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Statehood Process and Political Status of U.S. Territories: Brief Policy Background

Proposals to admit new states to the union are as old as the republic. An expanded United States was contemplated at least as early as 1787, with enactment of the Northwest Ordinance, which addressed territorial expansion, even before the first states ratified the U.S. Constitution later the same year. Vermont joined the union in 1791, the first new state beyond the 13 original colonies. Arizona and New Mexico completed the contiguous United States in 1912. Alaska and Hawaii became the 49th and 50th states respectively in 1959. Would-be states have relied on different methods to join the union, and there is no single process for doing so. This In Focus provides brief background about the statehood process generally, and about how it might affect congressional consideration of proposed statehood for U.S. territories.

Any change in territorial political status, including statehood admission, would require congressional approval via a statutory change. Congress may choose to pursue such legislation or decide not to do so. If it chooses to reexamine the issue, Congress could consider territorial statehood for a single jurisdiction, for multiple ones simultaneously, or for none at all. Similarly, territories might choose to maintain the status quo or to pursue a different status relationship, which might or might not include statehood, with the United States. The desire for altering the status quo appears to vary across territories.

The topic of statehood admission and territorial political status can be culturally sensitive, historically complex, and politically divisive. This brief product does not attempt to address these topics in detail. It also does not contain detailed discussion of any particular territory's political status or address legal, economic, or tax issues, or program eligibility. Because the District of Columbia is not a territory and raises separate policy and legal issues, this product does not address the nation's capital. Related CRS products appear at the end of this In Focus.

Territories Background

The United States currently holds five major, permanently inhabited territories: American Samoa, the Commonwealth of the Northern Mariana Islands (CNMI), Guam, Puerto Rico, and the U.S. Virgin Islands (USVI).

After World War II, present-day CNMI chose a closer relationship with the United States than did other areas in the former Trust Territory of the Pacific Islands (TTPI), which the United States administered for the United Nations. The United States maintains *free association* relationships with three other former TTPI areas. Today,

these independent nations are the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. They are not U.S. territories.

All five U.S. territories discussed here exercise varying and potentially evolving degrees of self-governance (the details of which are beyond the scope of this product). In the executive branch, the U.S. Interior Department's Office of Insular Affairs (OIA) coordinates federal relations with territories except Puerto Rico. Since the Kennedy Administration, the Executive Office of the President has coordinated federal relations with Puerto Rico.

Voters in all five territories elect governors and territorial legislatures. The territories are not represented in the electoral college and thus do not cast votes for President of the United States, although eligible voters may participate in party primaries or other nominating events. Popularly elected Delegates (called the *Resident Commissioner* in Puerto Rico) represent each of the five territories in the House of Representatives. The House Committee on Natural Resources and Senate Committee on Energy and Natural Resources exercise primary jurisdiction over the political status of U.S. territories.

Political Status and U.S. Territories

The Territorial Clause, found in Article IV, Section 3, Clause 2 of the U.S. Constitution, grants Congress plenary authority "to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." Territorial self-governance and political relations between the federal government and a territorial one are embodied in a concept known as *political status*. Congress and the executive branch have long expressed support for self-determination in all territories. The federal government generally recognizes three constitutionally valid status options: (1) statehood, (2) independence (including free association), or (3) territory.

Federal policy regards all U.S. territories discussed in this product as *unincorporated*. Historically, *incorporated* status arguably has designated congressional intent for eventual statehood. (Incorporation also indicates congressional extension of full constitutional provisions as in the states, a topic that is beyond the scope of this product.) It is unclear how significant incorporation might be for modern statehood debates, as Congress has not incorporated would-be states since it did so for Alaska and Hawaii.

Multiple Statehood Methods

There is no single path to statehood. Congressional requirements for individual territories to transition to statehood have varied widely over time. Would-be states also have varied widely in the paths by which they pursued statehood, the amount of time it took to do so, and the level of public support for admission.

The Constitution appears to provide only general guidance to Congress on how to admit new states. The relevant provision simply permits Congress to admit new states and precludes admitting states within states except as approved by the state legislatures. As Article IV, Section 3 specifies

New states may be admitted by the Congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

Article IV also requires “republican form” state governments.

In historical practice, at least six paths to territorial statehood are commonly recognized:

- the union of the first 13 colonies;
- presentation to Congress of a territory that is already organized like a state (commonly known as the *Tennessee Plan*);
- annexation of an independent republic;
- creation of a new state from existing states;
- development of a state constitution without first obtaining explicit congressional support; and
- congressional enactment of legislation to enable statehood.

Territories and the federal government have employed aspects of each of these methods over time. They are not necessarily mutually exclusive.

The Tennessee Plan

The Tennessee Plan method has attracted consistent attention in modern history for at least two reasons. First, statehood advocates may prefer this method because it is seen as an avenue for territories to initiate the statehood process without a congressional invitation. Second, Puerto Rico statehood advocates have publicly embraced the approach in recent years. The Tennessee Plan method generally has included the following elements:

- drafting a state constitution;
- electing state officers;

- organizing a state-like territorial government;
- sending an elected “congressional” delegation to Washington to lobby for statehood; and
- Congress passing legislation admitting the territory as a state.

Recent Developments in Congress

The debate over Puerto Rico statehood proposals has been the most prominent territorial status topic considered in recent Congresses. Generally, debate focuses on which processes voters on the island should use to indicate their status preference and whether Congress wishes to consider a status change. As of this writing, in the 117th Congress, H.R. 1522 proposes admitting Puerto Rico as a state if a majority of voters on the island approve. H.R. 2070 and S. 865 propose a convention to consider additional status options.

Potential Congressional Considerations

Each territory’s path to statehood (where applicable) has been unique, as has congressional consideration. History suggests that the following factors, among others, could inform future statehood debates for one or more U.S. territories:

- whether the status quo provides sufficient democratic representation and inclusion and, if not, which change, if any, would offer improvement;
- popular support for a status change within a territory and whether that support is sufficient for Congress;
- how a territory’s status options were formulated and debated;
- whether altering political status is in the national interest and in a territory’s interest, including issues of culture, defense, economics, language, and political institutions; and
- how or whether historical examples of status changes for previous territories warrant consideration.

For additional discussion of related issues, see

- CRS Report R40170, *Parliamentary Rights of the Delegates and Resident Commissioner from Puerto Rico*, by Christopher M. Davis;
- CRS In Focus IF11443, *District of Columbia Statehood and Voting Representation*, by Joseph V. Jaroscak; and
- CRS Report R46573, *The Freely Associated States and Issues for Congress*, by Thomas Lum.

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