The result of the election in favor of statehood constitutes a mandate of the People to their government and a public purpose of the highest priority. It also constitutes the U.S. citizens of Puerto Rico’s exercise of their fundamental right protected under the First Amendment to the U.S. Constitution to petition the Government for a redress of grievances arising out of the current territorial status established 122 years ago.

As provided in Act No. 51-2020, known as an “Act to Define Puerto Rico’s Ultimate Political Status,” a transition process shall begin forthwith to cease in Puerto Rico the imposition of any form of territorial and colonial condition and legal interpretation under Article IV, Section 3, Clause 2 of the Constitution of the United States of America and lead Puerto Rico, without delay, on a path toward equal rights and duties as a state of the Union under the Constitution of the United States of America.

The U.S. citizens of Puerto Rico are internally organized as a republican form of government and governed by a Constitution approved by the Congress and the President; and compatible with all of the requirements imposed on the States of the Union by the United States Constitution of the United States of America.

The efforts of the Puerto Rico Equality Commission created by this Act become more relevant, and so do the necessary resources to attain its purposes and honor the electoral mandate of the People of Puerto Rico.”

Section 8.6.- Sections 2 and 8 of Article 4 of Act No. 30-2017, as amended, known as the “Act for Equality and Congressional Representation of the United States Citizens of Puerto Rico,” are hereby amended to read as follows:

“Article 4.- T r a n s i t o r y M e a s u r e s t o
Constitute the Congressional
Representation of the United
States Citizens of Puerto Rico

Section 1.- ...

Section 2.- Duties and Powers of the
Commission

The Commission shall have the following duties

and powers:

(a) ...

(l) The Commission is hereby authorized to solicit and accept contributions from natural and juridical persons from any jurisdiction of the United States of America, whether public or private. Not later than thirty (30) days from the approval of this Act, the Secretary of the Treasury shall implement the rules for soliciting, receiving, depositing, and expending these contributions in the Equality Commission's Revolving Fund created by this Act, including the maximum tax deductions possible for donors, in accordance with the Tax Code in effect.

Section 3.- ...

Section 8.- Budget of the Commission.

Beginning July 1, 2021, and every fiscal year thereafter, an annual budget of one million two hundred and fifty thousand dollars (\$1,250,000.00) shall be appropriated to the Commission to defray operating expenses, action plans, professional and media services, among others, and any other expenses incurred by its members, which are equal to those paid from public funds to any official carrying out official duties within and without Puerto Rico. Proof of travel, transportation, per diem, and lodging expenses incurred by the members of the Commission, as of the effective date of this Act, shall be reimbursed by PRFAA chargeable to the budget appropriation provided in this Act for fiscal year 2021-2022.

The annual budget appropriation shall be consigned in a Revolving Fund of the Equality Commission under the custody of the Puerto Rico Federal Affairs Administration (PRFAA), created by Act No. 77-1979, as amended. The use of the monies in this Fund for purposes other than those authorized by a majority of members of the Equality Commission shall be prohibited. This Fund shall be of a permanent and revolving character, thus, any balance at the close of each fiscal year shall remain in the Fund for its capitalization and use for future expenditures.

PRFAA's intervention in this Fund shall be limited to receiving and keeping custody of the appropriations and contributions, accounting, and administrative controls, and making disbursements promptly. Solely by a majority vote, the members of the Commission, who shall be responsible for such expenses, shall be empowered to determine how and on which matters such funds shall be invested.

The financial resources of this Fund shall originate from the taxes imposed on Corporations. These appropriations and the Fund shall be exempt from the intervention of the Financial Oversight Board, as provided in Section 402 of Public Law 113-76 (2014), known as the 'Puerto Rico Oversight, Management, and Economic Stability Act' (PROMESA)."

Section 8.7.- A new Article 6 is hereby added and current Article 6 is hereby renumbered as Article 7 of Act No. 30-2017, as amended, known

as the “Act for Equality and Congressional Representation of the United States Citizens of Puerto Rico,” to read as follows:

“Article 6.- Prohibitions and Offenses. -

Any person who obstructs or interferes with the activities or the appropriations related to this Act, or fails to comply with its provisions, or to meet the obligations and duties imposed under this Act, shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for a term of not less than one (1) year nor more than three (3) years or by a fine not to exceed ten thousand dollars (\$10,000), or both penalties at the discretion of the Court.”

Section 8.8.- Severability Clause.

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

If the application to a person or a circumstance of any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection,

title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect or invalidate the application of the remainder of this Act to such persons or circumstances where it may be validly applied.

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

Section 8.9.- Offenses.

In addition to the offenses provided in the Election Code, Act No. 222-2011, as amended, and other penal laws, the following offense shall be punishable:

Any person who obstructs or interferes with the activities or the appropriations related to this Act, or fails to comply with its provisions, or to meet the obligations and duties imposed under this Act, shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for a term of not less than one (1) year nor more than three (3) years, or by a fine not to exceed ten thousand dollars (\$10,000), or both penalties at the discretion of the Court.

Section 8.10.- Effectiveness.

This Act shall take effect immediately after its approval.