



The Hon. Pedro R. Pierluisi
Written Testimony
“Financial and Economic Challenges in Puerto Rico”
Senate Committee on Finance
September 29, 2015

Chairman Hatch, Ranking Member Wyden, and Members of the Committee:

Thank you for holding this hearing and inviting me to testify.

Puerto Rico, a U.S. territory home to 3.5 million American citizens, is experiencing the most severe crisis in its history. At the outset, it is important to emphasize that the crisis in Puerto Rico is not new; it has been simmering for years without attracting much attention. Now that it has reached a particularly acute stage, the press and the public have taken notice. My testimony will outline the nature of the crisis and then recommend concrete steps that can be taken at the local and federal level to resolve it.

My constituents are understandably weary of studies, reports, plans and working groups. They are tired of empty promises and ill-informed proposals. They want, and they deserve, action on the part of political leaders in San Juan and Washington, DC. They seek smart policies, swiftly implemented, that will have a tangible impact on their lives.

Accordingly, my testimony will focus less on explaining how bad things are and more on how we as policymakers can make them better. I will look backward only to the extent it helps delineate a path forward.

The Nature of the Crisis

The current crisis has three main components.

First, the crisis is *economic*. Puerto Rico is a U.S. jurisdiction, so the 50 states—not foreign nations—serve as the proper point of comparison. By any economic metric, the performance gap between the states and the territory is large. Puerto Rico’s economy has lagged behind that of the states for at least four decades. Except for one year of slight growth in Fiscal Year 2012, Puerto Rico’s economy—as measured by the territory’s gross national product—has contracted every year since Fiscal Year 2007.¹ The Puerto Rico Government Development Bank’s Economic Activity Index (GDB-EAI), which is

¹ See “An Update on the Competitiveness of Puerto Rico’s Economy,” Federal Reserve Bank of New York (July 31, 2014), at page 3, available at www.newyorkfed.org/outreach-and-education/puerto-rico/2014/Puerto-Rico-Report-2014.pdf. Gross national product is generally considered a more accurate measure of Puerto Rico’s economy than gross domestic product.

highly correlated with GNP, has fallen by 20 percent since 2005.² Since the federal government began collecting state-by-state statistics in the 1970s, Puerto Rico's unemployment rate has always been far higher and its labor participation rate—the share of adults in a jurisdiction working or seeking work—has always been far lower than those of any state. Puerto Rico's current unemployment rate is 11.6 percent, compared to a U.S. national average of 5.1 percent. Approximately 995,000 individuals are employed in Puerto Rico, about 220,000 (22 percent) of whom are employed by the central government, its public corporations, or one of the island's 78 municipal governments. The number of people currently working in Puerto Rico—995,000—is nearly 250,000 (or 20 percent) less than the number of people who were working on the island a decade ago in August 2005. Meanwhile, over 130,000 individuals are presently seeking, but cannot obtain, employment.³ Many other individuals have stopped searching for work altogether. The territory's labor participation rate is under 40 percent, compared to a U.S. national average of over 62 percent.⁴ The number of island residents living at or below the federal poverty level exceeds 46 percent, compared to a national average of about 16 percent.⁵

Second, Puerto Rico's crisis is *fiscal*. Although it is difficult to paint a completely accurate historical picture of Puerto Rico's public finances, because statistics published by the government of Puerto Rico are often unavailable, incomplete or inconsistent with other official sources of information, there is no dispute that the central government's annual expenditures have exceeded its annual revenues for many years. Moreover, Puerto Rico has numerous bond-issuing public corporations that provide a variety of essential services, and several of these corporations are in severe financial distress and have accumulated significant debt over the last 15 years. Puerto Rico's total public sector debt has steadily grown since the mid-1980s, with the sharpest increase taking place in the period since 2001, when the government of Puerto Rico began to shift from borrowing for capital investment to borrowing to fund government operations, to compensate for declining revenue resulting from economic weakness, and to cover increased spending. The debt was less than \$20 billion in 1985, approximately \$22.5 billion in 1995, over \$42 billion in 2005, approximately \$56.5 billion in 2008, and \$71 billion in 2015—which is roughly equal to Puerto Rico's GNP.⁶

Puerto Rico's debt structure is complex. Approximately 18 government entities have bonds outstanding. For example, there are \$18.6 billion in bonds issued (\$13.1 billion) or guaranteed (\$5.5 billion) by the central government; \$15.2 billion in bonds issued by the Puerto Rico Sales Tax

² See Puerto Rico Fiscal and Economic Growth Plan, Working Group for the Fiscal and Economic Recovery of Puerto Rico, at page 8 (September 9, 2015), available at www.bgfpr.com/; see also GDB-EAI (June 2015), at page 7, available at www.bgfpr.com/documents/2015-Jun-GDB-EAI.pdf.

³ See Bureau of Labor Statistics, U.S. Department of Labor, available at www.bls.gov/eag/eag.pr.htm and data.bls.gov/timeseries/LASST7200000000000003.

⁴ See Puerto Rico Institute of Statistics (July 2015), at page 3, available at www.estadisticas.gobierno.pr/iepr/Estadisticas/InventariodeEstadisticas/tabid/186/ctl/view_detail/mid/775/report_id/2b640ee2-d186-45b9-84a1-765e7345c188/Default.aspx?f=1.3,1.4,2 (citing a labor participation rate of 39.5 percent).

⁵ See U.S. Census Bureau, 2014 American Community Survey, available at factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?ftp=table.

⁶ See D. Andrew Austin, "Puerto Rico's Current Fiscal Challenges: In Brief" Congressional Research Service, at page 1, available at www.fas.org/sgp/crs/row/R44095.pdf.

Financing Corporation—COFINA—that are backed by sales tax revenue; and bonds issued by public corporations like the electric power authority (PREPA; \$8.1 billion), the highways and transportation authority (PRHTA; \$6 billion), and the water and sewer authority (PRASA; \$3.7 billion). The terms, source of repayment and level of legal protection for each class of bonds are different. For instance, Puerto Rico’s constitution, which was authorized and approved by Congress in the 1950s, provides that debt service payments to owners of bonds issued or guaranteed by the central government are to be prioritized over all other expenditures. There has typically been high demand for bonds issued by U.S. territories, because the yields are high relative to bonds issued by states and because Congress enacted legislation decreeing that the interest income generated on territory (and District of Columbia) bonds is not taxable at the federal, state or local level—regardless of where the investor resides. Currently, nearly all bonds issued by government entities in Puerto Rico are classified as non-investment (junk) grade by the credit rating agencies. Puerto Rico’s ability to issue new bonds at a reasonable interest rate is highly uncertain and, as a result, the territory government faces severe liquidity challenges.⁷ The fiscal challenges confronting Puerto Rico are compounded by the massive underfunding of its government pension systems.⁸

Finally, the crisis is *demographic*. My constituents are relocating to the states in extraordinary numbers, which—as U.S. citizens—they can do for the price of a one-way plane ticket. According to the U.S. Census Bureau, in 2000, Puerto Rico’s population was a little over 3.8 million. By 2014, it had fallen by almost 7 percent to 3.5 million. In 2014, an estimated 84,000 individuals moved from Puerto Rico to the states, while 20,000 residents of the states moved to Puerto Rico, for a net population loss of 64,000.⁹ In both degree and duration, this level of migration from a single jurisdiction appears to be unprecedented in modern American history. There are now over 5.2 million individuals of Puerto Rican birth or descent living in the 50 states, compared to 3.5 million individuals residing on the island (3.4 million if individuals born outside of Puerto Rico are not included in the calculation).¹⁰

Clearly, the three components of the crisis are interconnected. As Puerto Rico’s economy deteriorates, migration to the U.S. mainland increases. As migration increases, consumer spending and government

⁷ See Conway MacKenzie, Commonwealth of Puerto Liquidity Update (August 25, 2015), available at www.bgfpr.com/documents/150825ConwayMacKenzieLiquidityUpdateReport.pdf.

⁸ See Michelle Kaske, “Puerto Rico’s Bonds Overshadow Pension Fund Poised to Go Broke,” *Bloomberg Business* (September 25, 2015), available at www.bloomberg.com/news/articles/2015-09-25/puerto-rico-s-bonds-overshadow-pension-fund-poised-to-go-broke; see also Mary Williams Walsh, “Fierce Debt Puts Pensions at Risk in Puerto Rico,” *N.Y. Times* (November 26, 2012), available at www.nytimes.com/2012/11/27/business/puerto-rico-races-to-rescue-its-pension-fund.html?hpw&_r=1&pagewanted=print.

⁹ See www.census.gov/hhes/migration/data/acs/state-to-state.html. Of the 84,000, 28,000 (33 percent) moved to Florida, where over one million individuals of Puerto Rican birth or descent now reside; 7,400 moved to Pennsylvania; 6,300 moved to Texas; 4,000 to 5,000 moved to New York, Massachusetts, California, Connecticut, and New Jersey; and 1,000 to 2,000 moved to Virginia, Ohio, Mississippi, South Carolina, Georgia, North Carolina, Illinois, and Maryland. Up to 1,000 moved to 26 other states.

¹⁰ See U.S. Hispanic Origin Groups, by Population, 2013, available at www.pewhispanic.org/2015/09/15/the-impact-of-slowing-immigration-foreign-born-share-falls-among-14-largest-us-hispanic-origin-groups/ph_2015-09-15_hispanic-origins-02-2/; see also “It’s Official: One Million Puerto Ricans in Florida! And the South Keeps Growing,” Center for Puerto Rican Studies, Hunter College, CUNY (September 2015), available here.

tax collections decrease. The government may respond by raising taxes or reducing spending on public services, which tend to spur further migration. Assuming it has access to the markets, the government also borrows to finance the deficit at high interest rates, a short-term measure that compounds Puerto Rico's long-term problems, adding to its overall debt burden and crowding out government investments in health, safety, education, infrastructure and other priorities that are (by necessity) subordinated to the repayment of principal and interest.

Solutions to the Crisis

To break this cycle, both the Puerto Rico government and the federal government must make fundamental changes. If the crisis has taught us a single lesson, it is that a "business as usual" approach in San Juan and Washington, D.C. will fail.

Solutions at the Puerto Rico government level

The core economic problem in Puerto Rico is the lack of growth, and so the Puerto Rico government must—first and foremost—craft and implement a comprehensive pro-growth strategy. (Historically, Puerto Rico's problem is not the inability to devise economic plans, but the inability to execute those plans.) If a government policy or program inhibits growth, it should be discarded, unless there is a compelling reason to retain it. To generate growth, the government must work relentlessly to attract job-creating capital investment in Puerto Rico from local and external sources in all sectors of the economy, including manufacturing, retail, agriculture, tourism, professional services, aviation, health and construction. This diversified approach is the only way to meaningfully address the severe unemployment problem in Puerto Rico, which is structural in nature. Individuals who are working in the formal economy are less likely to leave Puerto Rico. They will spend more money on goods and services, pay more in consumption and income taxes, and require less support from the federal and territory governments. These men and women must earn a living wage to support themselves and their families, however, and so I strenuously oppose any effort to exempt Puerto Rico workers (of any age) from the federal minimum wage of \$7.25 per hour. This ill-conceived proposal would dramatically increase migration, create a disincentive to work, and widen—rather than close—the gap between Puerto Rico and the states.

In theory, Puerto Rico should be an attractive location for capital investors, particularly relative to foreign jurisdictions in the region. The island is blessed with natural beauty, a rich history, and a vibrant culture. As a U.S. territory, Puerto Rico provides would-be investors with all of the benefits associated with the world's most stable and trusted banking, currency, and legal systems. Although Puerto Rico's public education system requires major reforms, there is no shortage of skilled, industrious and bilingual individuals who are ready to work. Puerto Rico's status as a U.S. jurisdiction furnishes numerous other comparative advantages in this respect. For instance, the territory receives over \$60 million annually from the U.S. Department of Labor (DOL) under the Workforce Innovation and Opportunity Act to provide training for youth, adults and dislocated workers that have lost their jobs and need to rapidly acquire new skills. The DOL also provides about \$17 million in annual funding to support three Job Corps centers in Puerto Rico that provide vocational training to island youth so they are prepared to enter the workforce. The U.S. Small Business Administration administers various programs in Puerto Rico that help small businesses obtain bank loans and venture capital, develop sound business plans, and compete for federal contracts. The U.S. Department of Commerce, through its Economic Development Administration, provides grants and loans to support

economic development projects throughout Puerto Rico. The Rural Development arm of the U.S. Department of Agriculture provides grants, loans and loan guarantees to help improve infrastructure and enhance public services in the territory's rural communities. Puerto Rico must take full advantage of these and other federal programs that are not available to its foreign competitors and that can serve as catalysts for economic growth.

In practice, however, the amount of job-creating, growth-generating capital investment in Puerto Rico's private sector is far lower than it should be. The main reason is that Puerto Rico has an excessively bureaucratic and inefficient central government whose competence and credibility—when it comes to fiscal policy, budgeting, financial recordkeeping, tax collection, business permitting, professional contracting, use of modern technology and overall performance—are questioned by companies and individuals deciding whether and where to open a store, build a factory, construct or acquire a hotel, buy a stock or bond, and otherwise invest their money. Anyone who has dealt with the Puerto Rico government knows how opaque and difficult to navigate it can be. In short, rather than facilitating Puerto Rico's economic growth, the territory government has constrained it. Instead of unleashing the private sector's potential, the government has stifled it. While this is a serious, self-inflicted wound, it is also one that can be healed with the proper course of treatment. But without the right medicine, the patient will not recover.

Beyond improving government, Puerto Rico needs to reform its fiscal policies in order to compete—and win—in the global economy. Puerto Rico must learn to live within its means, especially given its uncertain access to the capital markets. To reduce unnecessary spending, the territory should adopt “zero-based” budgeting, in which each agency of the central government is required to freshly justify its proposed expenses every fiscal year, rather than automatically enshrining those expenses (with or without adjustments) in each successive budget request. On the revenue side, the current corporate tax system is complicated and inequitable. Many companies pay the top marginal rate of 39 percent, while other companies doing business on the island pay less than 5 percent in income taxes pursuant to multi-year agreements signed with the government. While there is an appropriate place for targeted tax incentives, the government should not pick winners and losers. Instead, it should establish a simple and fair tax system that creates an environment in which companies compete based on their relative merits, not on who can extract the most generous tax deal from the government. I have a straightforward proposal to address this problem that I am happy to brief the Committee on.

Moreover, in recent years, the Puerto Rico government has prioritized raising revenue to support its profligate spending habits, when it should be focused, laser-like, on promoting growth. Accordingly, the government has enacted a welter of new business taxes that have exerted a stranglehold on the economy and discouraged job creation. These new taxes are poorly conceived, poorly implemented, and must be repealed or refashioned. Once Puerto Rico has a sensible and stable tax policy in place, the government must collect the taxes it imposes. According to recent studies by respected Puerto Rico economists, an estimated 44 percent of sales taxes and 28 percent of all taxes are not presently collected by the government. This sort of dysfunction is a disservice to the public and a warning sign for potential investors who value predictability and competence.

In addition, the Puerto Rico government must take all reasonable steps to ensure that businesses and households on the island have access to affordable and reliable electricity generated from natural gas or renewable sources; a modern transportation system of roads, highways and bridges; and other basic

infrastructure like water and wastewater services. As noted, these respective services are provided in Puerto Rico by public corporations—PREPA, PRHTA, PRASA—that, to varying degrees, are experiencing severe financial distress and struggling with significant debt loads. To the extent these public corporations have become obstacles to economic growth, they must be fundamentally reformed. In certain instances, Puerto Rico’s public corporations should enter into public-private partnerships, transferring the operation of assets (and the revenues from those assets) to the private sector. In Puerto Rico, public-private partnerships have already proven to be a valuable tool to improve a public corporation’s fiscal standing, to maintain and improve existing assets and to undertake new infrastructure projects that might otherwise be financially infeasible.

Finally, on the issue of Puerto Rico’s ability and willingness to pay its debt, five points are in order. First, the governor and his advisors have claimed that, if Puerto Rico continues on its current path, the debt is “unsustainable” and “unpayable.” However, the current path can and must change. If the government of Puerto Rico takes serious and realistic steps to cut unnecessary spending, implement a fair tax system and collect the taxes it is owed, and execute a growth-oriented strategy, the debt situation can be made far more manageable. Second, Puerto Rico—a U.S. jurisdiction—values the rule of law and reveres the territory constitution authorized and approved by Congress. Therefore, debt service on the \$18.6 billion in bonds issued or guaranteed by the central government must be sacrosanct. Most of these bonds carry reasonable interest rates. The exception is a \$3.5 billion bond emission from March 2014, which carried a coupon rate of 8.0 percent. The federal government should explore whether it can help the government of Puerto Rico refinance this bond issue on more affordable terms, as well as whether it can help the government of Puerto Rico obtain short-term bridge financing to meet immediate liquidity needs. Third, as noted above, there are approximately 18 government entities in Puerto Rico with bonds outstanding. The financial condition of each entity is different, as are the legal terms governing the bonds they issue. This governor’s strategy to essentially treat the territory’s debt as monolithic is unwise and unlikely to produce the desired outcome. Instead, each entity should be considered on a case-by-case basis. Fourth, the Puerto Rico government must comprehend that Puerto Rico will need to access the bond market in the future in order to make critical investments for the benefit of the public. The government’s recent actions have badly tarnished Puerto Rico’s credibility and standing among investors, and it must take great care not to pursue a strategy going forward that will make permanent adversaries of those whose capital it will one day require. And fifth, the Puerto Rico government must bear in mind that countless numbers of its own residents own Puerto Rico bonds either directly or indirectly through pension funds, credit unions, mutual funds, and retirement accounts. Many of these individuals depend on their monthly interest payments to make ends meet. Hundreds of thousands of Puerto Rico residents are member-owners of credit unions. The governor and his advisors have sought to create the narrative that the debate over whether Puerto Rico will pay its debts is a story of “us” versus “them.” That is far from the case.

Solutions at the federal government level

As the foregoing demonstrates, I am the first to insist that the government of Puerto Rico must take steps to address the island’s toxic brew of economic, fiscal and demographic problems. That said, any notion that the territory alone got itself into this situation and the territory alone must extricate itself from this situation is totally false. The truth is that the federal government bears tremendous responsibility for the crisis in Puerto Rico, and so Congress and the president must be part of any solution.

The root cause of Puerto Rico's crisis is our political status, a subject that is within the jurisdiction of the Senate Energy and Natural Resources Committee, but a topic that I hope every U.S. senator comprehends and considers with care, because the Constitution vests Congress with nearly unlimited power over its territories.

Because Puerto Rico is a territory, my constituents fight for this country in the armed forces but cannot vote for their president and commander-in-chief, are not represented in the Senate, and have a single non-voting delegate in the House. In this position, I can introduce bills and vote on my committees, but I cannot vote on the House floor. Accordingly, Puerto Rico has limited capacity to use the political process to protect and promote its interests, which is the essence of our democratic system of government. Simply stated, Puerto Rico's status cannot be reconciled with the principles the United States strives to uphold at home and promotes abroad.

Moreover, because Puerto Rico is a territory, Congress has a license to treat Puerto Rico worse than the states under federal spending and tax credit programs, and Congress often uses that license.¹¹ This is not a partisan critique; both Republicans and Democrats, acting over the course of many years, are to blame.

Some of the worst disparities that Puerto Rico confronts are under federal programs within the jurisdiction of the Finance Committee. For example:

- Medicaid is the federal-state health insurance program for the poor. Federal funding for a state Medicaid program is open-ended, but capped for Puerto Rico. The federal government currently provides about \$1 billion a year in Medicaid funding for Puerto Rico. In comparison, the federal government provides annual Medicaid funding of \$3.6 billion for Mississippi (which has the lowest per capita income of any state) and \$5 billion for Oregon (which has a similar population size to Puerto Rico). Federal law also requires Puerto Rico to pay a much larger share of the cost of operating its Medicaid program (45 percent) than a similarly-situated state would pay (17 percent). Finally, due to a defect in federal law, at some point within the next several years, federal funding for Puerto Rico's Medicaid program will fall from about \$1 billion a year to about \$400 million a year unless Congress takes action.
- Medicare is the federal health insurance program for the elderly. Employers and employees in Puerto Rico pay the same federal payroll taxes and Medicare beneficiaries in Puerto Rico pay the same monthly premiums as their counterparts in the states, and these payroll taxes and premiums fund a significant portion of the Medicare program. Nevertheless, Puerto Rico patients, doctors, hospitals and health insurance providers are treated unequally in key respects under Medicare Part

¹¹ See "Puerto Rico: Information on How Statehood Would Potentially Affect Selected Federal Programs and Revenue Sources," U.S. General Accountability Office (GAO-14-31; March 31, 2014), available at www.gao.gov/products/GAO-14-31; see also Pedro R. Pierluisi, "Statehood Is the Only Antidote for What Ails Puerto Rico," *N.Y. Times* (July 10, 2015), available at www.nytimes.com/2015/07/11/opinion/statehood-is-the-only-antidote-for-what-ails-puerto-rico.html?_r=0.

A (inpatient hospital care), Part B (physician care and outpatient hospital care), Part C (Medicare Advantage) and Part D (prescription drug coverage).¹²

- Health Insurance Exchanges: Under the central provision of the 2010 *Affordable Care Act*, many individuals and families can purchase health insurance through an exchange or “marketplace” operated either by the federal government or a state government, with the federal government providing subsidies to those households with annual incomes below a certain level. The Congressional Budget Office projects that, within a few years, 25 million Americans will receive health insurance coverage through the exchanges and the federal government, over the next decade, will spend over \$1 trillion on exchange subsidies and related expenditures. Puerto Rico and the other territories were unable to establish state exchanges and territory residents are not eligible to participate in a federal exchange.
- Supplemental Security Income, administered by the Social Security Administration, provides monthly cash assistance to blind, disabled or elderly individuals who have limited or no income. SSI applies in all 50 states, the District of Columbia, and one U.S. territory. However, since its inception in 1974, SSI has not been extended to Puerto Rico. A far less generous block grant program known as Aid to the Aged, Blind, and Disabled (AABD) applies in Puerto Rico in lieu of SSI. While the average monthly SSI payment in the states is \$540—and close to \$650 for beneficiaries under the age of 18—the average monthly AABD payment in Puerto Rico is less than \$80. Moreover, while the SSI program requires no financial contribution from state governments, the government of Puerto Rico must pay a 25 percent “match” in order to access its annual AABD block grant from the U.S. Department of Health and Human Services.
- Temporary Assistance for Needy Families (TANF) is a federal block grant program that enables states and territories to help low-income families with children meet their basic needs. Puerto Rico currently receives a basic TANF grant of \$71.6 million a year. But, unlike the states, Puerto Rico is not eligible for three other TANF funding streams—namely, supplemental grants, contingency funds and mandatory child care funds. Also, unlike in the states, federal law imposes an annual cap on the overall funding that Puerto Rico can receive under a variety of federal public assistance programs, including TANF, Title IV-E foster care and adoption assistance programs, and AABD. Puerto Rico’s overall annual cap—which is set by Section 1108(a) of the Social Security Act—is only \$107.2 million, and has not been increased since 1996.
- The Child Tax Credit, which was established in 1997, seeks to ease the financial burden that families incur when they have children. The CTC is refundable, meaning that it can exceed a taxpayer’s tax liability and result in a cash payment from the federal government to low-income households that owe little or no income tax. The refundable portion of the CTC currently applies in Puerto Rico, but in limited and unequal fashion. Island families with one or two children are not eligible for the refundable portion of the CTC at all. And while island families with three or more children are eligible for a CTC refund, an alternative formula—which is less generous than the

¹² For an in-depth-discussion of the disparities that Puerto Rico faces under Medicaid and Medicare, see the section-by-section summary of H.R. 2635, *Improving the Treatment of the U.S. Territories Under Federal Health Programs Act of 2015*, available at pierluisi.house.gov.

formula available in the 50 states and the District of Columbia—is used to calculate the amount of the refund payment.

- The Earned Income Tax Credit, which was established in 1975, has become the nation’s largest anti-poverty cash assistance program. Because it is refundable, an EITC recipient need not owe federal income taxes to receive the benefit. The EITC creates a financial incentive for individuals to seek and retain employment because it increases the ability of workers in low-paying jobs to support themselves and their families. The EITC has never been extended to Puerto Rico.

The disparities that Puerto Rico faces under the aforementioned federal programs, especially when their impact is considered cumulatively, have been devastating for the territory. The disparities are harmful to Puerto Rico’s real economy, because they mean billions of dollars less are circulating throughout the island on an annual basis, available to be spent and invested. The disparities are detrimental to Puerto Rico’s fiscal condition, since the territory government spends or borrows to compensate for the shortfall in federal support, exacerbating deficits and debt. And the disparities contribute to Puerto Rico’s demographic disaster by compromising the quality of life of my constituents and impelling them to move to the states, where—unlike in Puerto Rico—they are entitled to equal treatment under all federal laws.¹³

As set forth in the accompanying footnote, I have introduced legislation to eliminate or mitigate the program disparities within the Finance Committee’s jurisdiction, and in certain cases a U.S. senator has introduced companion legislation.¹⁴ I urge the Committee—respectfully, but in the strongest possible terms—to take action on these bills. Congress cannot in good conscience criticize Puerto Rico without acknowledging the fact that Congress shares culpability for the territory’s problems.

On a separate note, the Finance Committee is considering legislation to reform the taxation of corporate income attributed to operations outside of the 50 states and the District of Columbia—that is, corporate income attributed to Puerto Rico, the four other U.S. territories, and foreign jurisdictions. An important purpose of reforming the current “international” business tax system is to promote U.S. growth and job creation, to reduce incentives for U.S. companies to move jobs or the entire company overseas, and to make the U.S. more attractive and competitive for multinationals to invest and create jobs. While Puerto Rico and the other territories are treated as “international” for some (though by no means all) purposes under the Internal Revenue Code, they are U.S. jurisdictions, home to millions of

¹³ For further discussion of the causal relationship between Puerto Rico’s disparate treatment under federal programs and the economic, fiscal and demographic crisis in the territory, see Rep. Pedro R. Pierluisi, Testimony, Hearing on “Examining Procedures Regarding Puerto Rico’s Political Status and Economic Outlook,” House Subcommittee on Indian, Insular and Alaska Native Affairs (June 24, 2015), available at <http://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=398833>.

¹⁴ See (1) H.R. 1125 (Pierluisi) and S. 1602 (Menendez, Nelson, Rubio), *Puerto Rico Hospital HITECH Amendments Act of 2015*; (2) H.R. 1417 (Pierluisi, Curbelo), *Puerto Rico Hospital Medicare Reimbursement Equity Act of 2015*; (3) H.R. 1418 (Pierluisi) and S. 1453 (Schumer), *Puerto Rico Medicare Part B Equity Act of 2015*; (4) H.R. 1822 (Pierluisi), *Supplemental Security Income Equality Act*; (5) H.R. 2635 (Pierluisi) and S. 1961 (Schumer, Blumenthal, Gillibrand, Menendez, Nelson), *Improving the Treatment of the U.S. Territories Under Federal Health Programs Act of 2015*; (6) H.R. 3552 (Pierluisi), *Child Tax Credit Equity for Puerto Rico Act of 2015*; (7) H.R. 3553 (Pierluisi), *Earned Income Tax Credit Equity for Puerto Rico Act of 2015*; (8) H.R. 365 (Pierluisi; 113th Congress), *Territorial TANF Equity Act of 2013*; (9) H.R. 3966 (Pierluisi; 113th Congress), *Territories Medicare Prescription Drug Assistance Equity Act of 2014*.

U.S. citizens. Jobs in Puerto Rico are American jobs. The laudable goal of tax reform—to encourage investment and employment in the United States—will not be fully achieved if the legislation has the effect of discouraging job-creating investment in Puerto Rico. Tax reform should seek to foster economic opportunities in Puerto Rico to the same degree and extent as in the states.¹⁵

In addition, although I recognize that this subject is within the jurisdiction of the Senate Judiciary Committee, I would be remiss if I did not briefly mention the pending legislation—H.R. 870 (Pierluisi) and S. 1774 (Blumenthal, Schumer, Booker, Durbin, Gillibrand, Heinrich, Hirono, Leahy, Menendez, Murphy, Nelson, Reid, Sanders, Warner, Warren)—to provide Puerto Rico with state-like treatment under Chapter 9 of the federal bankruptcy code. Congress has empowered each state government to authorize an insolvent “municipality”—defined as a political subdivision, public agency, or instrumentality of the state—to restructure its debts in an orderly fashion under the supervision of a federal bankruptcy judge, in accordance with federal law. A state government may authorize, or decline to authorize, its insolvent municipalities to file for Chapter 9 protection. The power to decide rests with the state government. Unfortunately, while Puerto Rico is treated like a state under the chapters of the Bankruptcy Code involving individuals and corporations, it is not treated like a state under the chapter pertaining to municipalities. Congress did grant Puerto Rico the power to authorize its municipalities to adjust their debts between 1938 and 1984, but in 1984—for reasons unknown—Congress excluded Puerto Rico from Chapter 9. H.R. 870 and S. 1774 would rectify this unprincipled disparity. Under the bills, Puerto Rico could seek to restructure the debts of its severely distressed public corporations, not the central government. Chapter 9 provides a forum for the federal courts to consider the best interests of all stakeholders and to reach a fair, equitable and binding resolution. Chapter 9 can be a useful tool even if it is not used, since the prospect of a Chapter 9 filing by a municipality can foster consensual negotiations between a municipality and its creditors. If Chapter 9 is appropriate for the states, it is appropriate for the U.S. territory of Puerto Rico. I ask you: if Chapter 9 is good enough for your constituents, why isn't it good enough for mine?¹⁶

In closing, I want to return to the subject of Puerto Rico's political status, the fundamental problem from which nearly all of Puerto Rico's other problems emanate.

I look forward to the day when the U.S. citizens that reside in Puerto Rico can vote for their national leaders and fully partake in debates over national policy that affect every aspect of their lives.

I look forward to the day when Puerto Rico will be treated equally as a matter of right, and does not have to beseech and beg this Congress to treat the territory fairly or even just a little better than it does now.

¹⁵ See Letter from Rep. Pedro R. Pierluisi to Senate Finance Committee Regarding International Business Tax Reform and Puerto Rico (January 8, 2014), available at <http://pierluisi.house.gov/sites/pierluisi.house.gov/files/1.8.14%20Rep.%20Pierluisi%20%28Puerto%20Rico%29%20Comment%20on%20Chairman%20Baucus%20Staff%20Discussion%20Draft%20on%20International%20Business%20Tax%20Reform.pdf>.

¹⁶ For a list of individuals and organizations that have endorsed H.R. 870 and S. 1774, see <http://pierluisi.house.gov/media-center/press-releases/running-list-of-editorials-letters-and-statements-in-support-of-hr-870>.

I look forward to the day when federal policy towards Puerto Rico is consistent and coherent—when Puerto Rico is not classified as domestic under one section of the federal tax code and international under another section of the code, or included in nearly all chapters of the federal bankruptcy code but excluded from one critically-important chapter for no evident reason.

I look forward to the day when Puerto Rico is not treated in shockingly immoral fashion under federal health programs for lower-income and elderly individuals, as if we are lesser human beings than residents of Utah, Oregon, Florida or New York.

I look forward to the day when Puerto Rico is not excluded from the SSI program, which helps the *most* vulnerable members of our society—elderly, blind and disabled individuals who live in extreme poverty—afford food, clothing and shelter.

I look forward to the day when my constituents have the exact same rights and responsibilities as their fellow American citizens in the states—not better treatment, not worse treatment and not “special” treatment.

That new day is just over the horizon. Puerto Rico voted against territory status and for statehood in 2012, and it is likely that voters in the territory will confirm their desire for statehood in a federally-sponsored referendum in 2017. Puerto Rico will then use every appropriate means to petition Congress to enact legislation making the territory a state. In the history of this country, no valid statehood petition by a territory has been rejected by the federal government. In the immediate term, there is much that the Puerto Rico government and the federal government can do to help the territory manage its economic, fiscal and demographic crisis. However, for Puerto Rico to truly prosper, it must be treated equally. And to be treated equally, it must become a state.

Tinkering around the edges of this problem will not suffice. Bold action that goes straight to the heart of the problem is required.