

105TH CONGRESS
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S. 472

To provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 19, 1997

Mr. CRAIG (for himself, Mr. GRAHAM, Mr. D'AMATO, Mr. TORRICELLI, Mr. AKAKA, Mr. MACK, Mr. ALLARD, Mr. THOMAS, Mr. REID, Mr. BREAUX, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress finds that—

5 (1) the United States exercises sovereignty over
6 Puerto Rico pursuant to the Treaty of Paris pro-
7 claimed by President McKinley on April 11, 1899

1 (30 Stat. 1754), article IX of which established that
2 residents of the territory not owing allegiance to an-
3 other nation would have United States nationality
4 and provided that the “civil rights and political sta-
5 tus of the native inhabitants” of Puerto Rico “shall
6 be determined by the Congress”;

7 (2) Congress carries out all Federal responsibil-
8 ities with respect to Puerto Rico, including those set
9 forth in article IX of the Treaty of Paris, pursuant
10 to clause 2 of section 3 of article IV of the Constitu-
11 tion (commonly known as the “territorial clause”),
12 which provides that “Congress shall have Power to
13 dispose of and make all needful Rules and Regula-
14 tions respecting the Territory or other Property be-
15 longing to the United States”;

16 (3) in the Act of March 2, 1917 (39 Stat. 951,
17 chapter 145), Congress carried out its responsibility
18 under article IX of the Treaty of Paris by providing
19 for civil administration of Puerto Rico and declared
20 that, by virtue of that Act, the inhabitants of Puerto
21 Rico shall be citizens of the United States, with such
22 civil rights and political status as Congress deter-
23 mined to be consistent with birth or residence in an
24 unincorporated territory rather than a State of the
25 Union;

1 (4) in the Act of July 3, 1950 (64 Stat. 319,
2 chapter 446), Congress further implemented article
3 IX of the Treaty of Paris by authorizing the resi-
4 dents of Puerto Rico to adopt a constitution, which
5 was implemented in 1952 after acceptance by Puerto
6 Rico of certain amendments made by Congress in
7 approving the territorial constitution, thereby estab-
8 lishing the current commonwealth structure for local
9 self-government in respect of internal affairs and
10 local government administration, subject to the Con-
11 stitution of the United States and other Federal law
12 applicable to Puerto Rico; and

13 (5) the United States, consistent with its con-
14 stitutional process, is committed to respecting the
15 principle of self-determination in implementing any
16 Federal measures that would provide for or make
17 possible a transition of government from the current
18 territorial status of commonwealth to a permanent
19 and fully self-governing political status for Puerto
20 Rico.

21 **SEC. 2. REFERENDA.**

22 (a) POLICY OF THE UNITED STATES.—

23 (1) IN GENERAL.—It is the policy of the United
24 States that, as long as Puerto Rico remains subject
25 to the plenary power of Congress under the terri-

1 torial clause, the residents of Puerto Rico periodi-
2 cally should be afforded an opportunity freely to ex-
3 press their wishes regarding the future political sta-
4 tus of Puerto Rico.

5 (2) OPTIONS.—The self-determination process
6 for Puerto Rico should enable the residents of Puer-
7 to Rico to express a preference to—

8 (A) preserve the current political status of
9 Puerto Rico; or

10 (B) choose to seek, in accordance with a
11 process approved by Congress and the residents
12 of Puerto Rico—

13 (i) admission as a State of the Union
14 on the basis of full equality; or

15 (ii) withdrawal of United States sov-
16 ereignty and nationality in favor of sepa-
17 rate sovereignty and nationality for Puerto
18 Rico and a relationship with the United
19 States consistent with independence or free
20 association.

21 (b) REQUIREMENTS.—A referendum under this
22 Act—

23 (1) shall be conducted among persons in Puerto
24 Rico who have the nationality and citizenship of the
25 United States and meet other applicable residency

1 and voter eligibility requirements under Federal or
2 territorial law; and

3 (2) shall be conducted by the duly constituted
4 authorities of the Commonwealth of Puerto Rico in
5 accordance with applicable provisions of the elections
6 law of Puerto Rico and other applicable Federal and
7 territorial law, consistent with this Act.

8 (c) REFERENDUM BY THE END OF 1998.—A referen-
9 dum under this Act shall be conducted not later than De-
10 cember 31, 1998.

11 (d) FORMAT OF REFERENDUM BALLOT.—A referen-
12 dum ballot shall instruct a voter to approve 1 of 3 options
13 presented in a side-by-side format on the ballot, as follows:

14 “Instructions: Mark 1 of the following status options
15 for Puerto Rico. A ballot with more than 1 option marked
16 will not be counted.

17 “OPTION A.—COMMONWEALTH.—If you agree,
18 mark here: ____.

19 “Puerto Rico should continue its current status, in
20 which—

21 “(1) Puerto Rico continues the current com-
22 monwealth structure for self-government with re-
23 spect to internal affairs and administration;

1 “(2) provisions of the Constitution and other
2 laws of the United States apply to Puerto Rico as
3 determined by Congress;

4 “(3) Puerto Rico remains a locally self-govern-
5 ing unincorporated territory of the United States;

6 “(4) continuation or modification of current
7 Federal law and policy applicable to Puerto Rico re-
8 mains within the discretion of Congress under the
9 territorial clause of the Constitution of the United
10 States; and

11 “(5) the ultimate status of Puerto Rico will be
12 determined through a process authorized by Con-
13 gress that includes self-determination by the people
14 of Puerto Rico in periodic referenda.

15 “OPTION B.—SEPARATE SOVEREIGNTY.—If
16 you agree, mark here: ____.

17 “Puerto Rico should become fully self-governing
18 through separate sovereignty leading to independence or
19 free association, in which—

20 “(1) Puerto Rico is a sovereign nation with full
21 authority and responsibility for its internal affairs
22 and has the capacity to exercise in its own name and
23 right the powers of government with respect to its
24 territory and population;

1 “(2) relations between the United States and
2 Puerto Rico are maintained under a negotiated gov-
3 ernment-to-government treaty of friendship, or bilat-
4 eral pact of free association terminable at will by ei-
5 ther government, providing for cooperation and as-
6 sistance in matters of shared interest as agreed on
7 by Puerto Rico and the United States in accordance
8 with their respective constitutional processes;

9 “(3) a constitution democratically instituted by
10 the people of Puerto Rico, establishing a republican
11 form of government and securing the rights of citi-
12 zens of the Puerto Rican nation, is the supreme law,
13 and the Constitution and other laws of the United
14 States no longer apply in Puerto Rico;

15 “(4)(A) the people of Puerto Rico owe alle-
16 giance to the sovereign nation of Puerto Rico and
17 have the nationality and citizenship of Puerto Rico;

18 “(B) United States sovereignty, nationality, and
19 citizenship in Puerto Rico are ended; and

20 “(C) birth in Puerto Rico or relationship to a
21 person with statutory United States citizenship by
22 virtue of birth in Puerto Rico is not a basis for
23 United States nationality or citizenship;

24 “(5) a person who acquired United States citi-
25 zenship by virtue of birth in Puerto Rico at a time

1 when Puerto Rico was a territory of the United
2 States has a statutory right to retain that status for
3 life, by entitlement or election as provided by Con-
4 gress, based on allegiance to the United States, ex-
5 cept that no person who has or maintains allegiance,
6 nationality, or citizenship rights with respect to any
7 sovereign nation other than the United States shall
8 have that statutory right; and

9 “(6) diplomatic relations, trade relations, and
10 government-to-government assistance shall be based
11 on treaty, and property rights and acquired rights
12 vested by employment under the laws of Puerto Rico
13 or the United States shall be honored, adjusted, and
14 settled in accordance with agreements implementing
15 the separation of sovereignty.

16 “OPTION C.—STATEHOOD.—If you agree, mark
17 here: ____.

18 “Puerto Rico should become fully self-governing
19 through United States sovereignty leading to statehood,
20 in which—

21 “(1) the people of Puerto Rico are fully self-
22 governing with their rights secured under the Con-
23 stitution of the United States, which is the supreme
24 law and has the same force and effect as in the
25 other States of the United States;

1 “(2) the sovereign State of Puerto Rico is in
2 permanent union with the United States, and powers
3 not delegated to the Federal Government or prohib-
4 ited to the States by the Constitution of the United
5 States are reserved to the people of Puerto Rico or
6 the State government;

7 “(3) United States nationality and citizenship
8 of a person born in Puerto Rico is guaranteed, pro-
9 tected, and secured in the same way as for all
10 United States citizens born in the other States;

11 “(4) residents of Puerto Rico have equal rights,
12 benefits, duties, and responsibilities of citizenship as
13 residents of the other States;

14 “(5) Puerto Rico is represented by 2 members
15 in the United States Senate and in the United
16 States House of Representatives proportionately to
17 the population; and

18 “(6) United States citizens in Puerto Rico are
19 enfranchised to vote in elections for the President
20 and Vice President of the United States.”.

21 **SEC. 3. IMPLEMENTATION.**

22 (a) CERTIFICATION OF RESULTS OF REFEREN-
23 DUM.—The Government of Puerto Rico shall certify to the
24 President and Congress the results of a referendum under

1 this Act. On certification of the results, subsection (b) or
2 (c), as appropriate, shall apply.

3 (b) APPROVAL OF CURRENT STATUS OR REJECTION
4 OF TERMS FOR IMPLEMENTATION OF A NEW STATUS.—
5 If a majority of the voters in a referendum under this Act
6 approves continuation of the unincorporated status and
7 commonwealth structure for local self-government, or on
8 rejection of a transition plan or implementation of a new
9 status in accordance with this Act, unless otherwise pro-
10 vided by Congress—

11 (1) the unincorporated status and common-
12 wealth structure for local self-government shall con-
13 tinue; and

14 (2) to ensure that the principle of self-deter-
15 mination is respected and that the residents of Puer-
16 to Rico are afforded the opportunity freely to ex-
17 press their wishes with respect to resolution of the
18 status of Puerto Rico based on the options for per-
19 manent self-government described in section 2, a ref-
20 erendum on the future political status of Puerto
21 Rico shall be held in accordance with this Act every
22 4 years thereafter, but not on or within 180 cal-
23 endar days before or after the date of a general elec-
24 tion.

1 (c) APPROVAL OF SEPARATE SOVEREIGNTY OR IN-
2 CORPORATION LEADING TO STATEHOOD.—

3 (1) TRANSITION PLAN.—

4 (A) PROPOSAL.—If a majority of the vot-
5 ers in a referendum under this Act approve full
6 self-government through separate sovereignty or
7 incorporation leading to statehood, not later
8 than 180 days after the date of the referendum,
9 the President shall transmit to Congress a pro-
10 posal for legislation to enact a transition plan.

11 (B) TRANSITION PERIOD.—Unless Con-
12 gress provides a longer period, a transition plan
13 shall provide for a transition period of not to
14 exceed 10 years.

15 (C) CONTENTS.—A transition plan shall
16 prescribe the terms and criteria the fulfillment
17 of which will provide the basis for instituting
18 full self-government for Puerto Rico consistent
19 with separate sovereignty or incorporation lead-
20 ing to statehood, as the case may be.

21 (2) REFERENDUM ON TRANSITION PLAN.—

22 (A) INITIAL APPROVAL.—Not later than
23 180 days after the date of enactment of an Act
24 establishing a transition plan under paragraph
25 (1), a referendum shall be conducted in which

1 the qualified residents of Puerto Rico vote to
2 approve or disapprove the transition plan.

3 (B) APPROVAL OF FINAL IMPLEMENTA-
4 TION.—Before the expiration of the transition
5 period set forth in the transition plan, a ref-
6 erendum shall be conducted in which the quali-
7 fied residents of Puerto Rico vote to approve or
8 disapprove final implementation of the new sta-
9 tus of Puerto Rico, as established in accordance
10 with this Act.

11 **SEC. 4. AVAILABILITY OF FUNDS FOR THE REFERENDA.**

12 (a) IN GENERAL.—

13 (1) AVAILABILITY OF AMOUNTS DERIVED FROM
14 TAX ON FOREIGN RUM.—During the period begin-
15 ning on October 1, 1997, and ending on the date on
16 which the President determines that all referenda re-
17 quired by this Act have been held, from the amounts
18 covered into the treasury of Puerto Rico under sec-
19 tion 7652(e)(1) of the Internal Revenue Code of
20 1986, the Secretary of the Treasury—

21 (A) upon request and in the amounts iden-
22 tified from time to time by the President, shall
23 make the amounts so identified available to the
24 treasury of Puerto Rico for the purposes speci-
25 fied in subsection (b); and

1 (B) shall transfer all remaining amounts to
2 the treasury of Puerto Rico in accordance with
3 law in effect on the date of enactment of this
4 Act.

5 (2) REPORT OF REFERENDA EXPENDITURES.—
6 Not later than 180 days after each referendum
7 under this Act, and after the end of the period speci-
8 fied in paragraph (1), the President, in consultation
9 with the government of Puerto Rico, shall submit a
10 report to Congress on the amounts made available
11 under paragraph (1)(A) and all other amounts ex-
12 pended by the State Elections Commission of Puerto
13 Rico for referenda under this Act.

14 (b) GRANTS FOR CONDUCTING REFERENDA AND
15 VOTER EDUCATION.—

16 (1) IN GENERAL.—From amounts made avail-
17 able under subsection (a)(1), the Government of
18 Puerto Rico shall make grants to the State Elections
19 Commission of Puerto Rico for referenda under this
20 Act, as follows:

21 (A) 50 percent shall be available only for
22 the costs of conducting the referenda.

23 (B) 50 percent shall be available only for
24 voter education funds for the central ruling
25 body of the political party, parties, or other

1 qualifying entities advocating a particular ballot
2 choice.

3 (2) ALLOCATION AMONG ADVOCATES.—The
4 amount allocated for advocating ballot choices under
5 this paragraph (1)(B) shall be apportioned equally
6 among the parties advocating the respective ballot
7 choices.

8 (c) ADDITIONAL RESOURCES.—In addition to
9 amounts made available under this Act, the legislature of
10 Puerto Rico may allocate additional resources for adminis-
11 trative and voter education costs to each party so long as
12 the distribution of funds is consistent with the apporportion-
13 ment requirements of subsection (b)(2).

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