

Puerto Rico Status Archives Project: An Overview of Federal Status Legislation for Puerto Rico (*Revised August 2024*)

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About This Report

The Puerto Rico Status Archives Project (PRSAP) is a repository of materials documenting the history of congressional legislation addressing Puerto Rico's political status. The PRSAP collects legislative materials related to Puerto Rico's political status within the United States between the 56th Congress (1899-1901) and the 118th Congress (2023-2025). In addition, all federal legislation has been organized in an interactive dashboard that enables researchers to compare and contrast some dimensions of this history. This report provides an introductory overview of the federal status legislation for Puerto Rico.

About the Authors

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Defining Puerto Rico's Political Status

Between 1898 and 1901, the United States invented a new territorial law and policy to rule Puerto Rico and the other Spanish ultramarine territories annexed during the Spanish-American War of 1898. The United States annexed Puerto Rico under the terms of the *Treaty of Paris 1898*. Unlike prior US treaties of territorial annexation, the *Treaty of Paris* did not provide for the collective naturalization of the inhabitants of Puerto Rico, nor did it promise to do so in the future. The treaty established that Congress would be responsible for the extension of civil and political rights to the inhabitants of Puerto Rico. In 1900, Congress enacted an organic or territorial legislation to govern Puerto Rico under the terms of the *Foraker Act*. Central to the *Foraker Act* was a clause that treated Puerto Rico as a foreign territorial possession for trade and tariff purposes. A year later, the Supreme Court, in a series of rulings generally known as the Insular Cases, affirmed the power of Congress to selectively treat Puerto Rico as a territorial possession that belonged to, but was not a part of the United States. In the key opinion that has since defined the constitutional contours of Puerto Rico's relationship to the United States, *Downes v. Bidwell* (1901), the Court affirmed the Foraker Act tariff and established that Puerto Rico could be selectively ruled as a foreign territorial possession for domestic or Constitutional purposes.

The Supreme Court's ensuing territorial doctrine, also known as the doctrine of "territorial incorporation" or the doctrine of "separate and unequal," departed from prior colonialist and imperialist territorial law and policy. To be sure, whereas colonial territories were annexed, settled, and organized with the intent of creating new states that could be admitted into the Union, the doctrine of separate and unequal established that unincorporated territories were not guaranteed statehood. Likewise, whereas the imperialist tradition established that occupied territories were located outside of the United States for constitutional purposes, the new doctrine enabled the federal government to selectively determine when Puerto Rico could be treated as a part of the United States for the purposes of extending or withholding the application of constitutional provisions to Puerto Rico. Simply put, the new territorial doctrine allowed the federal government to discriminate against Puerto Rico and its residents. In 1922, after the residents of Puerto Rico were collectively naturalized, the Supreme Court further established in *Balzac v. People of Porto Rico* that Puerto Rico would remain an unincorporated territory until Congress enacted legislation that explicitly incorporated the Puerto Rican islands. Congress has not enacted legislation incorporating or changing Puerto Rico's territorial status.

Since 1901, Congress has enacted various amendments to the *Foraker Act*, as well as other territorial legislation for Puerto Rico, without changing its territorial status. For example, in 1917, Congress enacted the *Jones Act*, which amended the *Foraker Act* various ways, including the extension of a bill of rights, the collective naturalization of the residents of Puerto Rico, and provided for an elective Senate. The *Elective Governor Act of 1947* further enabled local voters to elect a local governor. In addition, in 1952 (82nd Congress), Congress enacted legislation authorizing the residents of Puerto Rico to gain more autonomic or administrative control over its local government. However, Congress has never enacted legislation explicitly incorporating or changing Puerto Rico’s territorial status. Puerto Rico has remained an unincorporated territory since 1900.

Federal Status Legislation for Puerto Rico

- Since the United States annexed Puerto Rico (56th Congress), Congress has debated upwards of 154 bills, resolutions, laws, and other measures that contain a provision addressing Puerto Rico’s political status (see Figure 1).
- Two-thirds (102) of these legislations were debated between the 56th and 82nd Congress.
- One-third (52) of these legislations were debated after the enactment of the so-called Commonwealth Act of 1952 (82nd Congress) and the 118th Congress.
- A little more than two-thirds (112) of all legislation debated in Congress explicitly addressed a change in Puerto Rico’s territorial status either by way of a change in Puerto Rico’s status (57), through a status plebiscite (44) or as part of a referendum on a question affirming a status (11).
- Other legislation contained measures that primarily modified Puerto Rico’s political status or contained provisions that suggesting a need to change the Puerto Rican islands’ territorial status.

Figure 1. Total Number of Bills

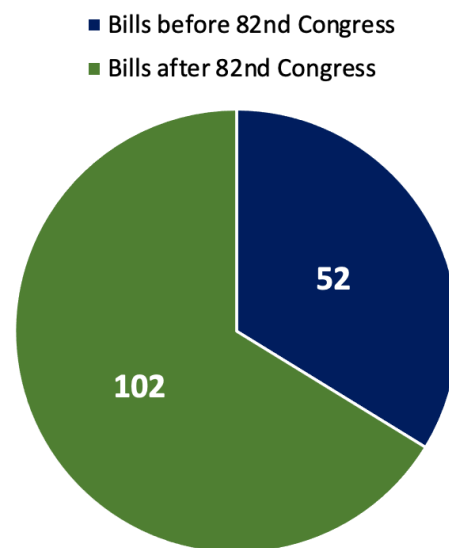
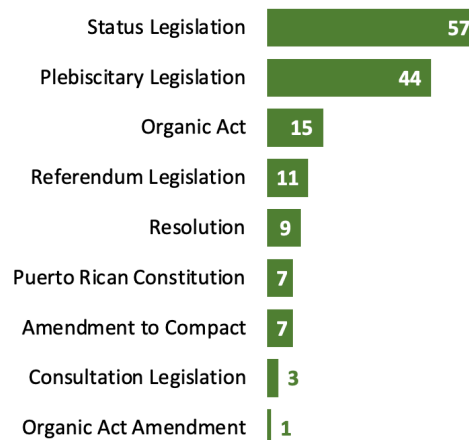
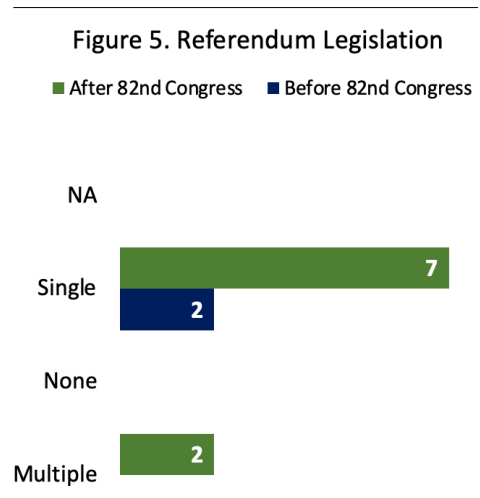
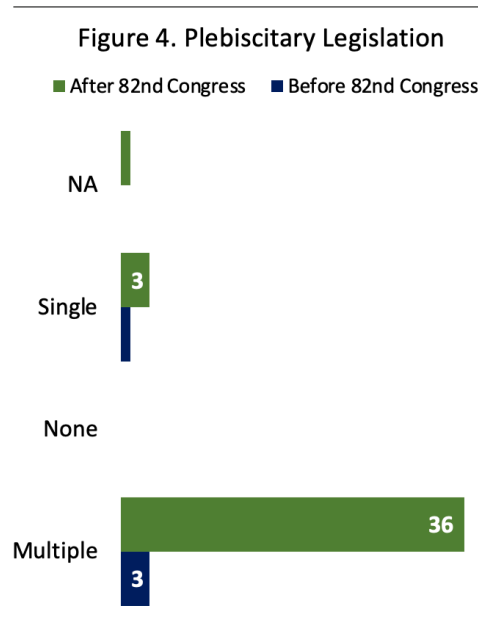
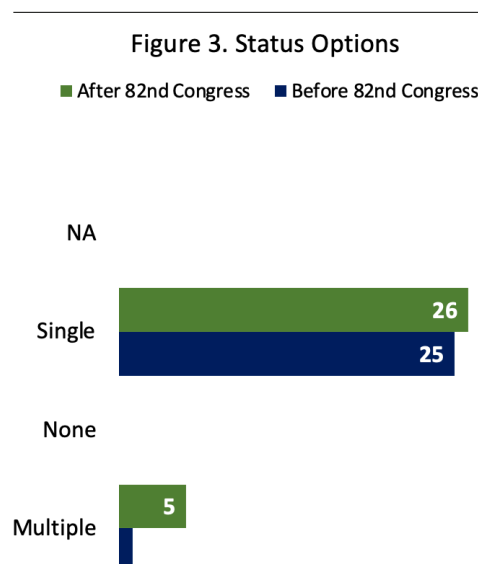


Figure 2. Number of Bills by Type



- Status bills are legislation that ascribe or grant a single status option. In some cases, bills may ascribe one of multiple options, but what distinguishes this type of legislation is the imposition of a particular status option
- As Figure 3 suggests, the use of this type of legislation was consistent before and after the 82nd Congress.
- Congress has considered status legislation recognizing the right of the Puerto Rican Government to convene a special constitutional assembly to propose alterations to the current territorial *status quo*.
- Plebiscitary bills are legislation that give electors an opportunity to choose among multiple status options. There are various ways or methods to conduct a plebiscite.
- As Figure 4 demonstrates, the reliance of plebiscites to solve Puerto Rico’s territorial status was fairly rare prior to 1952 or the enactment of the Puerto Rican Constitution.
- In contrast, following the 82nd Congress, plebiscites were the most popular legislative approach to change Puerto Rico’s political status.
- Referendum bills are legislation that ask electors to affirm or reject a particular political status with a yes or no vote. The use of referendums is the least popular legislative approach to change Puerto Rico’s political status.
- Most referendum bills were introduced after 1952.



Despite these debates, Congress has never enacted legislation granting Puerto Ricans the ability to choose among one or more status options. Congress has also never enacted legislation incorporating or changing Puerto Rico's territorial status. The United States has governed Puerto Rico as an unincorporated territory since the enactment of the *Foraker Act* of 1900.

Notwithstanding, between 1900 and 1952, Congress amended the *Foraker Act* in ways that granted the Puerto Rican government more administrative control over its local affairs. However, in 2016, with the enactment of the *Puerto Rico Oversight, Management and Economic Stability Act (PROMESA)*, a bipartisan federal legislation, Congress stripped the local government of key powers of the government's ability to make financial decisions. Some argue that the effects of PROMESA's erosion of local political autonomy should lead the United Nations Special Committee on Decolonization to revisit Puerto Rico's status designation.

Where Did We Get This Information From?

Data for this report is collected in the Puerto Rico Status Archives Project (<https://archive.puerto-rican-studies-initiative.clas.uconn.edu/>). All data has been organized in the Puerto Rico Status Archives Dashboard, an interactive tool designed to compare and contrast different dimensions of the federal history of status legislation for Puerto Rico (<https://archive.puerto-rican-studies-initiative.clas.uconn.edu/data-dashboard/>)

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How To Cite This Report

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The Puerto Rican Studies Initiative for Community Engagement and Public Policy (PRSI) is a research initiative seeking to document and support Puerto Ricans' vital economic, intellectual, and cultural contributions to Connecticut and provide research-based support for the development of public policies addressing the needs of Puerto Ricans in the State of Connecticut.

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