

(Substitute for
H. B. 2454)

(No. 103)

(Approved May 25, 2006)

AN ACT

To implement the Fiscal Reform of the Government of the Commonwealth of Puerto Rico of 2006, which shall include, among other issues, the restructuring of the budgetary process of the Government of the Commonwealth of Puerto Rico, the prohibition to use debts, loans or any other financing mechanisms to cover operating expenses and to balance the General Budget of Expenses of the Government of the Commonwealth of Puerto Rico, establish controls to reduce public spending, enforce compliance with the constitutional requirement stating that the General Budget shall be balanced, reinforce the legal prohibition that the expenses of the Executive Power and of each of the agencies of the Government of the Commonwealth of Puerto Rico shall not exceed the budget appropriations; assign responsibilities, establish penalties, prohibit the use of public funds for certain expenses and provide for the use of the savings product of these prohibitions, limit the use of public funds to defray the payment for the use of cellular phones, prohibit the use of public funds to defray the use of motor vehicles for personal or unlimited use by officers, limit the use of public funds to defray the cost of professional lobbying services, establish the prohibition of public broadcasting expenses of the Government of the Commonwealth of Puerto Rico, establish the mechanisms on the exactness of expenses, and the creation of a uniform accounting system and the fiscal organization of the Government of Puerto Rico, and for other purposes.

STATEMENT OF MOTIVES

In our system of government, the people are the owners of all public goods. The funds and properties administered by governors belong to the people and only shall the same be used strictly for their benefit. The Government manages public funds as a trust, which entails that they be used

with the greatest of scruples and responsibility according to the nature and purposes of said good.

Unfortunately, the Government frequently broadens the definition and scope of “common good” to include its self-preservation and expansion. This causes an uncontrolled and dramatic increase in Government expenses in areas that are not directly related with its constitutional functions and responsibilities, which results in an uncontrolled and disproportionate use of public funds.

All of the stated above makes a Fiscal Reform of our government system necessary and essential, to make it truly effective and compliant with the responsibilities that justify its existence.

The Government of the Commonwealth of Puerto Rico is going through the worst fiscal crisis in all of its history. This situation jeopardizes the quality of the services that the citizenry should receive and may also continue affecting the credit quality of bonds issued by the Government of Puerto Rico and its agencies and instrumentalities. This definitively endangers the economic development of the Island.

Due to the adverse consequences, it is extremely important and of the highest priority that this fiscal crisis be resolved as soon as possible. However, to achieve this goal, it is essential to adequately define the problem, which requires a clear understanding of the crisis and of the factors that contributed to it.

The extraconstitutional debt which amounted to \$1.89 billion in 1984, ascended to \$3.6695 billion in 1992, and was reduced to \$3.0422 billion in 2000, according to the documents of the Office of the Management and Budget, and became more serious in the years 2003 and 2004, during which more than \$1 billion was spent in excess of the recurrent income that was

available in the treasury. To this, the more than \$1.2 billion that were disbursed from the Budgetary Fund during the years 2001-2004 must be added, including also the following disbursements approved through executive orders and carried out to balance the budgets of fiscal years 2001-2002, 2002-2003 and 2003-2004:

<u>Executive Order</u>	<u>Date</u>	<u>Amount</u>	<u>Balance of Fiscal Year</u>
OE-2002-60	September 30, 2002	\$140.0 million	2001-2002
OE-2003-64	October 22, 2003	\$145.0 million	2002-2003
OE-2004-83	November 17, 2004	\$151.2 million	2003-2004

In order for the Government of the Commonwealth of Puerto Rico to be able to spend in excess of its recurrent income, several mechanisms were used, including the use of debts. These financing methods to cover disbursements of operating expenses and to balance the budgets contributed to the erosion of the control mechanisms consecrated in our Constitution. This could have as consequence the questioning of the constitutionality of the laws that authorized these actions, among other things.

On the other hand, the Budgetary Fund was created by Act No. 89 of August 18, 1994, as amended, for the purpose of creating a budgetary reserve that would serve to cover appropriations when the collections of the Government are less than the estimates. The purpose of the Budgetary Fund was not to provide a mechanism to cover expenses which exceed the appropriations. In spite of this, and as we have witnessed, the truth is that the Budgetary Fund has been used to cover expenses in excess of those authorized by the Legislature. This has enabled the Government of the

Commonwealth of Puerto Rico to postpone and avoid the making of decisions needed to control public spending, in addition to having caused the questioning of the legality of the actions taken in order to use this Budgetary Fund for a purpose contrary to that authorized by law.

Therefore, it is extremely important that the budgetary process of the Government of Puerto Rico be restructured to stop the practice of spending in excess of the income available, to restore the fiscal controls established in the Constitution of Puerto Rico and to establish the adequate mechanisms to prevent that what has occurred in the last two years should happen again. This also includes the strengthening of administrative and accounting processes in order to place greater responsibilities on heads of agencies and their directors of finances for fiscal and administrative operations that are under their responsibilities.

As part of all this process of searching for a solution to the problem of the fiscal crisis, it is also important to reduce or eliminate expenses in the agencies or instrumentalities of the Government of Puerto Rico. In this sense, it is extremely important to control expenditures in payroll, which was one of the expense items that increased the most in recent years. In fact the increase in payroll expenses of the Government of Puerto Rico chargeable to the General Fund during the last three (3) years holds a close correlation with the numbers of the budgetary insufficiency of approximately \$600 million as disclosed by the Office of Management and Budget, and as illustrated below:

(In \$ billion)

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006p</u>
Payroll expenses and related costs	<u>3.864</u>	<u>4.252</u>	<u>4.373</u>	<u>4.940</u>	<u>5.526</u> <u>*</u>
Increase (in dollars)	0.116	0.388	0.121	0.567	0.586
Increase (in percent)		10%	3%	13%	12%

p = budgetary petition

* includes \$0.566 billion included as “other operating expenses”

Source = Office of the Management and Budget

Likewise, publicity expenses and lobbying professional services which have blown out of all reasonable proportions in recent years should be limited. The use of public funds to defray the payment of cellular phones should also be limited, since the use thereof has spread throughout the citizenry in general in such a way that the use of public funds to defray their cost is no longer justified. Furthermore, the use of public funds to defray the use of motor vehicle for the personal and unlimited use by officers should also be prohibited since it seems unreasonable due to the need to use said funds for other more urgent matters.

For all of the stated above, this Legislature deems that it is a top priority, to implement a Fiscal Reform which shall include, among other matters, the restructuring of the budgetary process of the Government of the Commonwealth of Puerto Rico, the prohibition to use debts, loans or other financing mechanisms to cover operating expenses and to balance the General Budget of Expenses of the Commonwealth of Puerto Rico, establish controls to achieve a reduction in public spending, enforce compliance with the constitutional requirement which states that the General Budget must be balanced, reinforce the legal prohibition that the expenses of the Executive

Power and of every agency, instrumentality, department and body of the Government of Puerto Rico cannot exceed the budget appropriations; assign responsibilities, establish penalties, prohibit the use of public funds for certain expenses, and provide for the use of the product of these prohibitions, limit the use of public funds to defray the use of cellular phones, prohibit the use of public funds to defray the use of motor vehicles for personal or unlimited use by officers, limit the use of public funds to defray the cost of professional lobbying services, establish the prohibition of public diffusion spending by the Government of the commonwealth of Puerto Rico, establish the mechanisms on the exactness of expenses, and the creation of a uniform accounting system and the fiscal organization of the Government of Puerto Rico, and for other purposes.

Through the approval of this important legislative piece we begin to take the necessary steps to make our citizenry regain their faith in the Government, which was lost in recent years.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Title

This Act shall be known as the “Commonwealth of Puerto Rico Government Fiscal Reform Act of 2006.”

Section 2.- Applicability

This Act shall be applicable to all agencies of the Government of the Commonwealth of Puerto Rico, whose budgets are defrayed, in whole or in part, chargeable to the General Fund. For the purposes of this Act, the term “Agencies” shall mean all bodies or instrumentalities and entities of the Executive Branch of the Commonwealth of Puerto Rico, to wit: departments, boards, commissions, administrations, offices, subdivisions and public corporations that are under the control of said Branch. This Act

shall also be applicable to the Legislature regarding the strict freezing of its operating expenses up to 2008, the non-approval of legislative initiatives that have an adverse fiscal impact on an agency, the use of public funds cellular phones expenses, the limitation on the contracting of professional lobbying services, the restriction of public broadcasting expenses, and the implementation of other savings measure of their own initiative.

Likewise, this Act shall also apply to the Puerto Rico Government Ethics Office and to the Office of the Comptroller of Puerto Rico regarding public policy, fiscal reform, prohibition of the use of debt, limit to the use of excess collections, approval of the General Budget of Expenses, disbursement of public funds after the approval of the General Budget of Expenses, prohibition to exceed the budget appropriated, use of the Budgetary Fund, and of the Emergency Fund, public funds for the payment of cellular phones, use of public funds for the payment of motor vehicles, use of public funds for the payment of professional lobbying services, public broadcasting expenses of the government, electronic transactions, legality and exactness of expenses, legislative prerogatives, and penalties.

Section 3.- Public Policy

It shall be the public policy of the Government of the Commonwealth of Puerto Rico to establish a fiscal system that incorporates effective mechanisms for the control, reduction and performance of public expenditures, using the following general principles as parameters:

- 1) Reduction of the gigantism in government spending while assuring the quality and access to the services.
- 2) Promote the elimination or consolidation of agencies to avoid duplication and bureaucracy within the Government.

- 3) Reduction in payroll in such a way that there are no dismissals of career public employees nor an increase in the retirement systems actuarial deficit.
- 4) Elimination of the use of public funds for unnecessary, extravagant and excessive expenses in the three Branches of the Government.
- 5) Limitation in public relations and broadcasting expenses to those expressly authorized by law.
- 6) Any other measure that contributes to the reduction of Government expenses that does not entail reduction of the salaries of public employees or the dismissal of career public employees or reduction of indispensable services for the people in the three Branches of the Government of Puerto Rico. Provided, however, that the abovestated is subject to the provisions of Act No. 184 of August 3, 2004, as amended, known as the "Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico," and without impairment to the administrative powers pursuant to said statute.
- 7) Establishment of measures directed to the control and efficient use of donations and incentives proceeding from the General Fund. Moreover, the revision and implementation of mechanisms that promote efficiency in the acquisition and payment processes of goods and services.

Section 4.- Fiscal Reform

The set of laws in effect or to be approved in the future directed to complying with the guidelines and public policy set forth in this legislation, in addition to the present Act shall be denominated as the Fiscal Reform.

Section 5.- Prohibition of the Use of Debts

The use of debts, loans or any other financing mechanism to cover operating expenses and to balance the General Budget of Expenses of the Commonwealth of Puerto Rico is hereby prohibited. Savings resulting from refinancing shall not be used to cover operating expenses and/or balancing of the budget of expenses, unless otherwise provided by a Joint Resolution. This Prohibition shall not include those refinancing measures that have the effect of reducing the cost of the debt, without increasing the original amount nor the debt approved by the Legislature prior to the effectiveness of this Act. This Section shall not apply to instrument issued pursuant to Act No. 1 of June 26, 1987, as amended, known as an “Act to Issue Notes in Advance of Income Taxes of the Commonwealth of Puerto Rico.”

Section 6.- Limitations to the Use of Excess in Collections

The collections in excess of the estimates of revenues, if any, that are received in a determined fiscal year shall be transferred to the Urgent Interest Fund to be used as provided in the Act that created said Fund.

Section 7.- Approval of the General Budget of Expenses

The General Budget of Expenses of the Government of the Commonwealth of Puerto Rico shall be approved through the following Resolutions: (1) Joint Resolution of the General Budget of Operating Expenses; (2) Joint Resolution of Special Appropriations for Operating Expenses; (3) Joint Resolution of Appropriations for the Construction of

Capital Works chargeable to the Public Improvements Fund; and any other legislation to be agreed upon by the Legislative and Executive Branches.

Section 8.- Disbursement of Public Funds after the Approval of the General Budget of Expenses.

No Act or Resolution shall be approved that authorizes or whose implementation requires the disbursement of public funds without the existence of a certification under oath from the Director of the Office of Management and Budget and the Secretary of the Treasury to the effect that on the date and time of signing, the funds are or are not available to finance the same and that the source thereof is expressly identified. If the expense proposed in the legislation is of recurrent nature, the certifications of the Office of Management and Budget and the Secretary of the Treasury, shall, in turn, indicate the availability of recurrent funds. Provided, that each of the aforementioned agencies shall issue a separate certification corresponding to the information under its jurisdiction.

Every Legislative Committee that files a report proposing the approval of a measure shall include therein, a section titled "Fiscal Impact" in which it shall certify the fiscal impact that it estimates that the approval of the measure shall have on the agencies, departments, bodies, instrumentalities or public corporations, if any. The impact shall be determined through a certification issued to such purpose by the Office of Management and Budget, a requirement which shall be indispensable for the processing of the measure. If there is an impact, the legislative report shall define specific recommendations to the effect of correcting any negative fiscal impact that should result from the approval of the legislative piece. Likewise, any legislative measure that is to be approved and that imposes financial obligations on any agency, department, body, instrumentality or

public corporation shall identify the resources that may be used by the affected entity to meet said obligations.

Section 9.- Prohibition to Exceed the Budget Appropriation

No agency of the Government of the Commonwealth of Puerto Rico nor the Judicial or Legislative Branches is authorized to spend in excess of that which is appropriated in the General Budget of Expenses, as provided in this Act, unless it is otherwise provided through the approval of an Act or Joint Resolution to such effect. Any violation of this Section shall be sanctioned pursuant to the provisions of Section 24 of this Act.

Section 10.- Preparation of Certifications

Any agency who receives appropriations of resources from the General Fund shall submit a certification signed by both the head of the agency and by the director of finances, which shall be duly sworn by both. This certification shall contain, among other things, the following:

- a) The number of positions occupied, by category, at the beginning and at the end of the fiscal year, including the total amount of the payroll.
- b) A list of the professional and consulting services received during the fiscal year, including the amount thereof.
- c) An analysis of the economies made or the increase in expenses incurred during the fiscal year.
- d) Recommendations to make additional economies, including an analysis of duplication of functions within the body.
- e) Objective measures to determine the efficiency and effectiveness in complying with its objectives and responsibilities, as provided in its Organic Act.

- f) Monthly revenues received and projected, compared with the revenues budgeted for the fiscal year.
- g) Monthly expenses incurred and projected compared with the budgeted expenses for the fiscal year.
- h) Details of any financial instrument of the entity, such as but without it being a limitation, certificates of deposit and investment accounts, among others.

This certification shall contain a final paragraph that shall provide that the same shows the reality of all its revenues, all its expenses, all accounting transactions and all debts and obligations of the agency. The certification shall be filed at the Office of the Clerk of the House of Representatives and at the Office of the Secretary of the Senate of Puerto Rico, at the Office of the Comptroller and the Office of the Management and Budget on or before December 31 of the fiscal year that has just concluded.

Section 11.- Use of the Budgetary Fund and of the Emergency Fund

The Budgetary Fund created by virtue of Act No. 89 of August 18, 1994, as amended, which amended Act No. 230 of July 23, 1974, as amended, better known as the "Government of Puerto Rico Accounting Act," may only be used to cover appropriations for duly approved expenses, as provided in this Act, on any fiscal year in which the available revenues are not sufficient. As provided in this Act, the appropriations of funds from the Budgetary Fund to cover expenses of any agency of the Government of the Commonwealth of Puerto Rico in excess of what has been appropriated in the General Budget of Expenses is hereby prohibited, unless a law or joint resolution providing otherwise is approved.

The Emergency Fund, created by virtue of Act No. 91 of June 21, 1966, as amended, may not be used to cover recurring operating expenses, except as provided for by Joint Resolution.

Section 12.- Strategic Plan

Every budgetary petition presented by the Governor pursuant to Section 4 of Article IV of the Constitution of Puerto Rico for each fiscal year shall include a seven (7) year Strategic Plan, as it is defined in subsection (b) of Section 8 of Joint Resolution No. 321 of November 21, 2005. It shall begin with the budgetary petition for fiscal year 2006-2007. This Strategic Plan shall include, without it being a limitation, a plan for the restructuring and consolidation of government programs or the merger of two or more agencies of the Government of the Commonwealth of Puerto Rico, provided that it results in a reduction of functions and administrative expenses. As part of each Strategic Plan, retirement plans with incentives or early retirement plans may be proposed; provided, however, that these early retirement plans may only be conducted in those agencies in which the implementation thereof is cost-effective and that it reduces the number of employees and if it is guaranteed and proven that the same shall not be adverse to the Public Employee Retirement System.

Under no circumstance whatsoever shall this provision or any other provisions of this Act be construed as a measure directed towards the reduction of the salaries of public employees or to the dismissal of career employees, or to be used as a mechanism to impair vested rights or those agreed on through collective bargaining agreements; nor shall it constitute an excuse or impediment to negotiate financial terms or of another type in good faith, pursuant to Act No. 45 of February 25, 1998, as amended, better known as the "Puerto Rico Public Service Labor Relation Act."

If for a specific fiscal year the Governor deems that it is not possible to restructure or consolidate agencies of the Government of the Commonwealth of Puerto Rico, the Strategic Plan submitted shall contain, but without being it limited to, a discussion of the considered restructuring or consolidation opportunities and the reasons for which the same were not favorably recommended.

In order to implement an early retirement plan, the same must be established through the approval of an Act.

Section 13.- Economies in the Budget of Operating Expenses

The Strategic Plan shall contain an item of economies and internal controls on the expenses of every agency of the Government of the Commonwealth of Puerto Rico.

The Plan shall include a detailed itemization of all the economies to the budget of operating expenses assigned to it.

Recognizing the compelling need of the Commonwealth of Puerto Rico to attend to its margin of expenses and to harmonize them with the fiscal economic situation of the Island, the following parameters are fixed as non-inclusive elements of fiscal attention:

- (a) For Fiscal Year 2006-2007, the Executive Branch of the Commonwealth of Puerto Rico shall be under the obligation to make savings and economies in the operating expenses of the budget in an amount of not less than three hundred fifty million (350,000,000) dollars of the proposed budget for all agencies nurtured from the General Fund. These savings shall include economies resulting from the implementation of all expenses controls established by this Act, for example, early retirement

plans or with incentives and the consolidation of agencies, among others.

Those agencies or public entities whose budgets or appropriations are established by law or based on previously approved formulas shall not be included. The payment of the public debt shall not be included in the reduction.

The savings and economies provided in this subsection shall be done taking as basis the budget proposed by the Governor for Fiscal Year 2006-2007, which has been fixed in nine point six hundred eighty-four billion (9,684,000,000) dollars. During Fiscal Year 2006-2007, not less than three hundred million (300,000,000) dollars shall be generated from the General Fund.

- (b) In subsequent fiscal years, the economies in the budget shall be done in accordance to what is established in the Act that creates the Urgent Interest Fund.
- (c) On or before the third year after the application of the Fiscal Reform, the Operating Budget of the Government of the Commonwealth of Puerto Rico shall be of up to a maximum of a two percent (2%) less than the recurrent revenues.
- (d) Those increases duly legislated and approved by law shall be excluded from the aforementioned savings and economies.
- (e) Among other items to be reduced, the items for appointment of employees of trust, professional services contracts, payment of leases by the Government of Puerto Rico for private facilities, purchase of equipment and publicity expenses, shall be included. On evaluating the possible economies in the aforesaid items, the highest priority shall be to not impair the

rendering of health and public security services, given they are essential areas for the citizenry, and the rents paid to Public Corporations for the services and maintenance they render, which depend on their revenues for the payment of payroll. The economies made and/or projected in these items shall be a priority in the Strategic Plan prepared by each agency as established in Section 12 of this Act.

- (f) Pursuant to the above provisions of this Section, the Director of the Office of the Management and Budget shall present, on or before June 2, 2006, the Government Expenses Adjustment Program, pursuant to this Act, which shall be submitted before the Office of the Secretary and the Clerk of both Legislative Bodies.
- (g) The budget of the Senate and the House of Representatives of Puerto Rico for fiscal years 2006-2007 and 2007-2008 shall be equal to that of fiscal year 2005-2006, and shall not experience any increase during said years.
- (h) The budget of the Judicial Branch shall be governed by the provisions of Act No. 286 of December 20, 2002.
- (i) No final discretionary compensation shall be assigned to officers appointed after the effective date of this Act for the ceasing of their functions.

Section 14.- Vacant Positions

Any vacancy in a career personnel position at the time of effectiveness of this Act or that becomes vacant after the approval thereof and whose cost is defrayed chargeable to the General Fund, shall remain vacant. After a term that shall never be less than six (6) months, if it is

necessary to fill the position, it shall be required that the agency establish a justification to fill the position and that the Office of the Budget and Management authorizes it in writing. The following order of priority shall be followed at the time of recruiting personnel to fill the vacancy:

- (a) The vacancy shall be filled due to the promotion or transfer of another person who is a career employee of the same agency whose position shall, in turn, become vacant.
- (b) When there are no persons in the same agency with the qualifications required to fill the position, it may be covered by a duly qualified person pursuant to the provisions of Act No. 184 of August 3, 2004, as amended, known as the “Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico,” who holds a position of trust in another agency, who, if necessary may, in turn, be substituted, in accordance with the provisions of this Section.
- (c) If there is no qualified personnel in any of the agencies of the Government of the Commonwealth of Puerto Rico to fill said position, the same shall remain vacant, unless there is a certification from the Director of the Office of Management and Budget for the use of the funds, as well as a certification of need from the Director of the Human Resources Office of the Commonwealth of Puerto Rico to the effect that the position is essential for the regular operation of the agency.
- (d) A Registry of Positions is hereby created as of January 1, 2007, in the Office of the Comptroller for all the agencies and public corporations in which every head of agency or public corporation shall report, each month, the existing positions and

if the same are vacant or filled. Said registry shall be available on the Internet.

Exempted from the provisions of this Section are recruitments for the following positions: (1) police officers; (2) classroom teachers; (3) health professionals; (4) firefighters; (5) corrections officers; (6) social workers; (7) national guards, if applicable and (8) technician positions in the Institute of Forensic Science. The appointments to be made by the Governor in the Office of the Governor or in accordance with the legislation such as judges, prosecutors, children and family special prosecutors, property registrars, members of boards, among others, are also excluded.

The positions that become vacant and are not covered through this procedure shall be administered as provided by law. The reduction of trust positions in the Government of Puerto Rico shall also be carried out as provided by law.

The Human Resources Office of the Commonwealth of Puerto Rico is hereby directed to provide a study of the classification of positions and their equivalences in all the agencies of the Government of the Commonwealth of Puerto Rico within a term not greater than two hundred and seventy (270) days as of the approval of this Act, in order to temper the provisions of Act No. 184 of August 3, 2004, as amended, known as the "Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico," with the provisions of this Act, taking into consideration the effect on other laws that regulate the public service personnel system.

Likewise, the Secretary of the Department of Education is hereby directed, together with the Human Resources Office of the Commonwealth of Puerto Rico, to review the formula between the teaching and non-teaching employees of the agency in order to conduct a study to establish an adequate

balance between the aforesaid personnel directed to providing an action plan which shall regulate the contracting and appointment of personnel within the Department. This study shall be presented, together with the Action Plan, to the Legislature not later than December 31, 2006.

Under no circumstances shall this provision be construed as a measure directed to reducing the salaries of public employees nor to dismissing career employees, nor to be used as a mechanism to impair vested rights or rights agreed upon through collective bargaining agreements or as an impediment for negotiation in good faith, pursuant to Act No. 45 of February 25, 1998, as amended, better known as the "Puerto Rico Public Service Labor Relation Act," and to Act No. 130 of May 8, 1945, as amended, better known as the "Puerto Rico Labor Relations Act."

Positions paid with Federal funds that become vacant shall be preferentially covered with employees who hold positions paid with state funds, unless otherwise provided by Federal legislation.

Section 15.- Savings Due to Reduction in Expenses

Any economy that is generated because the expenses in a determined fiscal year are less than the sum appropriated for that same year in the budget approved pursuant to the provisions of this Act may be used by the agency in subsequent fiscal years, provided that the use of these savings shall be limited to fifty percent (50%) to defray capital improvement projects or non-recurrent expenses. The remaining half shall be covered into the General Fund and the use thereof shall be determined through the approval of an Act or Joint Resolution.

Section 16.- Public Funds for the Payment of Cellular Phones

It shall be the public policy of the Government of the Commonwealth of Puerto Rico to eliminate the use of public funds for the payment of

cellular phones, including electronic equipment with integrated cellular phone, as provided through the approval of an act or executive order to such effect.

Section 17.- Use of Public Funds for the Payment of Motor Vehicles

It shall be the public policy of the Government of the Commonwealth of Puerto Rico not to use public funds to defray the use of motor vehicles for the personal and unlimited use of officers, except in those cases of heads of agencies or when otherwise provided through the approval of an Act or executive order to such effect, provided that the officer participates directly in attending medical, social, environmental, health or public safety emergencies. In the case it is desirable to extend this authorization, there shall exist an executive order from the Governor to such effect. These Executive Orders shall be remitted to the Office of the Secretary and of the Clerk of both Legislative Bodies within the five days following the signing thereof.

Section 18.- Use of Public Funds for the Payment of Professional Lobbying Services

The use of public funds to defray the cost of professional lobbying services shall be limited to those services whose finality is only and exclusively the attainment of federal funds or that legislation that promotes the economic welfare of Puerto Rico. Any contract for these services shall have to produce a greater amount of federal funds or benefits than the amount of public funds disbursed to cover the amount of the contract. If otherwise, the amount shall be automatically cancelled, when its effectiveness is for more than a year. Likewise, upon its expiration, the renewal thereof shall be prohibited if during its term it has not produced a

sum of federal funds or benefits greater than the cost incurred for the services.

Section 19.- Government Public Broadcasting Expenses

It is hereby prohibited that the Executive Branch and its agencies incur expenses for the purchase of time and space in the public broadcasting media with the purpose of disclosing their programs, projects, achievements, endeavors, projections or plans. Those notices and advertisements expressly required and/or authorized by law are an exception. It is prohibited for the Legislative and Judicial Branches to incur expenses by purchasing time and space in the public broadcasting media with the purpose of disclosing their programs, projects, achievements, endeavors, projections or plans. Excepted from the above are the costs related to the establishment and maintenance of Internet pages usually established by the agencies, courts and legislatures with information on the composition and operation of their structures and information on services, cases or legislations, as it may apply. Exception is also made of the purchase of time and space for the disclosure of legislative calendars that do not identify the name of a particular elected officer, as well as the publication by obituaries or the payment of additional segments during the appearance of the Governor before the Legislative Bodies.

Likewise, exception is made of those ads that are used to disclose urgent, emergency, health or public interest information.

Section 20.- Electronic Transactions

It shall be the public policy of the Government of the Commonwealth of Puerto Rico to create incentives for the development of technology by promoting that every disbursement of public funds be conducted through electronic means, provided that the department of the Treasury shall establish a mechanism of electronic cards for those employees who do not

wish to receive their salary in their personal bank account, in compliance with Act No. 268 of September 1, 1998.

The savings generated by the promptness and efficiency added to the system, in addition to the reduction in costs pertaining to the printing of payroll checks, shall defray the cost of the implementation of this system.

Section 21.- Legality and Exactness of Expenses; Responsibility

The secretary, director, administrator or head of agency and/or the officials or employees on whom the former delegates and/or any authorized representative thereof or of the corresponding agency shall be responsible for the legality, exactness, propriety, necessity and correction of all expenses that are authorized for payment. For such purposes, they shall produce and submit all reports required by applicable laws, regulations, procedures, and norms within the term established for them. They shall likewise be subject to the provisions of Act No. 149 of June 18, 2004, as amended, known as the "Penal Code of Puerto Rico," in all matters pertaining to the discharge of their public, administrative and fiscal duties, as well as to the provisions of Section 24 of this Act, when the same is applicable.

Section 22.- Fiscal Organization and Uniform Accounting System

The Secretary of the Department of the Treasury in coordination with the Office of Management and Budget and the heads of agencies of the Commonwealth of Puerto Rico shall be responsible for designing or approving the fiscal organization, the uniform accounting system and the procedures for payment, revenues and property registry in all agencies. These shall be designed in accordance with the generally accepted accounting principles and all fiscal reports to be used shall be reviewed as part of the procedures. The following guidelines shall also be followed:

- (a) The accounting and property registry systems and procedures shall be designed in such a way that the agencies may carry out their functions and at the same time serve as basis to maintain a uniform and coordinated accounting system. They shall also provide a complete tabulation of the results of the financial operations and further furnish the financial information necessary to assist the Legislature and the agencies of the Executive Branch in the performance of their respective responsibility.
- (b) The Uniform Accounting System shall register transactions according to fund and shall be based on the generally accepted accounting principles as well as on the requirements established by the Governmental Accounting Standard Board (GASB). The guidelines set forth by the National Committee on Governmental Accounting (NCGA), and the *Governmental Accounting, Auditing and Financing Reporting*, commonly known as the *Blue Book*, shall also be used as basis for the designing of this System and the fiscal procedures of the agencies of the Government of the Commonwealth of Puerto Rico and Act No. 230 of July 23, 1974, as amended, known as the “Government of Puerto Rico Accounting Act.”
- (c) It shall be compulsory for all agencies to use the uniform accounting system designed and approved by the Department of the Treasury regarding its account structure, its requirement for financial reports and its internal control standards.

The Uniform Accounting System established in this Section shall contain in addition to the aforementioned requirements, the following:

- (1) Complete information on the results of the operations of the agencies of the Government of the Commonwealth of Puerto Rico.
 - (2) Financial information that is adequate and necessary for a sound public administration.
 - (3) Effective accounting of all funds, properties, and assets belonging to the agencies.
 - (4) Reliable financial statements and reports that serve as the basis to prepare and justify the budgetary needs of the agencies.
- (d) The procedures to conduct transactions such as: incur expenses, make payments, receive and deposit public funds, as well as for the control and accounting of public property, shall contain the adequate controls to prevent committing irregularities. This provision shall guarantee transparency and purity in fiscal procedures, without prejudice to the precepts of Act No. 230 of July 23, 1974, as amended, better known as the “Government of Puerto Rico Accounting Act,” in that which is incompatible with the economies directed in the Act.
- (e) The Secretary or the Executive Director of every agency and the other officers shall cooperate with the Office of the Management and Budget and the Department of the Treasury in the design of the fiscal organization of their respective agency, of the uniform accounting system and in the procedures for payments, revenues and property registry. Once said system has been approved, the adoption and continuous use thereof shall be mandatory. The Department of the Treasury shall

provide advisory services and the assistance needed for the installation and use of said system, such as the details of the procedures, without prejudice to the precepts of Act No. 230 of July 23, 1974, as amended, better known as the “Government of Puerto Rico Accounting Act,” in that which is incompatible with the economies directed in the Act.

- (f) The Secretary of the Treasury shall follow up on the fiscal organization as well as on the accounting and property registry system and procedures of every agency to verify full compliance thereof. The accounting and property registry system and procedures may be reviewed to prevent loss of their effectiveness, in accordance to the changing needs of the government and the modern norms that govern the matter.
- (g) Every agency shall be responsible for the implementation of a uniform accounting system which allows the production of the reports required. The Secretary of the Treasury shall certify the system one year after the implementation process has begun and after employees and technicians have been trained, the system has been installed in its totality and any technical and design deficiency has been corrected, which shall allow the production of the necessary reports. The Secretary of the Treasury shall certify every agency after one year, or in lieu thereof, it shall complete the process for this certification in the term of one (1) additional year. Once the administrative tasks of the Secretary of the Treasury have been completed, if there is an agency that after two (2) years as of the beginning of the implementation process cannot be certified, the Director may

extend the process for an additional period to be agreed upon by the agencies, but which shall never exceed one (1) year.

- (h) It shall be the responsibility of the agencies to have the balance of the accounts, the bank reconcilements and the accounts payable or receivable as a requirement at the time of entering the information in the Uniform Accounting System. When this information is not available, the agency shall notify the Secretary of the Treasury and the Director of the Office of the Management and Budget who shall conduct an evaluation to establish alternatives for compliance with the purposes of this subsection.
- (i) An Advisory Board is hereby created, to be constituted by the Director of the Office of the Management and Budget, the President of the Government Development Bank and the President of the Planning Board so that together with the Secretary of the Treasury, it undertakes the main function of overseeing the orderly establishment of the due fiscal and organizational controls needed to achieve the implementation and certification of the Uniform Accounting Systems. This Board shall establish the regulations needed to comply with its duties.
- (j) The Secretary of the Treasury shall provide access to the Uniform Accounting System to the following officers of the Legislative Branch: the President and Speaker of both Legislative Bodies, the Chairpersons of the Committees on Ways and Means of the House and the Senate; the Chairperson of the Committee on Budget and Appropriations of the House;

to the majority and minority floor leaders in both bodies and to the Office of the Comptroller. This access shall be limited to “read only” and alterations shall not be made.

Taking into consideration the specific situation of the concerned agency, and upon receipt of the evaluation and recommendations of the Advisory Board, the Secretary of the Treasury shall:

1. Authorize the elimination of incorrect information that has been entered into the system prior to its certification.
2. Fix the single audit balances as the starting point.
3. The Uniform Accounting System shall begin to operate on the date in which it is certified as correct and reliable.

An agency that cannot balance its accounting history for lack of the necessary documents or for any other reason that makes it impossible for it to comply with this mandate of law, whether or not it is a component of the Uniform Accounting System, may make a cash cutoff and carry out the necessary adjustment in its accounts. This shall be conditioned to submission by the agency of a detailed evaluation of how the accounting processes were deviated and of a proposal that contains guarantees in the form of internal and administrative controls that said agency shall not incur in the same irregularities.

However, none of these measures shall release the agencies of the responsibility of making all efforts possible to correct their accounting system and maintain the document pertaining to their operations organized in such a form that the same may be audited during non-automated periods.

The Senate and the House of Representatives of Puerto Rico shall develop the systems that shall allow them to exercise to the fullest extent the fiscal autonomy granted by Act No. 140 of June 11, 2004, no later than June

30, 2007. The Secretary of the Department of the Treasury and other officers of the Executive Branch shall provide all the assistance needed to expedite compliance with this provision.

Section 23.- Legislative Prerogative

This legislation, as well as all procedures required thereunder by no means shall limit or restrict the obligations, responsibilities, capacities and prerogatives conferred to the Legislature by the Constitution of the Commonwealth of Puerto Rico, the Budget Act or any other applicable law or regulation in the evaluation of the budget.

Section 24.- Penalties

- (a) Any person who intentionally violates any of the provisions of this Act and/or those laws, regulations or norms approved by virtue thereof, shall be accused of a misdemeanor and upon conviction sanctioned with a fine of one thousand (1,000) to five thousand (5,000) dollars, for each violation to the provisions of this Act.
- (b) The fine established in subsection (a) of this Section, as well as those that apply, if any, by virtue of Section 21 of this Act, shall be paid from the personal assets of the officer or employee, who, due to his/her carelessness, negligence or intention commits the violation. The money thus collected shall be deposited in the General Fund.
- (c) The nominating authorities of the agencies shall have the obligation to impose, in addition to the provided in subsection (a) of this Section and in Section 21 of this Act, any disciplinary action that is in order against any officer or employee, who for carelessness or negligence fails to comply or

collaborates in the noncompliance of any of the provisions of this Act and/or of those laws, regulations or norms approved by virtue thereof.

Section 25.- Separability Clause

If any word, phrase, sentence, subsection, section, article or part of the present Act is, for any reason, challenged before a Court and/or declared unconstitutional or null, said determination shall not affect the remaining provisions thereof.

Section 26.- Fiscal Impact

The fiscal impact for the implementation of this Act shall be addressed through an appropriation for such purpose in the Budget of Fiscal Year 2006-2007.

Section 27.- Effectiveness

This Act shall take effect as of July 1, 2006.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 103 (H.B. 2454) (Substitute) of the 3rd Session of the 15th Legislature of Puerto Rico:

AN ACT to implement the Fiscal Reform of the Government of the Commonwealth of Puerto Rico of 2006, which shall include, among other issues, the restructuring of the budgetary process of the Government of the Commonwealth of Puerto Rico, the prohibition to use debts, loans or any other financing mechanisms to cover operating expenses and to balance the General Budget of Expenses of the Government of the Commonwealth of Puerto Rico, etc.,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 14th of June of 2006.

Francisco J. Domenech
Director