

114TH CONGRESS
2D SESSION

S. 2676

To provide for the adjustment of the debts of the Commonwealth of Puerto Rico, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 14, 2016

Mr. MENENDEZ (for himself, Mr. SCHUMER, Mr. BROWN, Ms. CANTWELL, Mr. BLUMENTHAL, Ms. WARREN, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for the adjustment of the debts of the Commonwealth of Puerto Rico, 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. SHORT TITLE.**

4 This Act may be cited as the “Puerto Rico Stability
5 Act of 2016”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—TECHNICAL ASSISTANCE AND FISCAL REFORM

Subtitle A—Technical Assistance

- Sec. 101. Definitions.
- Sec. 102. Improving accounting and disclosure practices.
- Sec. 103. Purchases by territory government.

Subtitle B—Fiscal Stability and Reform Boards and Chief Financial Officers

- Sec. 111. Establishment of Fiscal Stability and Reform Board.
- Sec. 112. Establishment of Chief Financial Officer.
- Sec. 113. Development and approval of fiscal plans.
- Sec. 114. Severability.

TITLE II—ADJUSTMENTS OF DEBTS OF A TERRITORY OR ITS MUNICIPALITIES

Subtitle A—General Provisions

- Sec. 201. Definitions.
- Sec. 202. Who may be a debtor.
- Sec. 203. Reservation of territorial power to control municipalities.
- Sec. 204. Limitation on jurisdiction and powers of court.

Subtitle B—Initial Stay on Litigation

- Sec. 211. Definitions.
- Sec. 212. Effective date.
- Sec. 213. Automatic stay.

Subtitle C—Adjudication and Judicial Review

- Sec. 221. Petition and proceedings relating to petition.
- Sec. 222. Jurisdiction.
- Sec. 223. Venue.
- Sec. 224. Selection of presiding judge.
- Sec. 225. Appellate review.
- Sec. 226. Applicable rules of procedure.
- Sec. 227. Severability.

Subtitle D—The Plan

- Sec. 231. Filing of plan of adjustment.
- Sec. 232. Confirmation.

Subtitle E—Additional Provisions

- Sec. 241. Compensation of professionals.
- Sec. 242. Interim compensation.
- Sec. 243. Applicability of other sections.

TITLE III—PUERTO RICO CHAPTER 9 UNIFORMITY

- Sec. 301. Short title.
- Sec. 302. Amendment.
- Sec. 303. Effective date; application of amendment.
- Sec. 304. Severability.

1 **TITLE I—TECHNICAL ASSIST-**
 2 **ANCE AND FISCAL REFORM**
 3 **Subtitle A—Technical Assistance**

4 **SEC. 101. DEFINITIONS.**

5 In this title:

6 (1) **BOARD.**—The term “Board” means a Fis-
 7 cal Stability and Reform Board established in ac-
 8 cordance with section 111.

9 (2) **CHIEF FINANCIAL OFFICER.**—The term
 10 “Chief Financial Officer” means a Chief Financial
 11 Officer established in accordance with section 112.

12 (3) **COMPLIANT BUDGET.**—The term “compli-
 13 ant budget” means a budget that is prepared in ac-
 14 cordance with—

15 (A) modified accrual accounting standards;

16 and

17 (B) the applicable Fiscal Plan.

18 (4) **COVERED TERRITORIAL INSTRUMEN-**
 19 **TALITY.**—The term “covered territorial instrumen-
 20 tality” means a territorial instrumentality des-
 21 ignated by the Board pursuant to section 111(b) to
 22 be subject to the requirements of subtitle B.

23 (5) **COVERED TERRITORY.**—The term “covered
 24 territory” means a territory for which a Board has
 25 been established under section 111.

1 (6) FISCAL PLAN.—The term “Fiscal Plan”
2 means a fiscal plan for a covered territory submitted
3 and approved in accordance with section 113.

4 (7) GOVERNOR.—The term “Governor” means
5 the chief executive of a territory.

6 (8) LEGISLATURE.—

7 (A) IN GENERAL.—The term “legislature”
8 means the legislative body responsible for enact-
9 ing the laws of a territory.

10 (B) EXCLUSION.—The term “legislature”
11 does not include Congress.

12 (9) MODIFIED ACCRUAL ACCOUNTING STAND-
13 ARDS.—The term “modified accrual accounting
14 standards” means accounting standards issued by
15 the Governmental Accounting Standards Board that
16 recognize—

17 (A) revenues as they become available and
18 measured; and

19 (B) expenditures as liabilities are incurred.

20 (10) OFFICE.—The term “Office” means an
21 Office of the Chief Financial Officer established in
22 accordance with section 112.

23 (11) TERRITORIAL GOVERNMENT.—The term
24 “territorial government” means the government of a

1 covered territory, including each territorial instru-
 2 mentality of the government of the covered territory.

3 (12) TERRITORIAL INSTRUMENTALITY.—

4 (A) IN GENERAL.—The term “territorial
 5 instrumentality” means a political subdivision,
 6 public agency, instrumentality, or public cor-
 7 poration of a territory.

8 (B) EXCLUSION.—The term “territorial in-
 9 strumentality” does not include a Board.

10 (13) TERRITORY.—The term “territory”
 11 means—

12 (A) the Commonwealth of Puerto Rico;

13 (B) Guam;

14 (C) American Samoa;

15 (D) the Commonwealth of the Northern
 16 Mariana Islands; or

17 (E) the United States Virgin Islands.

18 **SEC. 102. IMPROVING ACCOUNTING AND DISCLOSURE**
 19 **PRACTICES.**

20 (a) IN GENERAL.—On request of the applicable Gov-
 21 ernor, legislature, or Board (if any), the Secretary of the
 22 Treasury (referred to in this section as the “Secretary”)
 23 may provide technical assistance to a territory that the
 24 Secretary determines to be eligible for technical assistance
 25 relating to fiscal and financial practices.

1 (b) INCLUSIONS.—In providing technical assistance
2 under subsection (a), the Secretary may, in association
3 with any Federal department or agency or the Federal Re-
4 serve System, including any Federal Reserve Bank, pro-
5 vide assistance relating to—

6 (1) information technology upgrades;

7 (2) improving economic forecasting, including
8 multiyear fiscal forecasting capabilities;

9 (3) budgeting, tax collection, cash management,
10 and spending controls;

11 (4) ensuring that agencies in the territory use
12 financial systems that are compatible with the sys-
13 tems of other agencies of the territory and Federal
14 agencies to provide for consistent, timely financial
15 reporting and visibility into expenses;

16 (5) improving and expanding economic indica-
17 tors for the territory to make available for the terri-
18 tory the indicators regularly used to track regional
19 conditions on the United States mainland; and

20 (6) such other matters as the Secretary, in con-
21 sultation with the territory, determines to be appro-
22 priate.

23 (c) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated such sums as are nec-
25 essary to carry out this section.

1 **SEC. 103. PURCHASES BY TERRITORY GOVERNMENT.**

2 Section 302 of the Omnibus Insular Areas Act of
3 1992 (48 U.S.C. 1469e) is amended to read as follows:

4 **“SEC. 302. INSULAR GOVERNMENT PURCHASES.**

5 “The governments of the Commonwealth of Puerto
6 Rico, Guam, American Samoa, the Commonwealth of the
7 Northern Mariana Islands, and the United States Virgin
8 Islands are authorized to make purchases through the
9 General Services Administration.”.

10 **Subtitle B—Fiscal Stability and Re-**
11 **form Boards and Chief Finan-**
12 **cial Officers**

13 **SEC. 111. ESTABLISHMENT OF FISCAL STABILITY AND RE-**
14 **FORM BOARD.**

15 (a) REQUEST.—Effective on the date on which the
16 Governor of a territory signs a resolution adopted by the
17 legislature of the territory to request the establishment of
18 a Fiscal Stability and Reform Board under this subtitle,
19 a Board is established for the territory.

20 (b) BOARD OVERSIGHT OF TERRITORIAL INSTRU-
21 MENTALITIES.—

22 (1) DESIGNATION.—

23 (A) IN GENERAL.—A Board, at such time
24 as the Board determines to be appropriate, may
25 designate a territorial instrumentality as a cov-

1 ered territorial instrumentality that is subject
2 to the requirements of this subtitle.

3 (B) BUDGETS AND REPORTS.—A Board
4 may require the Governor or the Chief Finan-
5 cial Officer of the applicable covered territory to
6 submit to the Board such annual budgets or
7 monthly or quarterly reports relating to a cov-
8 ered territorial instrumentality as the Board de-
9 termines to be necessary.

10 (C) INCLUSION IN FISCAL PLAN.—The
11 Governor of the applicable covered territory
12 shall include in the applicable Fiscal Plan a de-
13 scription of each requirement under section
14 113(c) for each covered territorial instrumen-
15 tality.

16 (2) EXCLUSION.—

17 (A) IN GENERAL.—A Board, at such time
18 as the Board determines to be appropriate, may
19 exclude any territorial instrumentality of the
20 covered territory from the requirements of this
21 subtitle.

22 (B) TREATMENT.—A territorial instrumen-
23 tality excluded pursuant to this paragraph shall
24 not be considered to be a covered territorial in-
25 strumentality.

1 (c) EXEMPTION FROM LIABILITY FOR CLAIMS.—A
 2 Board, and each member of the Board, shall not be liable
 3 for any obligation of, or claim against, the applicable cov-
 4 ered territory resulting from any action of the Board to
 5 carry out this subtitle.

6 (d) MEMBERSHIP.—

7 (1) IN GENERAL.—A Board shall consist of 9
 8 members who meet the qualifications described in
 9 paragraph (6), and of whom:

10 (A) 2 members shall be appointed by the
 11 President in accordance with the requirements
 12 described in paragraph (5).

13 (B) 2 members shall be appointed by the
 14 Governor of the applicable covered territory.

15 (C) 1 member shall be appointed by the
 16 chief justice of the highest appellate court of
 17 the applicable covered territory.

18 (D) 4 members shall be appointed by the
 19 legislature of the applicable covered territory as
 20 follows:

21 (i) If the legislature has 2 chambers—

22 (I) 1 member shall be appointed
 23 by the political party holding the most
 24 seats in the lower chamber of the leg-
 25 islation;

1 (II) 1 member shall be appointed
2 by the political party holding the sec-
3 ond-most seats in the lower chamber
4 of the legislature;

5 (III) 1 member shall be ap-
6 pointed by the political party holding
7 the most seats in the upper chamber
8 of the legislature; and

9 (IV) 1 member shall be appointed
10 by the political party holding the sec-
11 ond-most seats in the upper chamber
12 of the legislature.

13 (ii) If the legislature has 1 chamber—

14 (I) 2 members shall be appointed
15 by the political party holding the most
16 seats in the legislature; and

17 (II) 2 members shall be ap-
18 pointed by the political party holding
19 the second-most seats in the legisla-
20 ture.

21 (2) CHAIRPERSON.—The member appointed
22 under paragraph (1)(C) shall serve as the chair-
23 person of the Board.

24 (3) PERIOD OF APPOINTMENT.—

1 (A) IN GENERAL.—Except for the member
2 appointed under paragraph (1)(C) and for the
3 initial terms of members, each member of the
4 Board shall be—

5 (i) appointed for a term of 4 years;

6 and

7 (ii) eligible for reappointment.

8 (B) INITIAL TERMS.—

9 (i) For members appointed under
10 paragraph (1)(A), as designated by the
11 President at the time of appointment—

12 (I) 1 member shall be appointed

13 for a term of 2 years; and

14 (II) 1 member shall be appointed

15 for a term of 4 years.

16 (ii) For members appointed under
17 paragraph (1)(B)—

18 (I) both members shall be ap-

19 pointed to a term to terminate 6

20 months after the next gubernatorial

21 election; and

22 (II) in the event that the Gov-

23 ernor of a territory signs a resolution

24 adopted by the legislature of the terri-

25 tory to request the establishment of a

1 Board under this subtitle within 12
2 months of the next gubernatorial elec-
3 tion, both members shall be appointed
4 to a term of 2 years.

5 (iii) For members appointed under
6 paragraph (1)(C), the member shall re-
7 main appointed for the life of the Board.

8 (iv) For members appointed under
9 paragraph (1)(D), as designated by the ap-
10 pointing entity at the time of appoint-
11 ment—

12 (I) if the legislature has 2 cham-
13 bers—

14 (aa) 1 member shall be ap-
15 pointed by the political party
16 holding the most seats in the
17 lower chamber of the legislature
18 to a term to terminate 6 months
19 after the next legislative election
20 of the applicable territory;

21 (bb) 1 member shall be ap-
22 pointed by the political party
23 holding the second-most seats in
24 the lower chamber of the legisla-
25 ture to a term to terminate 6

1 months after the next legislative
2 election of the applicable terri-
3 tory;

4 (cc) 1 member shall be ap-
5 pointed by the political party
6 holding the most seats in the
7 upper chamber of the legislature
8 to a term to terminate 30 months
9 after the next legislative election
10 of the applicable territory; and

11 (dd) 1 member shall be ap-
12 pointed by the political party
13 holding the second-most seats in
14 the upper chamber of the legisla-
15 ture to a term to terminate 30
16 months after the next legislative
17 election of the applicable terri-
18 tory; and

19 (II) if the legislature has 1 cham-
20 ber—

21 (aa) 1 member shall be ap-
22 pointed by the political party
23 holding the most seats in the leg-
24 islature to a term to terminate 6
25 months after the next legislative

1 election of the applicable terri-
2 tory;

3 (bb) 1 member shall be ap-
4 pointed by the political party
5 holding the second-most seats in
6 the legislature to a term to ter-
7 minate 6 months after the next
8 legislative election of the applica-
9 ble territory;

10 (cc) 1 member shall be ap-
11 pointed by the political party
12 holding the most seats in the leg-
13 islature to a term to terminate
14 30 months after the next legisla-
15 tive election of the applicable ter-
16 ritory; and

17 (dd) 1 member shall be ap-
18 pointed by the political party
19 holding the second-most seats in
20 the legislature to a term to ter-
21 minate 30 months after the next
22 legislative election of the applica-
23 ble territory.

24 (4) VACANCIES.—

1 (A) IN GENERAL.—Each member shall re-
2 main appointed as long as the applicable quali-
3 fications of appointment under paragraph (6)
4 remain satisfied, except that any member may
5 be removed by the original appointing entity.

6 (B) EFFECT.—Any vacancy in the
7 Board—

8 (i) shall not affect the powers of the
9 Board; and

10 (ii) shall be filled in the same manner
11 as the original appointment by the original
12 appointing entity as soon as practicable
13 after the date on which the vacancy occurs,
14 subject to the approval described in para-
15 graph (3).

16 (C) TERM.—A member appointed to fill a
17 vacancy shall serve for the remainder of the
18 term to which the member was appointed.

19 (5) APPROVAL OF MEMBERSHIP.—A new mem-
20 ber appointed shall be approved by the full board,
21 excluding the member that the new member was ap-
22 pointed to replace.

23 (6) REQUIREMENTS FOR PRESIDENTIAL AP-
24 POINTMENTS.—

1 (A) TIMING; REQUIRED CONSULTATION.—

2 As soon as practicable after the date on which
3 a territory submits to the President a resolution
4 described in subsection (a), and after consulta-
5 tion with the appropriate committees of Con-
6 gress and the Governor of the applicable cov-
7 ered territory, the President shall appoint mem-
8 bers to the Board under paragraph (1)(A).

9 (B) REMOVAL.—The President may re-
10 move a member appointed by the President only
11 for cause.

12 (7) QUALIFICATIONS.—

13 (A) IN GENERAL.—An individual meets the
14 qualifications for membership on the Board if
15 the individual has knowledge and expertise re-
16 lating to finance, management, economics, or
17 the organization or operation of business or
18 government.

19 (B) CONNECTION TO COVERED TERRI-
20 TORY.—Not less than 6 members shall have
21 knowledge and expertise relating to the history,
22 socioeconomic circumstances, and heritage of
23 the applicable covered territory.

24 (C) RESIDENCE IN COVERED TERRI-
25 TORY.—Not less than 6 members shall maintain

1 a primary residence in the applicable covered
2 territory.

3 (D) SPECIAL LIMITATION ON MEMBER-
4 SHIP.—No current member of the applicable
5 territory’s legislature shall be eligible to serve
6 on the Board.

7 (8) CONFLICTS OF INTEREST.—

8 (A) IN GENERAL.—An individual ap-
9 pointed to serve as a member of the Board—

10 (i) shall be subject to—

11 (I) the Federal conflict of inter-
12 est requirements described in section
13 208 of title 18, United States Code,
14 except with respect to subsection (b)
15 of that section; and

16 (II) the conflict of interest disclo-
17 sure requirements under title I of the
18 Ethics in Government Act of 1978 (5
19 U.S.C. App.); and

20 (ii) shall not have any other conflict of
21 interest relating to the duties of the Board,
22 including ownership of any debt security
23 of—

24 (I) the applicable territorial gov-
25 ernment; or

1 (II) a territorial instrumentality.

2 (B) DEFINITION.—For purposes of sub-
3 paragraph (A)(ii), the term “conflict of inter-
4 est” includes the interests of an organization in
5 which the individual is serving as officer, direc-
6 tor, trustee, general partner or employee, or
7 any person or organization with whom the indi-
8 vidual is negotiating or has any arrangement
9 concerning prospective employment.

10 (C) 3-YEAR RESTRICTION.—

11 (i) IN GENERAL.—Any individual who
12 serves as a member of the Board shall not,
13 during the 3-year period beginning on the
14 date on which membership on the Board
15 terminates, knowingly make, with the in-
16 tent to influence, any communication to or
17 appearance before any member of the
18 Board or Chief Financial Officer on behalf
19 of any other person (except the United
20 States or a State or local government).

21 (ii) PENALTY.—Any individual who
22 violates clause (i) shall be subject to the
23 penalties described in section 216 of title
24 18, United States Code.

1 (iii) VIOLATIONS.—If a member of the
2 Board is determined to be in violation of
3 the requirements described in subpara-
4 graph (A), the member shall be removed
5 from membership on the Board and may
6 be subject to additional actions or penalties
7 set forth under Federal ethics rules.

8 (e) NO COMPENSATION FOR SERVICE.—Each mem-
9 ber of the Board shall—

10 (1) serve without compensation; and

11 (2) be allowed travel expenses, including per
12 diem in lieu of subsistence, at rates authorized for
13 employees of agencies under subchapter I of chapter
14 57 of title 5, United States Code, while away from
15 the home or regular place of business of the member
16 in the performance of the duties of the Board.

17 (f) BYLAWS.—

18 (1) IN GENERAL.—As soon as practicable after
19 the appointment of all members to the Board, the
20 Board shall adopt bylaws, rules, and procedures to
21 govern the activities of the Board under this sub-
22 title, including procedures for hiring experts and
23 consultants.

1 (2) TREATMENT.—The bylaws, rules, and pro-
2 cedures adopted pursuant to this subsection shall
3 be—

4 (A) public documents; and

5 (B) on adoption, submitted by the Board
6 to—

7 (i) the President; and

8 (ii) the Governor and legislature of
9 the applicable covered territory.

10 (g) STAFF.—

11 (1) IN GENERAL.—On the approval of the
12 chairperson, the Board may appoint such staff as
13 are necessary to enable the Board to perform the
14 duties of the Board.

15 (2) ELIGIBLE INDIVIDUALS.—For purposes of
16 chapter 11 of title 18, United States Code, and sec-
17 tion 2635 of title 5, Code of Federal Regulations, or
18 any successor thereto, the executive director and
19 other staff employed by the Board shall be consid-
20 ered employees of an Executive agency (as defined
21 in section 105 of title 5, United States Code), in-
22 cluding a member of the staff who is—

23 (A) a private citizen;

24 (B) an employee of the applicable terri-
25 torial government; or

1 (C) an employee of the Federal Govern-
2 ment.

3 (3) DETAILEES.—

4 (A) FEDERAL EMPLOYEES.—On request of
5 the chairperson of the Board, the head of a
6 Federal department or agency may detail to the
7 Board, on a reimbursable or nonreimbursable
8 basis, and in accordance with the Intergovern-
9 mental Personnel Act of 1970 (42 U.S.C. 4701
10 et seq.), any of the personnel of the department
11 or agency to assist the Board in the perform-
12 ance of the duties of the Board.

13 (B) TERRITORIAL GOVERNMENT EMPLOY-
14 EES.—On request of the chairperson of the
15 Board, the head of any department or agency
16 of the applicable territorial government may de-
17 tail to the Board, on a reimbursable or nonre-
18 imburseable basis, any of the personnel of the
19 department or agency to assist the Board in the
20 performance of the duties of the Board.

21 (4) OFFICERS.—

22 (A) APPOINTMENT.—The chairperson may
23 appoint to the Board an executive director or
24 such other officers as the chairperson deter-

1 mines to be necessary to assist the Board in the
2 performance of the duties of the Board.

3 (B) TERM; PAYMENT.—An executive direc-
4 tor or officer appointed pursuant to subpara-
5 graph (A) shall serve for such period and be
6 paid such compensation as the Board deter-
7 mines to be appropriate.

8 (h) FUNDING.—

9 (1) IN GENERAL.—The Board—

10 (A) may use funds provided by the applica-
11 ble territorial government to ensure sufficient
12 funds are made available to cover all expenses
13 of the Board; and

14 (B) shall submit to the Governor and legis-
15 lature of the applicable covered territory for in-
16 clusion in the annual budget appropriations
17 process of the applicable territorial government
18 a report describing any request and use of
19 funds provided by the applicable territorial gov-
20 ernment.

21 (2) LOCAL FUNDING.—A covered territory shall
22 designate a dedicated territorial government source
23 of funding, not subject to subsequent legislative ap-
24 propriation, sufficient to support the annual costs of

1 the Board, as determined by the Board, to carry out
 2 this subtitle.

3 (i) POWERS.—

4 (1) HEARINGS.—The Board may, for the pur-
 5 pose of performing the duties of the Board—

6 (A) hold such hearings, meet and act at
 7 such times and places, take such testimony, re-
 8 ceive such evidence, and administer such oaths
 9 as the Board considers to be appropriate; and

10 (B) require, by subpoena or otherwise, the
 11 attendance and testimony of such witnesses and
 12 the production of such books, records, cor-
 13 respondence, memoranda, papers, documents,
 14 tapes, and materials as the Board considers to
 15 be appropriate.

16 (2) ISSUANCE AND ENFORCEMENT OF SUB-
 17 POENAS.—

18 (A) ISSUANCE.—A subpoena issued under
 19 paragraph (1)(B) shall—

20 (i) bear the signature of the chair-
 21 person of the Board; and

22 (ii) be served by any person or class
 23 of persons designated by the chairperson to
 24 serve a subpoena under paragraph (1)(B).

(B) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the district in which the subpoenaed person resides, is served, or may be found may issue an order requiring the person—

(i) to appear at any designated place to testify; or

(ii) to produce documentary or other evidence.

(C) NONCOMPLIANCE.—Any failure to obey the order of a court under this paragraph may be punished by the court as a contempt of court.

(3) ENTRANCE INTO CONTRACTS.—The Board, or any of the staff of the Board on behalf of the Board, may enter into such contracts as the Board considers appropriate to carry out the duties of the Board.

(j) DUTIES.—

(1) MONITORING AND RECOMMENDATIONS.—

(A) IN GENERAL.—Based on information provided in a monthly report submitted under section 112(f)(1)(A), the Board may recommend to the Governor and legislature of the

1 applicable covered territory policy adjustments
2 that should be made to ensure the expenditures
3 and revenues of the adopted budget for the ap-
4 plicable fiscal year are balanced.

5 (2) IMPROVEMENTS TO OPERATIONAL EFFI-
6 CIENCY.—

7 (A) IN GENERAL.—The Board shall work
8 with the applicable territorial government to im-
9 prove the operational efficiency of the applicable
10 territorial government, including the efforts of
11 the applicable territorial government—

12 (i) to strengthen financial record-
13 keeping and reporting;

14 (ii) to control the number and cost of
15 government contracts;

16 (iii) to collect and enforce the collec-
17 tion of taxes;

18 (iv) to promote economic growth;

19 (v) to improve Federal grant manage-
20 ment; and

21 (vi) to increase the effective use of in-
22 formation technology.

23 (B) REPORT.—Within a reasonable period
24 of time, the Board shall submit to the applica-
25 ble territorial government a report describing

1 recommendations to improve the operational ef-
 2 ficiency of the applicable territorial government,
 3 including efforts described in subparagraph (A).

4 (3) REVIEW OF BUDGETS; QUARTERLY RE-
 5 PORTS.—

6 (A) BUDGET PROPOSED BY GOVERNOR.—

7 (i) SUBMISSION TO BOARD.—The
 8 Governor of the applicable covered terri-
 9 tory shall submit to the Board for review
 10 a proposed budget for each fiscal year, in
 11 consultation with the Chief Financial Offi-
 12 cer and based on the applicable forecast of
 13 revenues submitted by the Chief Financial
 14 Officer, by not later than the earlier of—

15 (I) the date that is 120 days be-
 16 fore the first day of the fiscal year
 17 covered by the proposed budget; and

18 (II) the date that is 60 days be-
 19 fore the date by which the Governor is
 20 required under applicable law to sub-
 21 mit to the legislature of the applicable
 22 covered territory a proposed budget
 23 for the applicable fiscal year.

24 (ii) DETERMINATION OF COMPLIANT
 25 BUDGET.—Not later than the date that is

1 15 days after the date on which a Board
2 receives a proposed budget under clause
3 (i), the Board shall—

4 (I) determine whether the pro-
5 posed budget is a compliant budget;
6 and

7 (II)(aa) if the proposed budget is
8 a compliant budget—

9 (AA) approve the compliant
10 budget; and

11 (BB) submit the compliant
12 budget to the legislature of the
13 applicable covered territory; or

14 (bb) if the proposed budget is not
15 a compliant budget, provide to the
16 Governor of the applicable covered
17 territory—

18 (AA) a notice of violation
19 that includes a description of any
20 corrective action suggested by the
21 Board; and

22 (BB) an opportunity to cor-
23 rect the violation by requiring the
24 Governor to submit to the Board
25 a revised budget by not later

1 than the date that is 15 days
2 after the date on which the notice
3 of violation under subitem (AA)
4 is provided.

5 (iii) REVISED BUDGETS.—Not later
6 than the date that is 7 days after the date
7 on which the Board receives a revised
8 budget under clause (ii)(II)(bb)(BB), the
9 Board shall—

10 (I) determine whether the revised
11 budget is a compliant budget in con-
12 sultation with the Chief Financial Of-
13 ficer; and

14 (II)(aa) if the revised budget is a
15 compliant budget—

16 (AA) approve the compliant
17 budget; and

18 (BB) submit the compliant
19 budget to the legislature of the
20 applicable covered territory; or

21 (bb) if the revised budget is not
22 a compliant budget—

23 (AA) issue a notice of non-
24 compliance;

1 (BB) publicly submit rec-
2 ommendations of the Board and
3 the Chief Financial Officer for
4 adjustments that should be made
5 to ensure the adopted budget of
6 the territorial government for the
7 applicable fiscal year is a compli-
8 ant budget;

9 (CC) submit the noncompli-
10 ant budget to the legislature of
11 the applicable covered territory
12 with recommendations of the
13 Board and the Chief Financial
14 Officer for adjustments that
15 should be made to ensure the
16 adopted budget of the territorial
17 government for the applicable fis-
18 cal year is a complaint budget;
19 and

20 (DD) issue a directive that
21 the legislature shall strive to
22 adopt the Board's recommenda-
23 tions in the budget of the terri-
24 torial government for the applica-
25 ble fiscal year.

1 (B) BUDGET APPROVAL BY LEGISLA-
2 TURE.—

3 (i) IN GENERAL.—The legislature of
4 the applicable covered territory shall sub-
5 mit to the Board the budget adopted by
6 the legislature not later than—

7 (I) the date that is 30 days be-
8 fore the first day of each applicable
9 fiscal year; or

10 (II) the date previously approved
11 in writing by the Board not to exceed
12 60 days after the first day of the ap-
13 plicable fiscal year, if a date was ap-
14 proved in writing.

15 (ii) DETERMINATION BY BOARD.—Not
16 later than the date that is 7 days after the
17 date on which the Board receives an adopt-
18 ed budget submitted under clause (i), the
19 Board shall—

20 (I) determine whether the adopt-
21 ed budget is a compliant budget in
22 consultation with the Chief Financial
23 Officer; and

24 (II)(aa) if the adopted budget is
25 a compliant budget, issue a compli-

1 ance certification for the compliant
2 budget; or

3 (bb) if the budget is not a com-
4 pliant budget—

5 (AA) issue a certificate of
6 noncompliance;

7 (BB) publicly submit rec-
8 ommendations of the Board and
9 the Chief Financial Officer for
10 adjustments that should be made
11 to the budget of the territorial
12 government for the upcoming fis-
13 cal year to ensure the revenues
14 and expenditures are consistent
15 with the Fiscal Plan;

16 (CC) provide to the Gov-
17 ernor and legislature of the appli-
18 cable covered territory a certifi-
19 cate of noncompliance that in-
20 cludes a description of any rec-
21 ommendations of the Board and
22 the Chief Financial Officer for
23 adjustments that should be made
24 to the budget of the territorial
25 government for the upcoming fis-

1 cal year to ensure the revenues
 2 and expenditures are consistent
 3 with the Fiscal Plan; and

4 (DD) issue a directive that
 5 the Governor and the legislature
 6 shall strive to adopt the Board's
 7 recommendations in the budget
 8 of the territorial government for
 9 the upcoming fiscal year.

10 (C) QUARTERLY REPORTS.—On receipt of
 11 a quarterly report from the Chief Financial Of-
 12 ficer under section 112(f)(1)(B), the Board
 13 shall—

14 (i) conduct a review to determine
 15 whether the actual quarterly revenues and
 16 expenses for the applicable territorial gov-
 17 ernment are in compliance with the appli-
 18 cable approved budget; and

19 (ii) if the Board determines that the
 20 actual quarterly revenues and expenses for
 21 the applicable territorial government are
 22 not in compliance with the applicable ap-
 23 proved budget under clause (i), provide to
 24 the Governor recommendations for adjust-
 25 ments that should be made to ensure the

1 revenues and expenditures of the adopted
2 budget of the applicable territorial govern-
3 ment for the applicable fiscal year are bal-
4 anced.

5 (4) ISSUANCE OF DEBT.—No territorial govern-
6 ment may, without providing prior written and pub-
7 lic notice to the Board, issue debt or guarantee, ex-
8 change, modify, repurchase, redeem, or enter into a
9 similar transaction with respect to the debt of the
10 territorial government.

11 (5) AUTHORITY TO REVIEW DISCRETIONARY
12 TAX WAIVERS.—

13 (A) IN GENERAL.—Not later than the date
14 that is 180 days after the date of the establish-
15 ment of a Board under subsection (a), the Gov-
16 ernor of the applicable covered territory shall
17 submit to the Board an audited report docu-
18 menting each outstanding discretionary tax
19 waiver agreement to which any entity of the ap-
20 plicable territorial government is a party, in-
21 cluding each agreement pursuant to which the
22 applicable entity of the territorial government
23 waived, changed the due date of, or changed the
24 amount of taxes due.

1 (B) NEW TAX WAIVERS.—Effective on the
 2 date on which a Board is established under sub-
 3 section (a), no new tax waiver agreement may
 4 be executed by the applicable territorial govern-
 5 ment without prior approval of the Board.

6 (k) TERMINATION OF BOARD.—A Board shall termi-
 7 nate on certification by the Board that—

8 (1) the Board has been in operation for not less
 9 than 3 years and the applicable territorial govern-
 10 ment has adequate access, on an unsecured basis, to
 11 short-term and long-term credit markets at reason-
 12 able interest rates to meet the borrowing needs of
 13 the territorial government using a compliant budget;
 14 or

15 (2) for not less than 3 consecutive fiscal years
 16 prior to the certification, the expenditures made by
 17 the applicable territorial government for each fiscal
 18 year did not exceed the revenues of the territorial
 19 government during that fiscal year, using a compli-
 20 ant budget.

21 **SEC. 112. ESTABLISHMENT OF CHIEF FINANCIAL OFFICER.**

22 (a) ESTABLISHMENT OF OFFICE.—

23 (1) IN GENERAL.—Effective on the date on
 24 which the Governor of a territory signs a resolution
 25 adopted by the legislature of the territory to request

1 the establishment of a Fiscal Stability and Reform
 2 Board under this subtitle, an Office of the Chief Fi-
 3 nancial Officer is established for the territory, which
 4 shall be headed by the Chief Financial Officer of the
 5 territory.

6 (2) AUTHORITY TO REQUEST.—Effective with
 7 the appointment of the first Chief Financial Officer
 8 under subsection (d), the Chief Financial Officer
 9 may request other offices be consolidated within the
 10 office, subject to the approval of the applicable terri-
 11 tory’s legislature, with the function and personnel of
 12 the offices transferred to the office.

13 (3) RETENTION OF AUTHORITY.—Notwith-
 14 standing paragraph (2), the applicable territory shall
 15 retain its authority to appoint and remove personnel
 16 and agency heads of consolidated offices.

17 (4) CONFLICTS OF INTEREST.—

18 (A) IN GENERAL.—An individual ap-
 19 pointed to serve as a Chief Financial Officer—

20 (i) shall be subject to—

21 (I) the Federal conflict of inter-
 22 est requirements described in section
 23 208 of title 18, United States Code,
 24 except with respect to subsection (b)
 25 of that section; and

1 (II) the conflict of interest disclo-
 2 sure requirements under title I of the
 3 Ethics in Government Act of 1978 (5
 4 U.S.C. App.); and

5 (ii) shall not have any other conflict of
 6 interest relating to the duties of the Chief
 7 Financial Officer, including ownership of
 8 any debt security of—

9 (I) the applicable territorial gov-
 10 ernment; or

11 (II) a territorial instrumentality.

12 (B) DEFINITION.—For purposes of sub-
 13 paragraph (A)(ii), the term “conflict of inter-
 14 est” includes the interests of an organization in
 15 which the individual is serving as officer, direc-
 16 tor, trustee, general partner or employee, or
 17 any person or organization with whom the indi-
 18 vidual is negotiating or has any arrangement
 19 concerning prospective employment.

20 (C) 3-YEAR RESTRICTION.—

21 (i) IN GENERAL.—Any individual who
 22 serves as Chief Financial Officer shall not,
 23 during the 3-year period beginning on the
 24 date on which his or her tenure as Chief
 25 Financial Officer terminates, knowingly

1 make, with the intent to influence, any
 2 communication to or appearance before
 3 any member of the Board or Chief Finan-
 4 cial Officer on behalf of any other person
 5 (except the United States or a State or
 6 local government).

7 (ii) PENALTY.—Any individual who
 8 violates clause (i) shall be subject to the
 9 penalties described in section 216 of title
 10 18, United States Code.

11 (iii) VIOLATIONS.—If a Chief Finan-
 12 cial Officer is determined to be in violation
 13 of the requirements described in this sub-
 14 paragraph, the member shall be removed
 15 from the position of Chief Financial Offi-
 16 cer and may be subject to additional ac-
 17 tions or penalties set forth under Federal
 18 ethics rules.

19 (b) STAFF.—

20 (1) IN GENERAL.—The Chief Financial Officer
 21 may appoint such staff as are necessary to enable
 22 the Office to perform the duties of the Office.

23 (2) ELIGIBLE INDIVIDUALS.—For purposes of
 24 chapter 11 of title 18, United States Code, and sec-
 25 tion 2635 of title 5, Code of Federal Regulations, or

1 any successor thereto, the executive director and
 2 other staff employed by the office shall be considered
 3 employees of an Executive agency (as defined in sec-
 4 tion 105 of title 5, United States Code), including
 5 a member of the staff who is—

6 (A) a private citizen;

7 (B) an employee of the applicable terri-
 8 torial government; or

9 (C) an employee of the Federal Govern-
 10 ment.

11 (3) DETAILEES.—

12 (A) FEDERAL EMPLOYEES.—On request of
 13 the Chief Financial Officer, the head of a Fed-
 14 eral department or agency may detail to the Of-
 15 fice, on a reimbursable or nonreimbursable
 16 basis, and in accordance with the Intergovern-
 17 mental Personnel Act of 1970 (42 U.S.C. 4701
 18 et seq.), any of the personnel of the department
 19 or agency to assist the Office in the perform-
 20 ance of the duties of the Office.

21 (B) TERRITORIAL GOVERNMENT EMPLOY-
 22 EES.—On request of the Chief Financial Offi-
 23 cer, the head of any department or agency of
 24 the applicable territorial government may detail
 25 to the Office, on a reimbursable or nonreim-

1 bursable basis, any of the personnel of the de-
2 partment or agency to assist the Office in the
3 performance of the duties of the Office.

4 (c) FUNDING.—

5 (1) IN GENERAL.—The Chief Financial Offi-
6 cer—

7 (A) may use funds provided by the applica-
8 ble territorial government to ensure sufficient
9 funds are made available to cover all expenses
10 of the Office; and

11 (B) shall submit to the Governor and legis-
12 lature of the applicable covered territory for in-
13 clusion in the annual budget appropriations
14 process of the applicable territorial government
15 a report describing any request and use of
16 funds provided by the applicable territorial gov-
17 ernment.

18 (2) LOCAL FUNDING.—A covered territory shall
19 designate a dedicated territorial government source
20 of funding, not subject to subsequent legislative ap-
21 propriation, sufficient to support the annual costs of
22 the Office, as determined by the Chief Financial Of-
23 ficer, to carry out this subtitle.

24 (d) APPOINTMENT.—

1 (1) IN GENERAL.—The Chief Financial Officer
2 shall be appointed by the applicable territory’s Gov-
3 ernor as follows:

4 (A) Prior to the appointment of the Chief
5 Financial Officer, the Board may submit rec-
6 ommendations for the appointment to the appli-
7 cable territory’s Governor.

8 (B) In consultation with the Board and the
9 applicable territory’s legislature, the applicable
10 territory’s Governor shall nominate an indi-
11 vidual for appointment and notify the applicable
12 territory’s legislature of the nomination.

13 (C) After the expiration of the 7-day pe-
14 riod that begins on the date the applicable terri-
15 tory’s Governor notifies the legislature of the
16 nomination under subparagraph (B), the appli-
17 cable territory’s Governor shall notify the Board
18 of the nomination.

19 (D) The nomination shall be effective sub-
20 ject to approval by a majority vote of the
21 Board.

22 (2) REMOVAL.—The Chief Financial Officer
23 may be removed for cause by the Board or by the
24 applicable territory’s Governor with the approval of
25 the Board.

1 (3) SALARY.—The Chief Financial Officer shall
2 be paid at an annual rate determined by the Board
3 as the Board determines to be appropriate.

4 (e) POWERS.—

5 (1) ISSUANCE AND ENFORCEMENT OF SUB-
6 POENAS.—

7 (A) PURPOSE.—The Chief Financial Offi-
8 cer may, for the purpose of performing the du-
9 ties of the office, require, by subpoena or other-
10 wise, the attendance and testimony of such wit-
11 nesses and the production of such books,
12 records, correspondence, memoranda, papers,
13 documents, tapes, and materials as the Chief
14 Financial Officer considers to be appropriate.

15 (B) ISSUANCE.—A subpoena issued under
16 paragraph (1)(B) shall—

17 (i) bear the signature of the Chief Fi-
18 nancial Officer; and

19 (ii) be served by any person or class
20 of persons designated by the Chief Finan-
21 cial Officer to serve a subpoena under
22 paragraph (1)(B).

23 (C) ENFORCEMENT.—In the case of contu-
24 macy or failure to obey a subpoena issued
25 under paragraph (1)(B), the United States dis-

1 trict court for the district in which the subpoe-
 2 naed person resides, is served, or may be found
 3 may issue an order requiring the person—

4 (i) to appear at any designated place
 5 to testify; or

6 (ii) to produce documentary or other
 7 evidence.

8 (D) NONCOMPLIANCE.—Any failure to
 9 obey the order of a court under this paragraph
 10 may be punished by the court as a contempt of
 11 court.

12 (2) ENTRANCE INTO CONTRACTS.—The Chief
 13 Financial Officer, or any of the staff of the office on
 14 behalf of the Chief Financial Officer, may enter into
 15 such contracts as the Chief Financial Officer con-
 16 siders appropriate to carry out the duties of the of-
 17 fice.

18 (f) FUNCTIONS.—In addition to any other duties nec-
 19 essary and proper to fulfill the purposes of the Office, the
 20 Chief Financial Officer shall have the following duties:

21 (1) MONTHLY AND QUARTERLY REPORTS.—The
 22 Chief Financial Officer, in consultation with the ap-
 23 plicable territorial government, shall submit to the
 24 Board:

1 (A) A report not later than the date that
2 is 7 days after the last day of each month to
3 provide—

4 (i) an accounting of the cash balance
5 of the applicable territorial government;
6 and

7 (ii) a description of the amount of ac-
8 tual expenditures and revenues of the ap-
9 plicable territorial government, as com-
10 pared to the amounts budgeted, for the ap-
11 plicable fiscal year.

12 (B) Not later than the date that is 15 days
13 after the last day of each quarter of a fiscal
14 year, the Chief Financial Officer in consultation
15 with the Governor of the applicable covered ter-
16 ritory shall submit to the Board, in such form
17 as the Board may require, a report describ-
18 ing—

19 (i) the actual cash revenues, cash ex-
20 penditures, and cash flows of the territorial
21 government for the preceding quarter; as
22 compared to

23 (ii) the actual cash revenues, cash ex-
24 penditures, and cash flows contained in the
25 approved budget for the applicable quarter.

1 (C) A report under subparagraph (B) shall
2 include—

3 (i) a description of any accrued reve-
4 nues and expenditures during the applica-
5 ble quarter, as compared to the accrued
6 revenues and expenditures contained in the
7 approved budget for the quarter; and

8 (ii) a balance sheet, if the Board re-
9 quires a balance sheet.

10 (2) REVENUE FORECASTING.—Not later than
11 the date that is 75 days before the date on which
12 the Governor of the applicable covered territory is
13 required under applicable law to submit to the legis-
14 lature of the applicable covered territory a proposed
15 budget for the upcoming fiscal year, the Chief Fi-
16 nancial Officer shall submit to the applicable terri-
17 torial government and Board a forecast of revenues
18 for the upcoming fiscal year to be used to develop
19 the budget.

20 (A) REQUIREMENTS.—A forecast under
21 paragraph (2) shall be—

22 (i) based on applicable law; and

23 (ii) prepared in accordance with the
24 applicable Fiscal Plan.

1 (3) FINANCIAL AND ACCOUNTING INFORMA-
2 TION.—The Chief Financial Officer shall ensure the
3 following:

4 (A) All financial information presented by
5 the applicable territory is presented in a man-
6 ner, and is otherwise consistent with any re-
7 quirements promulgated by the Board.

8 (B) Appropriate procedures are imple-
9 mented and institute such programs, systems,
10 and personnel policies within the Officer's au-
11 thority, to ensure that the applicable territory's
12 budget, accounting and personnel control sys-
13 tems and structures are synchronized for budg-
14 eting and control purposes on a continuing
15 basis.

16 (C) Appropriate forms of receipts, vouch-
17 ers, bills, and claims to be used by all agencies,
18 offices, and instrumentalities of the applicable
19 territorial government.

20 (4) ACCOUNTING MANAGEMENT.—The Chief
21 Financial Officer shall:

22 (A) Supervise the applicable territory's fi-
23 nancial transactions to ensure adequate control
24 of revenues and resources, and to ensure that
25 appropriations are not exceeded.

1 (B) Maintain systems of accounting and
2 internal control designed to provide—

3 (i) full disclosure of the financial im-
4 pact of the activities of the applicable terri-
5 torial government;

6 (ii) adequate financial information
7 needed by the applicable territorial govern-
8 ment for management purposes;

9 (iii) effective control over, and ac-
10 countability for, all funds, property, and
11 other assets of the applicable territorial
12 government; and

13 (iv) reliable accounting results to
14 serve as the basis for preparing and sup-
15 porting agency budget requests and con-
16 trolling the execution of the budget of the
17 applicable territorial government.

18 (C) Maintain accounting of all public funds
19 belonging to or under the control of the applica-
20 ble territorial government (or any department
21 or agency of the applicable territorial govern-
22 ment).

23 (D) Maintain accounting of all investment
24 and invested funds of the applicable territorial

1 government or in possession of the applicable
2 territorial government in a fiduciary capacity.

3 (E) Submit to the applicable territorial
4 government a financial statement of the appli-
5 cable territorial government, containing such
6 details and at such times as the applicable ter-
7 ritorial government may specify.

8 (5) CERTIFYING CONTRACTS.—All contracts
9 (whether directly or through delegation) shall be cer-
10 tified by the Chief Financial Officer prior to execu-
11 tion as to the availability of funds to meet the obli-
12 gations expected to be incurred by the applicable ter-
13 ritorial government under such contracts during the
14 year.

15 (6) AUDITING.—The Chief Financial Officer
16 shall perform internal audits of accounts and oper-
17 ations and records of the applicable territorial gov-
18 ernment, including the examination of any accounts
19 or records of financial transactions, giving due con-
20 sideration to the effectiveness of accounting systems,
21 internal control, and related administrative practices
22 of the departments and agencies of the applicable
23 territorial government.

1 **SEC. 113. DEVELOPMENT AND APPROVAL OF FISCAL**
2 **PLANS.**

3 (a) IN GENERAL.—Not later than the date that is
4 60 days before the date on which the Governor of an appli-
5 cable covered territory is required under applicable law to
6 submit to the legislature of the applicable covered territory
7 a proposed budget for the upcoming fiscal year, the Gov-
8 ernor, in consultation with the Chief Financial Officer,
9 shall develop and submit to the Board and applicable terri-
10 torial government a Fiscal Plan for the applicable terri-
11 torial government in accordance with this section.

12 (b) INITIAL FISCAL PLAN.—The Governor of an ap-
13 plicable covered territory in consultation with the Chief Fi-
14 nancial Officer shall develop an initial Fiscal Plan in ac-
15 cordance with subsection (a) within 90 days of the Gov-
16 ernor of the applicable covered territory signing a resolu-
17 tion adopted by the legislature of the territory to request
18 the establishment of a Fiscal Stability and Reform Board
19 under this subtitle, or not later than the date that is 60
20 days before the date on which the Governor of the applica-
21 ble covered territory is required under applicable law to
22 submit to the legislature of the applicable covered territory
23 a proposed budget for the upcoming fiscal year, whichever
24 comes chronologically first.

25 (c) REQUIREMENTS.—

1 (1) IN GENERAL.—A Fiscal Plan shall, to the
2 maximum extent practicable, with respect to the ap-
3 plicable territorial government—

4 (A) provide for estimates of revenues and
5 expenditures in accordance with modified ac-
6 crual accounting standards and based on—

7 (i) applicable laws; or

8 (ii) specific laws that require enact-
9 ment in order to reasonably achieve the
10 projections of the Fiscal Plan;

11 (B) ensure the funding of essential public
12 services;

13 (C) provide full funding to cover all exist-
14 ing public pension obligations;

15 (D) provide for the elimination of budget
16 gaps in financing;

17 (E) provide for a reduction in the debt
18 burden to a level that is sustainable;

19 (F) improve fiscal governance;

20 (G) enable the achievement of fiscal tar-
21 gets;

22 (H) create independent forecasts of rev-
23 enue for the period covered by the Fiscal Plan;
24 and

1 (I) not impede investments to promote sus-
 2 tained economic growth.

3 (2) TERM.—A Fiscal Plan shall be in effect for
 4 a period of not less than 5 years.

5 (3) TRANSPARENCY.—A Fiscal Plan shall be
 6 made publicly available no less than 15 days after
 7 final approval as specified within subsection (d).

8 (d) APPROVAL BY BOARD.—

9 (1) REQUIREMENT.—The Governor of a covered
 10 territory shall not submit to the legislature of the
 11 applicable covered territory an annual budget for a
 12 fiscal year unless the Fiscal Plan has been approved
 13 for that fiscal year in accordance with this sub-
 14 section.

15 (2) APPROVAL.—Not later than the date that is
 16 15 days after the date on which the Governor sub-
 17 mits a Fiscal Plan to the Board under subsection
 18 (a), the Board shall—

19 (A) certify the Fiscal Plan; or

20 (B) fail to certify the Fiscal Plan and pro-
 21 vide to the Governor recommendations for revi-
 22 sions to the Fiscal Plan.

23 (3) REVISED FISCAL PLAN.—

24 (A) IN GENERAL.—Not later than the date
 25 that is 15 days after the date on which the

1 Board submits recommendations to the Gov-
 2 ernor under paragraph (2)(B), the Governor
 3 shall submit to the Board a revised Fiscal Plan.

4 (B) APPROVAL; DISAPPROVAL.—Not later
 5 than the date that is 7 days after the date on
 6 which the Governor submits to the Board a re-
 7 vised Fiscal Plan under subparagraph (A), the
 8 Board shall—

- 9 (i) certify the revised Fiscal Plan; or
- 10 (ii) disapprove the revised Fiscal Plan.

11 (4) DEVELOPMENT BY BOARD.—

12 (A) IN GENERAL.—

13 (i) NONACTION BY GOVERNOR.—If
 14 the Governor of a covered territory fails to
 15 submit to the Board a revised Fiscal Plan
 16 on or before the date specified in para-
 17 graph (3)(A), the Board shall develop and
 18 submit to the Governor a final revised Fis-
 19 cal Plan not later than the date that is 22
 20 days after the date on which recommenda-
 21 tions are provided to the Governor under
 22 paragraph (2)(B).

23 (ii) DISAPPROVAL BY BOARD.—If the
 24 Board disapproves a revised Fiscal Plan
 25 under paragraph (3)(B)(ii), the Board

1 shall develop and submit to the Governor
 2 a final revised Fiscal Plan not later than
 3 the date that is 7 days after the date of
 4 disapproval.

5 **SEC. 114. SEVERABILITY.**

6 If any provision of this subtitle or the application of
 7 such provision to any person or circumstance is held to
 8 be unconstitutional, the remainder of this subtitle, and the
 9 application of the provision to any other person or cir-
 10 cumstance, shall not be affected.

11 **TITLE II—ADJUSTMENTS OF**
 12 **DEBTS OF A TERRITORY OR**
 13 **ITS MUNICIPALITIES**
 14 **Subtitle A—General Provisions**

15 **SEC. 201. DEFINITIONS.**

16 In this title:

17 (1) AFFILIATE.—The term “affiliate” means, in
 18 addition to the definition made applicable in a case
 19 under this title by section 243(a)—

20 (A) for a Territory, any municipality of the
 21 Territory; and

22 (B) for a municipality, the governing Ter-
 23 ritory and any of the Territory’s other munici-
 24 palities.

1 (2) BOND.—The term “Bond” means a bond,
2 loan, line of credit, note, or other borrowing title, in
3 physical or dematerialized form, of which—

4 (A) the issuer, borrower, or guarantor is
5 the municipality or Territory as defined by
6 paragraphs (5) and (11); and

7 (B) the date of issuance or incurrence of
8 debt precedes the date of enactment of this Act.

9 (3) COURT.—The term “court” means the dis-
10 trict court for the territory in which the debtor is lo-
11 cated or, for any territory in which the debtor is lo-
12 cated that does not have a district court, the United
13 States District Court for the District of Hawaii.

14 (4) DEBTOR.—The term “debtor” means the
15 Territory or municipality concerning which a case
16 under this title has been commenced.

17 (5) MUNICIPALITY.—The term “municipi-
18 pality”—

19 (A) includes any political subdivision, pub-
20 lic agency, instrumentality or instrumentality of
21 a Territory; and

22 (B) should be broadly construed to effec-
23 tuate the purposes of this title.

24 (6) PROPERTY OF THE ESTATE.—The term
25 “property of the estate”, when used in section 541

1 of title 11, United States Code, made applicable in
2 a case under this title by section 243(a) means prop-
3 erty of the debtor.

4 (7) SPECIAL REVENUES.—The term “special
5 revenues” means receipts derived from the owner-
6 ship, operation, or disposition of projects or systems
7 of the debtor that are primarily used or intended to
8 be used primarily to provide transportation, utility,
9 or other services, including the proceeds of bor-
10 rowings to finance the projects or systems.

11 (8) SPECIAL TAX PAYER.—The term “special
12 tax payer” means record owner or holder of legal or
13 equitable title to real property against which a spe-
14 cial assessment or special tax has been levied the
15 proceeds of which are the sole source of payment of
16 an obligation issued by the debtor to defray the cost
17 of an improvement relating to such real property.

18 (9) SPECIAL TAX PAYER AFFECTED BY THE
19 PLAN.—The term “special tax payer affected by the
20 plan” means special tax payer with respect to whose
21 real property the plan proposes to increase the pro-
22 portion of special assessments or special taxes re-
23 ferred to in paragraph (2) assessed against such real
24 property.

1 (10) STATE.—The term “State” when used in
 2 a section of title 11, United States Code, made ap-
 3 plicable in a case under this title by section 243(a)
 4 means State or Territory when used in reference to
 5 a the relationship of a State to the municipality of
 6 the State.

7 (11) TERRITORY.—The term “Territory”
 8 means the Commonwealth of Puerto Rico, Guam,
 9 American Samoa, the Commonwealth of the North-
 10 ern Mariana Islands, or the United States Virgin Is-
 11 lands.

12 (12) TRUSTEE.—The term “trustee” when used
 13 in a section of title 11, United States Code, made
 14 applicable in a case under this title by section
 15 243(a) means debtor, except as provided in section
 16 926 of title 11, United States Code.

17 **SEC. 202. WHO MAY BE A DEBTOR.**

18 An entity may be a debtor under this title if the enti-
 19 ty—

20 (1) is—

21 (A) a Territory that has requested the es-
 22 tablishment of a Fiscal Stability and Reform
 23 Board in accordance with section 111; or

24 (B) a municipality—

1 (i) of a Territory that has requested
 2 the establishment of a Fiscal Stability and
 3 Reform Board in accordance with section
 4 111; and

5 (ii) that has been specifically author-
 6 ized, in its capacity as a municipality or by
 7 name, to be a debtor under this title by
 8 Territory law, or by a governmental officer
 9 or organization empowered by Territory
 10 law to authorize such entity to be a debtor
 11 under this title; and

12 (2) desires to effect a plan to adjust its debts.

13 **SEC. 203. RESERVATION OF TERRITORIAL POWER TO CON-**
 14 **TROL MUNICIPALITIES.**

15 Subject to the limitations imposed by title III, this
 16 title does not limit or impair the power of a Territory to
 17 control, by legislation or otherwise, a municipality of or
 18 in the Territory in the exercise of the political or govern-
 19 mental powers of such municipality, including expendi-
 20 tures for such exercise, but—

21 (1) a Territory law prescribing a method of
 22 composition of indebtedness of such municipality
 23 may not bind any creditor that does not consent to
 24 such composition; and

1 (2) a judgment entered under such a law may
 2 not bind a creditor that does not consent to such
 3 composition.

4 **SEC. 204. LIMITATION ON JURISDICTION AND POWERS OF**
 5 **COURT.**

6 Subject to the limitations imposed by title II, not-
 7 withstanding any power of the court, unless the debtor
 8 consents or the plan so provides, the court may not, by
 9 any stay, order, or decree, in the case or otherwise, inter-
 10 fere with—

11 (1) any of the political or governmental powers
 12 of the debtor;

13 (2) any of the property or revenues of the debt-
 14 or; or

15 (3) the debtor's use or enjoyment of any in-
 16 come-producing property.

17 **Subtitle B—Initial Stay on**
 18 **Litigation**

19 **SEC. 211. DEFINITIONS.**

20 In this subtitle, any term not defined under section
 21 201 that is defined in title 11, United States Code, has
 22 the meaning given that term under title 11, United States
 23 Code.

1 **SEC. 212. EFFECTIVE DATE.**

2 Effective on the date on which the Governor of a ter-
3 ritory signs a resolution adopted by the legislature of the
4 territory to request the establishment of a Fiscal Stability
5 and Reform Board under section 111, section 213 shall
6 take effect.

7 **SEC. 213. AUTOMATIC STAY.**

8 (a) Except as otherwise provided in this section, the
9 adoption of a resolution under section 111 operates with
10 respect to any claim, debt, or cause of action related to
11 a Bond as a stay, applicable to all entities (as such term
12 is defined in section 101 of title 11, United States Code),
13 of—

14 (1) the commencement or continuation, includ-
15 ing the issuance or employment of process, of a judi-
16 cial, administrative, or other action or proceeding
17 against a Territory or municipality, or to recover a
18 claim against a Territory or municipality;

19 (2) the enforcement, against a Territory or mu-
20 nicipality or against property of a Territory or mu-
21 nicipality, of a judgment;

22 (3) any act to obtain possession of property of
23 a Territory or municipality, or of property from a
24 Territory or municipality, or to exercise control over
25 property of a Territory or municipality;

1 (4) any act to create, perfect, or enforce any
2 lien against property of a Territory or municipality;

3 (5) any act to create, perfect, or enforce against
4 property of a Territory or municipality any lien to
5 the extent that such lien secures a claim;

6 (6) any act to collect, assess, or recover a claim
7 against a Territory or municipality; and

8 (7) the setoff of any debt owing to a Territory
9 or municipality against any claim against a Terri-
10 tory or municipality.

11 (b) The adoption of a resolution under section 111
12 does not operate as a stay under subsection (a) of this
13 section of the continuation of, including the issuance or
14 employment of process, a judicial, administrative, or other
15 action or proceeding against a Territory or municipality
16 that was commenced on or before the date of the adoption
17 of the resolution under section 111.

18 (c) Except as provided in subsection (d), (e), or (f),
19 a stay of an act under subsection (a) shall cease to have
20 effect no later than 12 months after the date of the adop-
21 tion of a resolution under section 111, or upon a the com-
22 mencement of a voluntary case under this title by the fil-
23 ing with the bankruptcy court of a petition by an entity
24 that may be a debtor under section 202, whichever comes
25 chronologically first.

1 (d) On motion of a party in interest and after notice
2 and a hearing, the court may grant relief from a stay
3 under subsection (a)—

4 (1) for cause, including the lack of adequate
5 protection of a security interest in property of such
6 party in interest; or

7 (2) with respect to a stay of an act against
8 property under subsection (a), if—

9 (A) the debtor does not have an equity in
10 such property; and

11 (B) such property is not necessary for a
12 Territory or municipality to provide essential
13 services.

14 (e) Thirty days after a request under subsection (d)
15 of this section for relief from the stay of any act against
16 property of a Territory or municipality under subsection
17 (a) of this section, such stay is terminated with respect
18 to the party in interest making such request, unless the
19 court, after notice and a hearing, orders such stay contin-
20 ued in effect pending the conclusion of, or as a result of,
21 a final hearing and determination under subsection (d) of
22 this section. A hearing under this subsection may be a pre-
23 liminary hearing, or may be consolidated with the final
24 hearing under subsection (d) of this section. The court
25 shall order such stay continued in effect pending the con-

1 clusion of the final hearing under subsection (d) of this
2 section if there is a reasonable likelihood that the party
3 opposing relief from such stay will prevail at the conclu-
4 sion of such final hearing. If the hearing under this sub-
5 section is a preliminary hearing, then such final hearing
6 shall be concluded not later than 30 days after the conclu-
7 sion of such preliminary hearing, unless the 30-day period
8 is extended with the consent of the parties in interest or
9 for a specific time which the court finds is required by
10 compelling circumstances.

11 (f) Upon request of a party in interest, the court,
12 with or without a hearing, shall grant such relief from the
13 stay provided under subsection (a) of this section as is
14 necessary to prevent irreparable damage to the secured in-
15 terest of an entity in property, if such interest will suffer
16 such damage before there is an opportunity for notice and
17 a hearing under subsection (d) or (e) of this section.

18 (g) No order, judgment, or decree entered in violation
19 of this section shall have any force or effect.

20 (h) In any hearing under subsection (d) or (e) con-
21 cerning relief from a stay—

22 (1) the party requesting such relief has the bur-
23 den of proof on the issue of the debtor's equity in
24 property; and

1 (2) the party opposing such relief has the bur-
 2 den of proof on all other issues.

3 **Subtitle C—Adjudication and** 4 **Judicial Review**

5 **SEC. 221. PETITION AND PROCEEDINGS RELATING TO PETI-** 6 **TION.**

7 (a) A voluntary case under this title is commenced
 8 by the filing with the bankruptcy court of a petition by
 9 an entity that may be a debtor under section 202.

10 (b) Notwithstanding section 202 and subsection (a),
 11 a case under this title concerning an unincorporated tax
 12 or special assessment district that does not have its own
 13 officials is commenced by the filing under subsection (a)
 14 of a petition by the governing authority of the district or
 15 the board or body having authority to levy taxes or assess-
 16 ments to meet the obligations of such district.

17 (c) After any objection to the petition, the court, after
 18 notice and a hearing, may dismiss the petition if—

19 (1) the debtor did not file the petition in good
 20 faith; or

21 (2) the petition does not meet the requirements
 22 of this title.

23 (d) If the petition is not dismissed under subsection
 24 (c), the court shall order relief under this title.

25 (e) The court may not—

1 (1) on account of an appeal from an order for
2 relief, delay any proceeding under this title in the
3 case in which the appeal is being taken; or

4 (2) order a stay of such proceeding pending
5 such appeal.

6 (f) The reversal on appeal of a finding of jurisdiction
7 shall not affect the validity of any debt incurred that is
8 authorized by the court under section 364(c) or 364(d)
9 of title 11, United States Code.

10 (g) For purposes of this title, the Governor may take
11 any action necessary on behalf of the debtor to prosecute
12 the debtor's case; including—

13 (1) filing a petition;

14 (2) submitting or modifying a plan of adjust-
15 ment; or

16 (3) otherwise generally submitting filings in re-
17 lation to the restructuring case with the court.

18 (h) Debtors under this title may file petitions or sub-
19 mit or modify plans of adjustment jointly if they are affili-
20 ates.

21 (i) Except as provided in subsection (j), this title shall
22 take effect on the date of the enactment of this Act.

23 (j) This title shall apply with respect to—

24 (1) cases commenced under this title on or after
25 the date of the enactment of this Act; and

1 (2) debts, claims, and liens created before, on,
2 or after such date.

3 **SEC. 222. JURISDICTION.**

4 (a) The district courts shall have original and exclu-
5 sive jurisdiction of a case under this title.

6 (b) Section 157 of title 28, United States Code, shall
7 apply to a case under this title.

8 **SEC. 223. VENUE.**

9 Venue shall be proper in—

10 (1) with respect to a Territory, the district
11 court for the Territory or, for any territory that does
12 not have a district court, in the United States Dis-
13 trict Court for the District of Hawaii; and

14 (2) with respect to a municipality, the district
15 court for the Territory in which the municipality is
16 located or, for any territory that does not have a dis-
17 trict court, in the United States District Court for
18 the District of Hawaii.

19 **SEC. 224. SELECTION OF PRESIDING JUDGE.**

20 (a) For cases in which the debtor is a Territory, the
21 chief judge of the court of appeals for the circuit embrac-
22 ing the district in which the case is commenced shall des-
23 ignate a bankruptcy judge to conduct the case.

24 (b) For cases in which the debtor is not a Territory,
25 and the case has not been jointly filed with the case of

1 a Territory or there is no case in which the affiliate Terri-
2 tory is a debtor, the chief judge of the court of appeals
3 for the circuit embracing the district in which the case
4 is commenced shall designate a bankruptcy judge to con-
5 duct the case.

6 (c) A bankruptcy judge designated under subsection
7 (a) or (b) shall be subject to the provisions of chapter 6
8 of title 28, United States Code.

9 (d) Notwithstanding section 156, of title 28, United
10 States Code, the bankruptcy judge designated under sub-
11 section (a) or (b) may appoint as many law clerks and
12 additional judicial assistants as the judge deems necessary
13 to assist in presiding over cases commenced under this
14 title.

15 **SEC. 225. APPELLATE REVIEW.**

16 (a) Except as provided in subsection (b), subsections
17 (a) and (d) of section 158 of title 28, United States Code,
18 shall apply to a case under this title.

19 (b) Only an order confirming a plan of adjustment
20 or dismissing a petition shall be considered final for pur-
21 poses of section 158(a) of title 28, United States Code.

22 **SEC. 226. APPLICABLE RULES OF PROCEDURE.**

23 For all cases brought under this title, the Federal
24 Rules of Bankruptcy Procedure shall apply.

1 **SEC. 227. SEVERABILITY.**

2 If any provision of this title or the application thereof
3 to any person or circumstance is held invalid, the remain-
4 der of this title, or the application of that provision to
5 persons or circumstances other than those as to which it
6 is held invalid, is not affected thereby.

7 **Subtitle D—The Plan**

8 **SEC. 231. FILING OF PLAN OF ADJUSTMENT.**

9 The debtor shall file a plan for the adjustment of the
10 debtor's debts. If such a plan is not filed with the petition,
11 the debtor shall file such a plan at such later time as the
12 court fixes.

13 **SEC. 232. CONFIRMATION.**

14 (a) A special tax payer may object to confirmation
15 of a plan.

16 (b) The court shall confirm the plan if—

17 (1) the plan complies with the provisions of title
18 11, United States Code, made applicable in a case
19 under this title by section 243(a);

20 (2) the plan complies with the provisions of this
21 title;

22 (3) the debtor is not prohibited by law from
23 taking any action necessary to carry out the plan;

24 (4) except to the extent that the holder of a
25 particular claim has agreed to a different treatment
26 of such claim, the plan provides that on the effective

1 date of the plan each holder of a claim of a kind
2 specified in section 507(a)(2) of title 11, United
3 States Code, will receive on account of such claim
4 cash equal to the allowed amount of such claim;

5 (5) any regulatory or electoral approval nec-
6 essary under applicable nonbankruptcy law in order
7 to carry out any provision of the plan has been ob-
8 tained, or such provision is expressly conditioned on
9 such approval;

10 (6) the plan is in the best interests of creditors
11 and is feasible;

12 (7) the plan is consistent with the Fiscal Plan
13 submitted under title II;

14 (8) the plan ensures that accrued pension liabil-
15 ity in the Commonwealth Employee Retirement Sys-
16 tem and Teacher Retirement System shall be treated
17 as senior, first priority secured debt, senior to any
18 existing senior secured debt by statutory lien and
19 notwithstanding any other provision of law may be
20 satisfied by payment from the general revenues of
21 the Commonwealth, provided that the maximum
22 claim to be treated as secured by this senior, first
23 priority secured statutory lien of an active annuitant
24 shall be equal to the Pension Benefit Guaranty Cor-
25 poration maximum guarantee for participants in a

1 single-employer plan and that the maximum claim to
 2 be treated as secured by this senior, first priority se-
 3 cured statutory lien of an active or vested inactive
 4 participant in said pension funds shall be equal to
 5 the full benefit accrued by such active or inactive
 6 participant; and

7 (9) feasible and equitable the plan does not un-
 8 duly impair the claims of holders of bonds that
 9 are—

10 (A) general obligations of the Territory to
 11 which the Territory pledged the full faith and
 12 credit and the taxing power of the Territory;
 13 and

14 (B) identified in an applicable nonbank-
 15 ruptcy law as having a first claim on available
 16 Territory resources.

17 **Subtitle E—Additional Provisions**

18 **SEC. 241. COMPENSATION OF PROFESSIONALS.**

19 (a) After notice to the parties in interest and the
 20 United States Trustee and a hearing, the court may award
 21 to a professional person employed by the debtor, in the
 22 debtor's sole discretion, or employed by a committee under
 23 section 1103 of title 11, United States Code—

24 (1) reasonable compensation for actual, nec-
 25 essary services rendered by the professional person,

1 or attorney and by any paraprofessional person em-
2 ployed by any such person; and

3 (2) reimbursement for actual, necessary ex-
4 penses.

5 (b) The court may, on its own motion or on the mo-
6 tion of any party in interest, award compensation that is
7 less than the amount of compensation that is requested.

8 (c) In determining the amount of reasonable com-
9 pensation to be awarded to a professional person, the
10 court shall consider the nature, the extent, and the value
11 of such services, taking into account all relevant factors,
12 including—

13 (1) the time spent on such services;

14 (2) the rates charged for such services;

15 (3) whether the services were necessary to the
16 administration of, or beneficial at the time at which
17 the service was rendered toward the completion of,
18 a case under this title;

19 (4) whether the services were performed within
20 a reasonable amount of time commensurate with the
21 complexity, importance, and nature of the problem,
22 issue, or task addressed;

23 (5) with respect to a professional person,
24 whether the person is board certified or otherwise

1 has demonstrated skill and experience in the restruc-
2 turing field; and

3 (6) whether the compensation is reasonable
4 based on the customary compensation charged by
5 comparably skilled practitioners in cases other than
6 cases under this title or title 11, United States
7 Code.

8 (d) The court shall not allow compensation for—

9 (1) unnecessary duplication of services; or

10 (2) services that were not—

11 (A) reasonably likely to benefit the debtor;

12 or

13 (B) necessary to the administration of the

14 case.

15 (e) The court shall reduce the amount of compensa-
16 tion awarded under this section by the amount of any in-
17 terim compensation awarded under section 242, and, if the
18 amount of such interim compensation exceeds the amount
19 of compensation awarded under this section, may order
20 the return of the excess to the debtor.

21 (f) Any compensation awarded for the preparation of
22 a fee application shall be based on the level and skill rea-
23 sonably required to prepare the application.

1 **SEC. 242. INTERIM COMPENSATION.**

2 A debtor's attorney, or any professional person em-
 3 ployed by the debtor, in the debtor's sole discretion, or
 4 employed by a committee under section 1103 of title 11,
 5 United States Code, may apply to the court not more than
 6 once every 120 days after an order for relief in a case
 7 under this title, or more often if the court permits, for
 8 such compensation for services rendered before the date
 9 of such an application or reimbursement for expenses in-
 10 curred before such date as is provided under section 241.
 11 After notice and a hearing, the court may allow to such
 12 applicant such compensation or reimbursement.

13 **SEC. 243. APPLICABILITY OF OTHER SECTIONS.**

14 (a) Sections 101, 102, 104, 105, 106, 107, 108, 112,
 15 333, 344, 347(b), 349, 350(b), 351, 361, 362, 364(c),
 16 364(d), 364(e), 364(f), 365, 366, 501, 502, 503, 504,
 17 506, 507(a)(2), 509, 510, 524(a)(l), 524(a)(2), 544, 545,
 18 546, 547, 548, 549(a), 549(c), 549(d), 550, 551, 552,
 19 553, 555, 556, 557, 559, 560, 561, 562, 922, 923, 924,
 20 925, 926, 927, 928, 929, 930, 942, 944, 945, 946, 1102,
 21 1103, 1109, 1111(b), 1113, 1122, 1123(a)(l), 1123(a)(2),
 22 1123(a)(3), 1123(a)(4), 1123(a)(5), 1123(b), 1123(d),
 23 1124, 1125, 1126(a), 1126(b), 1126(c), 1126(e), 1126(f),
 24 1126(g), 1127(d), 1128, 1129(a)(2), 1129(a)(3),
 25 1129(a)(6), 1129(a)(8), 1129(a)(10), 1129(b)(l),
 26 1129(b)(2)(A), 1129(b)(2)(B), 1142(b), 1143, 1144, and

1 1145 of title 11, United States Code, apply in a case under
2 this title.

3 (b) A term used in a section of title 11, United States
4 Code, made applicable in a case under this title by sub-
5 section (a) has the meaning defined for such term for the
6 purpose of such applicable section, unless such term is
7 otherwise defined in section 201.

8 (c) A section made applicable in a case under this
9 title by subsection (a) that is operative if the business of
10 the debtor is authorized to be operated is operative in a
11 case under this title.

12 (d) Solely for purposes of this title, a reference to
13 “this title”, “this chapter”, or words of similar import in
14 a section of title 11, United States Code, made applicable
15 in a case under this title by subsection (a) or to “this
16 title”, “title 11”, or words of similar import in a section
17 of title 28, United States Code, made applicable in a case
18 under this title by section 222 or 225 or in the Federal
19 Rules of Bankruptcy Procedure made applicable in a case
20 under this title by section 226 shall be deemed to be a
21 reference to this title.

TITLE III—PUERTO RICO
CHAPTER 9 UNIFORMITY

SEC. 301. SHORT TITLE.

This title may be cited as the “Puerto Rico Chapter 9 Uniformity Act of 2015”.

SEC. 302. AMENDMENT.

Section 101(52) of title 11, United States Code, is amended to read as follows:

“(52) The term ‘State’ includes Puerto Rico and, except for the purpose of defining who may be a debtor under chapter 9 of this title, includes the District of Columbia.”.

SEC. 303. EFFECTIVE DATE; APPLICATION OF AMENDMENT.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendment made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENT.—The amendment made by this title shall apply with respect to—

(1) cases commenced under title 11 of the United States Code on or after the date of the enactment of this Act; and

(2) debts, claims, and liens created before, on, or after such date.

1 **SEC. 304. SEVERABILITY.**

2 If any provision of this title or any amendment made
3 by this title, or the application of such provision or amend-
4 ment to any person or circumstance, is held to be uncon-
5 stitutional, the remainder of this title and the amendments
6 made by this title, or the application of that provision or
7 amendment to other persons or circumstances, shall not
8 be affected.

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