I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
RESOLUTION STATUS

Resolution No.	Sponsor	Title	Date Intro	Date of Presentation	Date Adopted	Date Referred	Referred to	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED
27-34 (COR)	Michael F.Q. San Nicolas	Relative to recognizing the We the People Project for advancing voting rights for the people of Guam and other territories by representing Luis Segovia and the other plaintiffs in Segovia v. Chicago Board of Elections Commissioners; and does further commend them for advocating for the voting rights of the people of Guam, the other territories, and the District of Columbia.	2/13/17 3:58 p.m.			2/13/2017	The Author	2/20/17 10:30 a.m.	2/28/17 6:17 p.m.

Committee on General Government Operations
and Federal, Foreign & Regional Affairs
Senator Michael F.Q. San Nicolas, *Chairman*
I Mina'Trentai Kuåttro na Liheslaturan Guåhan • 34th Guam Legislature

February 24, 2017

The Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuåttro na Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

VIA: **The Honorable Michael F.Q. San Nicolas**
Chairman, Committee on Rules

RE: **Committee Report on Resolution No. 27-34 (COR)**

Dear Speaker Cruz,

Transmitted herewith is the Committee Report on **Resolution No. 27-34 (COR)** – "RELATIVE TO RECOGNIZING THE WE THE PEOPLE PROJECT FOR ADVANCING VOTING RIGHTS FOR THE PEOPLE OF GUAM AND OTHER TERRITORIES BY REPRESENTING LUIS SEGOVIA AND THE OTHER PLAINTIFFS IN SEGOVIA V. CHICAGO BOARD OF ELECTIONS COMMISSIONERS; AND DOES FURTHER COMMEND THEM FOR ADVOCATING FOR THE VOTING RIGHTS OF THE PEOPLE OF GUAM, THE OTHER TERRITORIES, AND THE DISTRICT OF COLUMBIA."

Committee votes are as follows:

5 TO DO PASS
0 TO NOT PASS
0 TO REPORT OUT ONLY
0 TO ABSTAIN
0 TO PLACE IN INACTIVE FILE

2017 FEB 28 PM 4:17

COR received 2/27/17 12:19pm

Respectfully,

MICHAEL F.Q. SAN NICOLAS

DNA Building, 238 Archbishop Flores St. Suite 407 Hagåtña, Guam 96910
(671) 472 – 6453 • senatorsannicolas@gmail.com

Committee on General Government Operations
and Federal, Foreign & Regional Affairs
Senator Michael F.Q. San Nicolas, *Chairman*
I Mina'Trentai Kuåttro na Liheslaturan Guåhan • 34th Guam Legislature

COMMITTEE REPORT

Resolution No. 27-34 (COR)
Introduced by Michael F.Q. San Nicolas

"RELATIVE TO RECOGNIZING THE WE THE PEOPLE PROJECT FOR ADVANCING VOTING RIGHTS FOR THE PEOPLE OF GUAM AND OTHER TERRITORIES BY REPRESENTING LUIS SEGOVIA AND THE OTHER PLAINTIFFS IN SEGOVIA V. CHICAGO BOARD OF ELECTIONS COMMISSIONERS; AND DOES FURTHER COMMEND THEM FOR ADVOCATING FOR THE VOTING RIGHTS OF THE PEOPLE OF GUAM, THE OTHER TERRITORIES, AND THE DISTRICT OF COLUMBIA."

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Committee on General Government Operations
and Federal, Foreign & Regional Affairs
Senator Michael F.Q. San Nicolas, *Chairman*
I Mina'Trentai Kuåttro na Liheslaturan Guåhan • 34th Guam Legislature

February 24, 2017

MEMORANDUM

To: **All Members**
Committee on General Government Operations, and Federal, Foreign, & Regional Affairs

From: **Senator Michael F.Q. San Nicolas**
Committee Chairman

Subject: **Committee Report on Resolution No. 27-34 (COR)**

Transmitted herewith for your consideration is the Committee Report on **Resolution No. 27-34 (COR)** – "RELATIVE TO RECOGNIZING THE WE THE PEOPLE PROJECT FOR ADVANCING VOTING RIGHTS FOR THE PEOPLE OF GUAM AND OTHER TERRITORIES BY REPRESENTING LUIS SEGOVIA AND THE OTHER PLAINTIFFS IN SEGOVIA V. CHICAGO BOARD OF ELECTIONS COMMISSIONERS; AND DOES FURTHER COMMEND THEM FOR ADVOCATING FOR THE VOTING RIGHTS OF THE PEOPLE OF GUAM, THE OTHER TERRITORIES, AND THE DISTRICT OF COLUMBIA."

This report includes the following:

- Copy of COR Referral of Resolution No. 27-34 (COR)
- Copy of COR Pre-Referral Checklist on Resolution No. 27-34 (COR)
- Copy of Resolution No. 27-34 (COR)
- Notices of Public Hearing
- Copy of the Public Hearing Agenda
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony & Supporting Documents
- Committee Report Digest
- Committee Vote Sheet

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Respectfully,

Michael F.Q. San Nicolas

DNA Building, 238 Archbishop Flores St. Suite 407 Hagåtña, Guam 96910
(671) 472 – 6453 • senatorsannicolas@gmail.com

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN

RESOLUTION STATUS

Resolution No.	Sponsor	Title	Date Intro	Date of Presentation	Date Adopted	Date Referred	Referred to	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED
27-34 (COR)	Michael F.Q. San Nicolas	Relative to recognizing the We the People Project for advancing voting rights for the people of Guam and other territories by representing Luis Segovia and the other plaintiffs in Segovia v. Chicago Board of Elections Commissioners; and does further commend them for advocating for the voting rights of the people of Guam, the other territories, and the District of Columbia.	2/13/17 3:58 p.m.			2/13/2017	The Author		

COMMITTEE ON RULES

Senator Michael F.Q. San Nicolas, *Chairman*
I Mina'Trentai Kuåttro na Liheslaturan Guåhan • 34th Guam Legislature

MEMO

To: **Ms. Rennae Meno**
Clerk of the Legislature

Attorney Julian Aguon
Legislative Legal Counsel

From: **Senator Michael F.Q. San Nicolas**
Chairman of the Committee on Rules

Date: **February 13, 2017**

Re: **Referral of Resolution No. 27-34 (COR)**

Buenas yan Håfa adai.

As per my authority as Chairman of the Committee on Rules, I am forwarding the referral of **Resolution No. 27-34 (COR)**.

Please ensure that the subject resolution is referred, in my name, to **Senator Michael F.Q. San Nicolas, author of Resolution No. 27-34 (COR)**.

If you have any questions or concerns, please feel free to contact Christian Valencia, Committee on Rules Director, at 472-6453.

Thank you for your attention to this important matter.

Respectfully,

Senator Michael F.Q. San Nicolas
Chairman of the Committee on Rules

GUAM CONGRESS BUILDING • 163 CHALAN SANTO PAPA • HAGÅTÑA, GUAM 96910

Gmail **Senator Michael F.Q. San Nicolas <senatorsannicolas@gmail.com>**

FIRST NOTICE of Public Hearing (Monday, February 20, 2017 at 10:30 AM) AMENDED AGENDA

Senator Michael San Nicolas <senatorsannicolas@gmail.com> Mon, Feb 13, 2017 at 4:21 PM
To: Senator Michael San Nicolas <senatorsannicolas@gmail.com>
Bcc: sgtarms <sgtarms@guamlegislature.org>, mis <mis@guamlegislature.org>, protocol@guamlegislature.org, tony.ada@guam.gov, Joey Calvo <joey.calvo@bbmr.guam.gov>, lester.carlson@bbmr.guam.gov, manny.cruz@bsp.guam.gov, rosanne.ada@gddc.guam.gov, edward.alvarez@guam.gov, charles.esteves@ghs.guam.gov, brant.mccreadie@ghs.guam.gov, joe.sanagustin@gvao.guam.gov, frank.lujan@doa.guam.gov, doris.aguon@dol.guam.gov, peter.calvo@csc.guam.gov, christine.baleto@doa.guam.gov, claudia.acfalle@gsa.guam.gov, matt.sablan@agriculture.guam.gov, jessie.palican@agriculture.guam.gov, johnny.sablan@dca.guam.gov, alberto.lamorena@doc.guam.gov, kate.baltazar@doc.guam.gov, benito.servino@disid.guam.gov, sam.mabini@dol.guam.gov, cecile.suda@dol.guam.gov, Michael Borja <michael.borja@land.guam.gov>, david.camacho@land.guam.gov, roderick.r.leonguerrero.mil@mail.mil, robert.lizama@dpr.guam.gov, william.reyes@dpr.guam.gov, James Gillan <james.gillan@dphss.guam.gov>, Leo Casil <leo.casil@dphss.guam.gov>, glenn.leonguerrero@dpw.guam.gov, felix.benavente@dpw.guam.gov, eduardo.ordonez@clb.guam.gov, "John P. Camacho" <john.camacho@revtax.guam.gov>, "Marie M. Benito" <marie.benito@revtax.guam.gov>, adonis.mendiola@dya.guam.gov, peter.alecxis.ada@dya.guam.gov, pmblas@ite.net, rey.vega@mail.dmhsa.guam.gov, benny.pinaula@gbhwc.guam.gov, lea.santos@gcec.guam.gov, Mary Okada <mary.okada@guamcc.edu>, raunderwood@uguam.uog.edu, james.mcdonald@cqa.guam.gov, joesanchez@gdoe.net, jay.rojas@investguam.com, mstaijeron <mstaijeron@investguam.com>, Vote <vote@gec.guam.gov>, lorilee.crisostomo@energy.guam.gov, walter.leonguerrero@epa.guam.gov, yvette.cruz@epa.guam.gov, joey.sannicolas@gfd.guam.gov, Michael Duenas <mjduenas@ghura.org>, pleonguerrero@ghura.org, chris.duenas@guam.gov, Chuck Ada <chuck.ada@guamairport.net>, peterroy@guamairport.net, peterjohn.camacho@gmha.org, administration@gmha.org, joseph.i.cruz@gpd.guam.gov, jbenavente@gpagwa.com, rick.agustin@grta.guam.gov, nathan.denight@visitguam.org, telo.taitague@visitguam.org, mcbordallo@guamwaterworks.org, admin <admin@guamopa.org>, AG Law <law@guamag.org>, puntalan@guamag.org, cme.guam@gmail.com, jbrown@portguam.com, fpangelinan@portguam.com, afduenas@portguam.com, raundewood@triton.uog.edu, eddiecalvo@yahoo.com, Ray Tenorio <ray.tenorio@guam.gov>, "MAYOR PAUL M. MCDONALD" <mayormcdonald@hotmail.com>, "Mayor Paul M. McDonald" <mayor.mcdonald671@gmail.com>, agatmayor@yahoo.com, agatvice.chrisfejeran@yahoo.com, asanmainamayor@gmail.com, mayorbarrigada@gmail.com, Jessie Bautista <jessie.bautista007@gmail.com>, Jessy Gogue <ocp.mayor@gmail.com>, MELISSA SAVARES <melissa.savares@gmail.com>, frankabenavente17@gmail.com, hagatnamayor@hotmail.com, Doris Lujan <mayordorisfloreslujan@gmail.com>, inarajan municipality <inarajanmayorsoffice@gmail.com>, mayorallan.ungacta@yahoo.com, vicemayortomduenas@gmail.com, mayorernest@yahoo.com, mtmmayorpaco17@gmail.com, jesse.alig@pitiguam.com, Dale Alvarez <daleealvarez@gmail.com>, Robert Hofmann <guammayor@gmail.com>, rudy iriarte <rudyiriarte@gmail.com>, talofofomayor@gmail.com, "Mayor Louise C. Rivera" <mayorlcrivera.tatuha@gmail.com>, "Vice Mayor Ken C. Santos" <vicemayorksantos.tatuha@gmail.com>, Umatac Mayor <umatacmo@gmail.com>, yigomayorsoffice <yigomayorsoffice@gmail.com>, Anthony Sanchez <yigovice@gmail.com>, jmblas@yahoo.com, Al Edrich Labang <labangaledrich@gmail.com>, Christian Valencia <chrisfvalencia13@gmail.com>, "Clemcei Jane B. Angara" <cang5291@student.dodea.edu>, Ethan Delorie <xxronin13@gmail.com>, Gia Righetti <righetti13@gmail.com>, Jacob Richards <jacub96@gmail.com>, Jaycie Chan <jayciechan0@gmail.com>, Jermel Adawag <jermeladawag@gmail.com>, Johnny Rosario <johnnyrosario671@gmail.com>, Jon-Arthur Pluhs <jonarthurkihleng@gmail.com>, "Casila, Joseph" <josephv.c@outlook.com>, Keandra McDonald <keandramarlaine@yahoo.com>, Keleko Fejeran <kpaul.fejeran@gmail.com>, Kennie Francine McDonald <kmcd4664@student.dodea.edu>, Matthew Makepeace <makepeacematthew@gmail.com>, Meghan Larkin <megiejguam@yahoo.com>, "Santos, Javan" <jsan671@gmail.com>, Stephanie Lorenzo <stephanielorenzo49@yahoo.com>, Torian Styles <styles.torian@yahoo.com>, Tristan Quintanilla <zavierquintanilla@gmail.com>, Joanna Carranza <carranzajoanna2@gmail.com>, Ethan Perez <ethanjperez@gmail.com>, hannahmendiola18@gmail.com, phnotice@guamlegislature.org, tneltasmori@gmail.com, Committee on Rules 34GL <corguamlegislature@gmail.com>, clerks <clerks@guamlegislature.org>

Please be advised that Resolution 27-34 (COR) has been added to the agenda for Monday, February 20, 2017, 10:30 AM Public Hearing

FIRST PUBLIC NOTICE

FOR IMMEDIATE RELEASE

February 13, 2017

From: **Senator Michael F.Q. San Nicolas**

Chairman, Committee on General Government Operations, and

Federal, Foreign, & Regional Affairs

Subject: **FIRST NOTICE of Public Hearing - Monday, February 20, 2017 at 10:30 AM**

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on General Government Operations and Federal, Foreign, & Regional Affairs will convene a public hearing on **Monday, February 20, 2017**, beginning at **10:30 AM** in *I Liheslaturan Guåhan's* Public Hearing Room (155 Hesler Place, Hagåtña). On the agenda are the following items:

Bill No. 5-34 (COR): Introduced by Senator Frank B. Aguon, Jr. AN ACT TO REPEAL § 6206.1 OF ARTICLE 2 OF CHAPTER 6, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO DELINKING *I MAGA'LÅHAN GUÅHAN* AND *I SEGUNDU NA MAGA'LÅHEN GUÅHAN* FROM THE SALARIES OF DIRECTORS AND DEPUTY DIRECTORS.

Bill No. 6-34 (COR): Introduced by Senator Frank B. Aguon, Jr. AN ACT TO AMEND § 6210.1 OF ARTICLE 2 OF CHAPTER 6, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO EFFECTIVE DATE FOR SALARY CHANGES FOR ELECTED OFFICIALS.

Resolution 27-34 (COR): Introduced by Senator Michael F.Q. San Nicolas

RELATIVE TO RECOGNIZING THE WE THE PEOPLE PROJECT FOR ADVANCING VOTING RIGHTS FOR THE PEOPLE OF GUAM AND OTHER TERRITORIES BY REPRESENTING LUIS SEGOVIA AND THE OTHER PLAINTIFFS IN SEGOVIA V. CHICAGO BOARD OF ELECTIONS COMMISSIONERS; AND DOES FURTHER COMMEND THEM FOR ADVOCATING FOR THE VOTING RIGHTS OF THE PEOPLE OF GUAM, THE OTHER TERRITORIES, AND THE DISTRICT OF COLUMBIA.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via *I Liheslaturan Guåhan's* live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Senator Michael F.Q. San Nicolas. Testimonies may be submitted via hand delivery to the Office of Senator Michael F.Q. San Nicolas at the DNA Building, Suite 407, 238 Archbishop Flores Street Hagåtña, Guam; at the mail room of the Legislature Building, 155 Hesler Place, Hagåtña, Guam 96910; or via email to senatorsannicolas@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Michael F.Q. San Nicolas at (671) 472-6453 or by sending an email to senatorsannicolas@gmail.com.

We look forward to your attendance and participation.

Si Yu'os Ma'ase!

'I"Nelta Mori
Committee Director

Office of Senator Michael F.Q. San Nicolas

Committee on General Government Operations and Federal, Foreign, & Regional Affairs

I Mina' Trentai Kuattro na Liheslaturan Guahan
34th Guam Legislature

Tel: (671) 472-6453

Gmail **Senator Michael F.Q. San Nicolas <senatorsannicolas@gmail.com>**

SECOND NOTICE of Public Hearing (Monday, February 20, 2017 at 10:30 AM)

Senator Michael San Nicolas <senatorsannicolas@gmail.com> Fri, Feb 17, 2017 at 8:44 AM
To: "SEN Michael F.Q. San Nicolas" <senatorsannicolas@gmail.com>
Bcc: sgtarms <sgtarms@guamlegislature.org>, mis <mis@guamlegislature.org>, protocol@guamlegislature.org, tony.ada@guam.gov, Joey Calvo <joey.calvo@bbmr.guam.gov>, lester.carlson@bbmr.guam.gov, manny.cruz@bsp.guam.gov, rosanne.ada@gddc.guam.gov, edward.alvarez@guam.gov, charles.esteves@ghs.guam.gov, brant.mccreadie@ghs.guam.gov, joe.sanagustin@gvao.guam.gov, frank.lujan@doa.guam.gov, doris.aguon@dol.guam.gov, peter.calvo@csc.guam.gov, christine.baleto@doa.guam.gov, claudia.acfalle@gsa.guam.gov, matt.sablan@agriculture.guam.gov, jessie.palican@agriculture.guam.gov, johnny.sablan@dca.guam.gov, alberto.lamorena@doc.guam.gov, kate.baltazar@doc.guam.gov, benito.servino@disid.guam.gov, sam.mabini@dol.guam.gov, cecile.suda@dol.guam.gov, Michael Borja <michael.borja@land.guam.gov>, david.camacho@land.guam.gov, roderick.r.leonguerrero.mil@mail.mil, robert.lizama@dpr.guam.gov, william.reyes@dpr.guam.gov, James Gillan <james.gillan@dphss.guam.gov>, Leo Casil <leo.casil@dphss.guam.gov>, glenn.leonguerrero@dpw.guam.gov, felix.benavente@dpw.guam.gov, eduardo.ordonez@clb.guam.gov, "John P. Camacho" <john.camacho@revtax.guam.gov>, "Marie M. Benito" <marie.benito@revtax.guam.gov>, adonis.mendiola@dya.guam.gov, peter.alecxis.ada@dya.guam.gov, pmblas@ite.net, rey.vega@mail.dmhsa.guam.gov, benny.pinaula@gbhwc.guam.gov, lea.santos@gcec.guam.gov, Mary Okada <mary.okada@guamcc.edu>, raunderwood@uguam.uog.edu, james.mcdonald@cqa.guam.gov, joesanchez@gdoe.net, jay.rojas@investguam.com, mstaijeron <mstaijeron@investguam.com>, Vote <vote@gec.guam.gov>, lorilee.crisostomo@energy.guam.gov, Walter Leon Guerrero <walter.leonguerrero@epa.guam.gov>, yvette.cruz@epa.guam.gov, joey.sannicolas@gfd.guam.gov, Michael Duenas <mjduenas@ghura.org>, pleonguerrero@ghura.org, chris.duenas@guam.gov, Chuck Ada <chuck.ada@guamairport.net>, peterroy@guamairport.net, peterjohn.camacho@gmha.org, administration@gmha.org, joseph.i.cruz@gpd.guam.gov, jbenavente@gpagwa.com, rick.agustin@grta.guam.gov, nathan.denight@visitguam.org, telo.taitague@visitguam.org, mcbordallo@guamwaterworks.org, admin <admin@guamopa.org>, AG Law <law@guamag.org>, puntalan@guamag.org, cme.guam@gmail.com, jbrown@portguam.com, fpangelinan@portguam.com, afduenas@portguam.com, raundewood@triton.uog.edu, eddiecalvo@yahoo.com, Ray Tenorio <ray.tenorio@guam.gov>, "MAYOR PAUL M. MCDONALD" <mayormcdonald@hotmail.com>, "Mayor Paul M. McDonald" <mayor.mcdonald671@gmail.com>, agatmayor@yahoo.com, agatvice.chrisfejeran@yahoo.com, asanmainamayor@gmail.com, mayorbarrigada@gmail.com, Jessie Bautista <jessie.bautista007@gmail.com>, Jessy Gogue <ocp.mayor@gmail.com>, MELISSA SAVARES <melissa.savares@gmail.com>, frankabenavente17@gmail.com, hagatnamayor@hotmail.com, Doris Lujan <mayordorisfloreslujan@gmail.com>, inarajan municipality <inarajanmayorsoffice@gmail.com>, mayorallan.ungacta@yahoo.com, vicemayortomduenas@gmail.com, mayorernest@yahoo.com, mtmmayorpaco17@gmail.com, jesse.alig@pitiguam.com, Dale Alvarez <daleealvarez@gmail.com>, Robert Hofmann <guammayor@gmail.com>, rudy iriarte <rudyiriarte@gmail.com>, talofofomayor@gmail.com, "Mayor Louise C. Rivera" <mayorlcrivera.tatuha@gmail.com>, "Vice Mayor Ken C. Santos" <vicemayorksantos.tatuha@gmail.com>, Umatac Mayor <umatacmo@gmail.com>, yigomayorsoffice <yigomayorsoffice@gmail.com>, Anthony Sanchez <yigovice@gmail.com>, jmblas@yahoo.com, Al Edrich Labang <labangaledrich@gmail.com>, Christian Valencia <chrisfvalencia13@gmail.com>, "Clemcei Jane B. Angara" <cang5291@student.dodea.edu>, Ethan Delorie <xxronin13@gmail.com>, Gia Righetti <righetti13@gmail.com>, Jacob Richards <jacub96@gmail.com>, Jaycie Chan <jayciechan0@gmail.com>, Jermel Adawag <jermeladawag@gmail.com>, Johnny Rosario <johnnyrosario671@gmail.com>, Jon-Arthur Pluhs <jonarthurkihleng@gmail.com>, "Casila, Joseph" <josephv.c@outlook.com>, Keandra McDonald <keandramarlaine@yahoo.com>, Keleko Fejeran <kpaul.fejeran@gmail.com>, Kennie Francine McDonald <kmcd4664@student.dodea.edu>, Matthew Makepeace <makepeacematthew@gmail.com>, Meghan Larkin <megiejguam@yahoo.com>, "Santos, Javan" <jsan671@gmail.com>, Stephanie Lorenzo <stephanielorenzo49@yahoo.com>, Torian Styles <styles.torian@yahoo.com>, Tristan Quintanilla <zavierquintanilla@gmail.com>, Joanna Carranza <carranzajoanna2@gmail.com>, Ethan Perez <ethanjperez@gmail.com>, Hannah Mendiola <hannahmendiola18@gmail.com>, phnotice@guamlegislature.org, T'Nelta Mori <tneltasmori@gmail.com>, Committee on Rules 34GL <corguamlegislature@gmail.com>, clerks <clerks@guamlegislature.org>

SECOND PUBLIC NOTICE

FOR IMMEDIATE RELEASE

February 17, 2017

From: **Senator Michael F.Q. San Nicolas**

Chairman, Committee on General Government Operations, and

Federal, Foreign, & Regional Affairs

Subject: **SECOND NOTICE of Public Hearing - Monday, February 20, 2017 at 10:30 AM**

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on General Government Operations and Federal, Foreign, & Regional Affairs will convene a public hearing on **Monday, February 20, 2017**, beginning at **10:30 AM** in *I Liheslaturan Guåhan's* Public Hearing Room (155 Hesler Place, Hagåtña). On the agenda are the following items:

Bill No. 5-34 (COR): Introduced by Senator Frank B. Aguon, Jr. AN ACT TO REPEAL § 6206.1 OF ARTICLE 2 OF CHAPTER 6, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO DELINKING *I MAGA'LÅHAN GUÅHAN* AND *I SEGUNDU NA MAGA'LÅHEN GUÅHAN* FROM THE SALARIES OF DIRECTORS AND DEPUTY DIRECTORS.

Bill No. 6-34 (COR): Introduced by Senator Frank B. Aguon, Jr. AN ACT TO AMEND § 6210.1 OF ARTICLE 2 OF CHAPTER 6, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO EFFECTIVE DATE FOR SALARY CHANGES FOR ELECTED OFFICIALS.

Resolution 27-34 (COR): Introduced by Senator Michael F.Q. San Nicolas RELATIVE TO RECOGNIZING THE WE THE PEOPLE PROJECT FOR ADVANCING VOTING RIGHTS FOR THE PEOPLE OF GUAM AND OTHER TERRITORIES BY REPRESENTING LUIS SEGOVIA AND THE OTHER PLAINTIFFS IN SEGOVIA V. CHICAGO BOARD OF ELECTIONS COMMISSIONERS; AND DOES FURTHER COMMEND THEM FOR ADVOCATING FOR THE VOTING RIGHTS OF THE PEOPLE OF GUAM, THE OTHER TERRITORIES, AND THE DISTRICT OF COLUMBIA.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via *I Liheslaturan Guåhan's* live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Senator Michael F.Q. San Nicolas. Testimonies may be submitted via hand delivery to the Office of Senator Michael F.Q. San Nicolas at the DNA Building, Suite 407, 238 Archbishop Flores Street Hagåtña, Guam; at the mail room of the Legislature Building, 155 Hesler Place, Hagåtña, Guam 96910; or via email to senatorsannicolas@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Michael F.Q. San Nicolas at (671) 472-6453 or by sending an email to senatorsannicolas@gmail.com.

We look forward to your attendance and participation.

Si Yu'os Ma'ase!

T'Nelta Mori
Committee Director

Office of Senator Michael F.Q. San Nicolas

Committee on General Government Operations and Federal, Foreign, & Regional Affairs

I Mina' Trentai Kuattro na Liheslaturan Guahan
34th Guam Legislature

Tel: (671) 472-6453

3 attachments

Bill No. 5-34 (COR) - Frank B. Aguon, Jr.-.pdf
39K

Bill No. 6-34 (COR) - Frank B. Aguon, Jr. -.pdf
19K

Resolution No. 27-34 (COR) - Michael F.Q. San Nicolas -.pdf
105K

Gmail **Senator Michael F.Q. San Nicolas <senatorsannicolas@gmail.com>**

Materials for hearing

7 messages

Neil Weare <nweare@equalrightsnow.org> Sat, Feb 18, 2017 at 10:01 AM
To: Michael San Nicolas <mikefsn@gmail.com>, senatorsannicolas@gmail.com

Here is my forthcoming law review article, along with the Op-Ed Leevin and I wrote for the Guam Post, in .doc and from their website depending which version you want to use.

I'll let Leevin and the plaintiffs know about the hearing (and my mom :)).

Neil Weare
President and Founder
We the People Project
nweare@equalrightsnow.org
202-304-1202

3 attachments

WEARE, EQUALLY AMERICAN, AMENDING THE CONSTITUTION TO PROVIDE VOTING RIGHTS IN U.S. TERRITORIES AND THE DISTRICT OF COLUMBIA 2.2.17.pdf
588K

Let's Make The Right to Vote Our New Year's Resolution _ Sunday Post _ postguam.pdf
99K

New Year Op-Ed, FINAL.docx
16K

Neil Weare <nweare@equalrightsnow.org> Sat, Feb 18, 2017 at 10:02 AM
To: Michael San Nicolas <mikefsn@gmail.com>, senatorsannicolas@gmail.com

I could also probably call or video conference in if that'd be helpful, although I'm fine not as well.

Neil Weare
President and Founder
We the People Project
nweare@equalrightsnow.org
202-304-1202

[Quoted text hidden]

Senator Michael F.Q. San Nicolas <senatorsannicolas@gmail.com> Wed, Feb 22, 2017 at 9:45 AM
To: Neil Weare <nweare@equalrightsnow.org>

Håfa Adai Mr. Weare,

Thank you for your submitted documents regarding Resolution No. 27-34 (COR); they were included in the Public Hearing on Monday.

It was brought to our attention; however, that in your law review article (NOTE area) that permission is needed to distribute or reproduce said article. Do we have your permission to include article in our Committee Report? Please advise.

Si Yu'os Ma'åse!

Very Respectfully,

T'Nelta Mori
Committee Director

Office of Senator Michael F.Q. San Nicolas

Committee on General Government Operations and Federal, Foreign, & Regional Affairs

I Mina' Trentai Kuattro na Liheslaturan Guahan
34th Guam Legislature

Tel: (671) 472-6453

[Quoted text hidden]

Neil Weare <nweare@equalrightsnow.org> Wed, Feb 22, 2017 at 1:20 PM
To: "Senator Michael F.Q. San Nicolas" <senatorsannicolas@gmail.com>

Yes, you have my permission to include. Just confirming Stetson's for you as well, although I know they won't mind either.

Neil Weare
President and Founder
We the People Project
nweare@equalrightsnow.org
202-304-1202

[Quoted text hidden]

Senator Michael F.Q. San Nicolas <senatorsannicolas@gmail.com> Wed, Feb 22, 2017 at 3:06 PM
To: Neil Weare <nweare@equalrightsnow.org>

Mr. Weare,

Permission received, thank you!

Best Regards,
T'Nelta Mori
[Quoted text hidden]

Senator Michael F.Q. San Nicolas <senatorsannicolas@gmail.com> Tue, Feb 28, 2017 at 7:56 AM
To: Neil Weare <nweare@equalrightsnow.org>

Hafa Adai Mr. Weare,

Just to clarify, Stetson is okay with the inclusion of the Law Article in the Committee Report as well?

Thank You,
T'Nelta Mori

[Quoted text hidden]

WPP Equal rights Now <nweare@equalrightsnow.org> Tue, Feb 28, 2017 at 9:49 AM
To: "Senator Michael F.Q. San Nicolas" <senatorsannicolas@gmail.com>

They are. They'll have a slightly revised copy ready in the next day or two if you want to wait to include that. Either way is fine though. Thanks!

Neil Weare
202-365-7427

From mobile phone

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On Sat, Feb 18, 2017 at 10:02 AM, Neil Weare <nweare@equalrightsnow.org> wrote:
I could also probably call or video conference in if that'd be helpful, although I'm fine not as well.

Neil Weare
President and Founder
We the People Project
nweare@equalrightsnow.org
202-304-1202

On Fri, Feb 17, 2017 at 7:01 PM, Neil Weare <nweare@equalrightsnow.org> wrote:

> Here is my forthcoming law review article, along with the Op-Ed Leevin and I wrote for the Guam Post, in .doc and from their website depending which version you want to use.
>
> I'll let Leevin and the plaintiffs know about the hearing (and my mom :)).
>
> Neil Weare
> President and Founder
> We the People Project
> nweare@equalrightsnow.org
> 202-304-1202
>
> 
>

Gmail Senator Michael F.Q. San Nicolas <senatorsannicolas@gmail.com>

Fwd: Status of article?

Neil Weare <nweare@equalrightsnow.org> Wed, Mar 1, 2017 at 6:42 AM
To: "Senator Michael F.Q. San Nicolas" <senatorsannicolas@gmail.com>

Here's the latest copy.

Neil Weare
President and Founder
We the People Project
nweare@equalrightsnow.org
202-304-1202

-------- Forwarded message --------
From: **Dalton R. Allen** <drallen@law.stetson.edu>
Date: Tue, Feb 28, 2017 at 3:35 PM
Subject: Re: Status of article?
To: Neil Weare <nweare@equalrightsnow.org>

Neil,

This version is after our hard copy edit, meaning this is the version we will submit to the publisher sometime this week. The only differences between this and the printed final Article will be slight, like the breaks in URLs and other uber technicalities like we discussed before. Hopefully we didn't keep the legislature of Guam waiting too long.

To answer your other question from last week regarding online, are you referring to our website, SSRN or something like WestLaw? You are free to upload the Article to SSRN, if you haven't already done so. As for our website, we are in the process of teaming up with the Virgin Islands Bar to publish (online) articles relating to Territorial issues. With your permission, we would like to include your Article in this "online issue." This project is not yet complete, but is in the works and should be up & running by the end of our Spring Semester —say late April or May.

Let me know if you have any questions, talk to you soon!

Dalton Allen
Stetson University College of Law
Candidate for Juris Doctor 2018
Assistant Research Editor, *Stetson Law Review*
drallen@law.stetson.edu | (407) 462-2929

From: Neil Weare
Date: Monday, February 27, 2017 at 5:30 PM
To: Dalton Allen
Subject: Re: Status of article?

Is the revised article available yet? Thanks!

Neil Weare
President and Founder
We the People Project
nweare@equalrightsnow.org
202-304-1202

On Thu, Feb 23, 2017 at 12:04 PM, Neil Weare <nweare@equalrightsnow.org> wrote:
Sure, that should work. Look forward to seeing the final version soon - when will it be up on the website?

Neil Weare
President and Founder
We the People Project
nweare@equalrightsnow.org
202-304-1202

On Wed, Feb 22, 2017 at 9:52 AM, Dalton R. Allen <drallen@law.stetson.edu> wrote:
Good morning Neil,

I just spoke with our Editor-in-Chief and he is quite excited to hear the Guam Legislature wants to include your Article.

I'm not sure how quickly you need to get them the Article, but if you can wait until the end of this week I'll have the final & complete version of the Article, possibly with an updated disclaimer. The only thing that won't be included would be the final page numbers as they will appear in the actual publication, but sounds like that wouldn't matter for the purposes of being included in the legislative record.

Would this work for you?

Dalton Allen
Stetson University College of Law
Candidate for Juris Doctor 2018
Assistant Research Editor, *Stetson Law Review*
drallen@law.stetson.edu | (407) 462-2929

From: Neil Weare
Date: Tuesday, February 21, 2017 at 10:15 PM
To: Dalton Allen
Subject: Status of article?

Dalton,

The Guam Legislature would like to include the article in the legislative record as part of a resolution they are doing to support our advocacy. They wanted to get permission since the draft I sent has the disclaimer about getting Stetson's permission. Does that work?

Do you have an updated draft yet? If so, I'll go ahead and send that to them.

Thanks!

Neil Weare
President and Founder
We the People Project
nweare@equalrightsnow.org
202-304-1202

WE THE PEOPLE PROJECT
EQUAL RIGHTS, WHEREVER YOU LIVE.

Weare.HardCopy.pdf
290K

Committee on General Government Operations
and Federal, Foreign & Regional Affairs
Senator Michael F.Q. San Nicolas, *Chairman*
I Mina'Trentai Kuåttro na Liheslaturan Guåhan • 34th Guam Legislature

PUBLIC HEARING
February 20, 2017
10:30 a.m.
Public Hearing Room, *I Liheslaturan Guåhan*

AGENDA

I. Call to Order

II. Opening Remarks/Announcements

III. Items for Public Consideration

Bill No. 5-34 (COR): Introduced by Senator Frank B. Aguon, Jr. AN ACT TO REPEAL § 6206.1 OF ARTICLE 2 OF CHAPTER 6, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO DELINKING I MAGA'LÅHAN GUÅHAN AND I SEGUNDU NA MAGA'LÅHEN GUÅHAN FROM THE SALARIES OF DIRECTORS AND DEPUTY DIRECTORS.

Bill No. 6-34 (COR): Introduced by Senator Frank B. Aguon, Jr. AN ACT TO AMEND § 6210.1 OF ARTICLE 2 OF CHAPTER 6, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO EFFECTIVE DATE FOR SALARY CHANGES FOR ELECTED OFFICIALS.

Resolution No. 27-34 (COR): Introduced by Senator Michael F.Q. San Nicolas RELATIVE TO RECOGNIZING THE WE THE PEOPLE PROJECT FOR ADVANCING VOTING RIGHTS FOR THE PEOPLE OF GUAM AND OTHER TERRITORIES BY REPRESENTING LUIS SEGOVIA AND THE OTHER PLAINTIFFS IN SEGOVIA V. CHICAGO BOARD OF ELECTIONS COMMISSIONERS; AND DOES FURTHER COMMEND THEM FOR ADVOCATING FOR THE VOTING RIGHTS OF THE PEOPLE OF GUAM, THE OTHER TERRITORIES, AND THE DISTRICT OF COLUMBIA.

IV. Closing Remarks

V. Adjournment

DNA Building, 238 Archbishop Flores St. Suite 407 Hagåtña, Guam 96910
(671) 472 - 6453 • senatorsannicolas@gmail.com

I Mina'Trentai Kuåttro Na Liheslaturan Guåhan

SENATOR MICHAEL F.Q. SAN NICOLAS

Committee on General Government Operations, and
Federal, Foreign, & Regional Affairs

Public Hearing Sign-in Sheet

Monday, February 20, 2017 • 10:30 AM •Public Hearing Room, Guam Legislature

Resolution No. 27-34 (COR) – Introduced by Senator Michael F.Q. San Nicolas—RELATIVE TO RECOGNIZING THE WE THE PEOPLE PROJECT FOR ADVANCING VOTING RIGHTS FOR THE PEOPLE OF GUAM AND OTHER TERRITORIES BY REPRESENTING LUIS SEGOVIA AND THE OTHER PLAINTIFFS IN SEGOVIA V. CHICAGO BOARD OF ELECTIONS COMMISSIONERS; AND DOES FURTHER COMMEND THEM FOR ADVOCATING FOR THE VOTING RIGHTS OF THE PEOPLE OF GUAM, THE OTHER TERRITORIES, AND THE DISTRICT OF COLUMBIA.

NAME (Please print)	AGENCY/ ORGANIZATION	CONTACT NUMBER	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	*NOT* IN FAVOR

NONE

https://www.postguam.com/sunday_post/let-s-make-the-right-to-vote-our-new-year/article_b6121524-ce24-11e6-a3d0-1391074735a3.html

OPINION

Let's Make The Right to Vote Our New Year's Resolution

By Neil Weare and Leevin Camacho Jan 1, 2017

So long as Guam is a part of the United States, and its residents U.S. citizens, the people of Guam should be able to vote for president and have voting representation in Congress. In 2017, one of our New Year's resolutions should be to fight for recognition of the right to vote, wherever you live.

Together, over 4 million U.S. citizens live in the Territories, a population greater than nearly half the States. Yet while these Americans have a proud history of military service, pay billions in federal taxes, and are required to follow restrictive federal laws, the only political participation they are afforded is in the form of non-voting Delegates.

This year offers an important new opportunity to move the issue of voting rights forward for residents of the Territories.

First, a bi-partisan consensus is beginning to form in support of territorial voting rights at a national level. The 2016 Republican Platform declares: "We welcome their greater participation in all aspects of the political process and affirm their right to seek the full extension of the Constitution with all the rights and responsibilities that entails." And the 2016 Democratic Platform provides: "All Americans should be able to vote for the people who make their laws, just as they should be treated equally. Ar all American citizens, no matter where they reside, should have the right to vote for the President of the United States." President-elect Donald Trump has also made a powerful statement to Americans in the Territories, saying it is time to "restore equality and fairness to all citizens, especially those tha have been ignored for too long."

Second, the issue of territorial voting rights is also starting to get significant national attention. HBO's John Oliver provided a major boost, with more than 4.4 million people on YouTube alone watching h powerful segment calling for territorial voting rights. Senator Elizabeth Warren also made the case fc territorial voting rights during a Senate hearing. This December, the National Conference of State

Legislators hosted a panel and is considering a resolution in support of territorial voting rights. Our efforts to address these issues through legal action also continue in federal court. Denying Americar the right to vote because of where they live is simply absurd, and the rest of country is beginning to catch up to recognize what we have already known for too long.

While disenfranchised, Guam residents will face a range of issues in Congress over the next four years, from how changes in health care policy will impact local families, to how the military buildup w impact the environment, to how changes in federal tax law might affect local revenue, and much more. Other Territories and the District of Columbia face the same dilemma, which is why it is time w finally unite to work together, rather than trying to solve our problems in Washington alone. Together we are nearly 5 million strong. By making this an issue of equal rights for all Americans, wherever they live, rather than simply an issue unique to Guam, our message is more likely to resonate with those who hold the political power in Washington to bring about change.

Following this approach, We the People Project is proposing a constitutional amendment that would provide the right to vote for President along with voting representation in Congress for the 5 million Americans living in non-state areas (go to www.EqualRightsNow.org to see the full text). The 23rd Amendment extending presidential voting rights to Washington, D.C., provides a precedent for this approach. Moreover, in the 1970s, Congress even approved an amendment for D.C. voting representation in the House and the Senate, although it failed in the States.

The continued denial of voting rights in the Territories is a major injustice, but ultimately it is one of many. Even if residents of the Territories obtain full voting rights, Guam will still face significant challenges because of its political status. We must also support Guam's right to self-determination. Meaningful representation in Washington will give the people of Guam and all the Territories a more powerful voice for raising the issues that impact our communities *today* such as Medicare/Medicaid reimbursements and Compact-Impact support. It will also provide a vehicle for advocating whatever political status Guam should select in the future. At the end of the day, we have a responsibility to push for a change to the status quo.

So what can you do? Sign our petition for equal rights at www.EquallyAmerican.org. Contact Congresswoman Bordallo, Governor Calvo, and Speaker Cruz to ask that they support full enjoymer of the right to vote in Guam and other Territories. And once legislation is introduced in Congress, encourage family and friends living in the states to contact their Congressperson to support the legislation. In 2017, let's start making history together.

Neil Weare is President of We the People Project, a non-profit advocating for equal rights and representation for the nearly 5 million Americans living in U.S. territories and the District of Columbia He and Attorney Leevin Camacho are co-counsel in Segovia v. Board of Elections Commissioners, currently on appeal to the Seventh Circuit, which argues for expanded voting rights in the Territories

EQUALLY AMERICAN: AMENDING THE CONSTITUTION TO PROVIDE VOTING RIGHTS IN U.S. TERRITORIES AND THE DISTRICT OF COLUMBIA

Neil Weare*

I. INTRODUCTION

Today, nearly five million Americans are denied full enjoyment of the right to vote simply because they live in a Territory of the United States or the District of Columbia ("the District").[1] The constitutional status of Americans who live in these "non-state" areas strains against the vision of our nation's Founders that ours would be a government that "deriv[es] [its] just powers from the consent of the governed."[2] Based solely on place of residence, Americans who live in the District or the Territories are denied meaningful representation in either the House or the Senate, even as Congress holds more power over these Americans than those who live in the States.[3] Moreover,

 The Author grew up in Guam and is President and Founder of We the People Project, a nonprofit that advocates for equal rights and representation for the nearly five million Americans living in U.S. Territories and the District of Columbia. He is a graduate of Yale Law School and Lewis & Clark College.

1. The population of the District of Columbia is 601,723, Puerto Rico 3,725,789, Guam 159,358, the U.S. Virgin Islands 106,405, the Northern Mariana Islands 53,883, and American Samoa 55,519, for a total population of 4,702,677. *United States Summary: 2010 Population and Housing Units Count*, U.S. CENSUS BUREAU (Sept. 2012), *available at* https://www.census.gov/prod/cen2010/cph-2-1.pdf.

2. THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776).

3. Congress has plenary power over the Territories and the District, so residents of these areas lack the protections of federalism that serve as a political buffer between the national government and residents of the States. *See* U.S. CONST. art. IV, § 3, cl. 2 ("The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States . . . ."); U.S. CONST. art. I, § 8, cl. 17 ("Congress shall have Power . . . [t]o exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States . . . .").

Americans who reside in the Territories cannot vote for the President during the general election, even as they fully participate in the presidential primaries.[4] As President Barack Obama explained in his 2014 State of the Union Address, "[c]itizenship means standing up for everyone's right to vote."[5] This must also mean standing up for the right to vote for the millions of U.S. citizens living in the Territories and the District—more than ninety percent of whom are racial or ethnic minorities.[6] During his campaign, President Donald Trump expressed support for expanded voting rights in the Territories and the District.[7] And both the 2016 Democratic and Republican Party platforms recognized the need to address issues of political participation in these areas.[8] Thus, there is a growing political

4. William Gallo, *US Presidential Election Ends at Conventions for Territorial Citizens*, VOA NEWS (July 28, 2016, 12:05 PM), http://www.voanews.com/content/us-presidential-elections-voting-rights/3438567.html.

5. President Barack Obama, State of the Union Address at 43:27 (Jan. 28, 2014), *video recording available at* https://www.whitehouse.gov/the-press-office/2014/01/28/president-barack-obamas-state-union-address.

6. Over sixty-five percent of the District of Columbia's total population is non-white or Hispanic. *Quick Facts District of Columbia*, U.S. CENSUS BUREAU, http://www.census.gov/quickfacts/table/PST045215/11 (last visited Feb. 10, 2017). In Puerto Rico, this figure is over ninety-nine percent, primarily Hispanic. *Id.* at *Quick Facts Puerto Rico.* In Guam it is ninety-three percent, primarily Pacific Islander and Asian. *Guam Demographics Profile 2016*, INDEXMUNDI, http://www.indexmundi.com/guam/demographics_profile.html (last updated Oct. 8, 2016). In the Virgin Islands it is eighty-four percent, primarily Afro-Caribbean. *Virgin Islands Demographics Profile 2016*, INDEXMUNDI, http://www.indexmundi.com/virgin_islands/ demographics_profile.html (last updated Oct. 8, 2016). In the Northern Marianas it is ninety-eight percent, primarily Pacific Islander and Asian. *Northern Mariana Islands Demographics Profile 2016*, INDEXMUNDI, http://www.indexmundi.com/northern_mariana_islands/demographics_profile.html (last updated Oct. 8, 2016). In American Samoa it is ninety-eight percent, primarily Pacific Islander. *America Samoa Demographics Profile 2016*, INDEXMUNDI, http://www.indexmundi.com/american_samoa/demographics_profile.html (last updated Oct. 8, 2016). The total non-white or Hispanic population of America's non-state areas is over 4.3 million.

7. Donald Trump, *I Won't Ignore Territories as President*, PACIFIC DAILY NEWS (Mar. 9, 2016, 11:48 PM), *available at* http://www.guampdn.com/story/opinion/2016/03/09/trump-wont-ignore-territories/81516134/; Editorial Board, *Trump Could Be the President to Give D.C. Voting Rights*, WASH. POST (Nov. 11, 2016), *available at* https://www.washingtonpost.com/opinions/trump-could-be-the-president-to-give-dc-voting-rights/2016/11/11/33e37fe8-a791-11e6-8fc0-7be8f848c492_story.html?utm_term=.f923bd7c44dd.

8. *2016 Democratic Party Platform*, DEMOCRATIC PLATFORM COMMITTEE 24 (July 21, 2016), *available at* http://www.presidency.ucsb.edu/papers_pdf/117717.pdf ("All Americans should be able to vote for the people who make their laws, just as they should be treated equally. And all American citizens, no matter where they reside, should have the right to vote for the President of the United States."); *Republican Platform 2016*, COMMITTEE ON ARRANGEMENTS FOR THE 2016 REPUBLICAN NAT'L CONVENTION 30, *available at* https://prod-cdn-static.gop.com/media/

consensus that where you live should not impact whether you have the right to vote for President or have voting representation in Congress.

As unbalanced as the relationship between the national government and Americans living in non-state areas is, it is admittedly part of the constitutional structure established at our nation's founding. But the circumstances in non-state areas today are dramatically changed. The Northwest Territory and other early territories were quite different from the Territories today. Whereas the early territories were viewed as inchoate states on the path to full statehood within the Union, since the controversial *Insular Cases* were decided in the early 1900s, this has not been the assumption for overseas Territories.[9] The result is that the democratic deficit that was but a *temporary* condition for territories prior to the *Insular Cases* has now resulted in a quasi-permanent colonial status that is the antithesis of America's democratic and constitutional principles. With respect to the District, in the late eighteenth century it would have been hard to imagine the swamplands of the newly created capital becoming the major metropolis it is today.[10] But even then, early discussions concerning representation in the District recognized that congressional representation may be warranted were the city to grow in size.[11]

The animating principle of the American Revolution was the rejection of the British idea that Parliament had the authority to unilaterally govern the colonies, without the consent of the people

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documents/DRAFT_12_FINAL[1]-ben_1468872234.pdf (last visited Feb. 10, 2017) ("We welcome their greater participation in all aspects of the political process and affirm their right to seek the full extension of the Constitution with all the rights and responsibilities that entails.").

9. *See generally, e.g.*, BARTHOLOMEW H. SPARROW, THE *INSULAR CASES* AND THE EMERGENCE OF THE AMERICAN EMPIRE 14–31 (2006) (examining the shift from westward continental territorial expansion to overseas territorial expansion); Juan R. Torruella, *Ruling America's Colonies: The* Insular Cases, 32 YALE L. & POL'Y REV. 57 (2013) (discussing how the Northwest Territories became integrated as states).

10. The District of Columbia is the twenty-fourth most populous city in the United States. *Interactive Population Map*, U.S. CENSUS BUREAU (2010), *available at* http://www.census.gov/2010census/popmap/.

11. *See* Jonathan Turley, *Too Clever by Half: The Unconstitutionality of Partial Representation of the District of Columbia in Congress*, 76 GEO. WASH. L. REV. 305, 341 (2008) (quoting Maryland Representative John Dennis on the possibility of a constitutional amendment as the District grew, "if it should be necessary [that residents have a representative], the Constitution might be so altered . . . when their numbers should become sufficient") (internal quotation marks omitted).

and without any fundamental limitations on government power.[12] Among the major grievances listed in the 1776 Declaration of Independence was the fact that the British Parliament was "invested with power to legislate for [the American colonies] in all cases whatsoever" without representation or the consent of the governed—a relationship the Declaration characterized as "the establishment of an absolute Tyranny."[13] Yet, because the United States has failed to provide meaningful congressional representation to the Americans who live in the Territories and the District, the relationship of non-state areas to Congress today is largely analogous to the relationship between the American colonies and the British Parliament in 1776.

Following ratification of the Constitution, it was immediately apparent to at least some observers that something needed to be done to address the disjunction between America's founding principles and the status of Americans residing in non-state areas. Writing under the pseudonym Epaminondas, Augustus Woodward, a protégé of Thomas Jefferson, wrote in 1801 that the denial of representation to Americans living in the nation's capital "is contrary to the genius of our constitution[]" and "is violating an original principal in republicanism, to deny that all who are governed by laws ought to participate in the formation of them."[14] To right this wrong, Woodward proposed providing the District with one Senator, a number of Representatives in proportion to its population, and presidential electors equal to its number of Senators and Representatives.[15] Woodward recognized that diminished representation in the Senate was "proper" given that "a distinction exists in fact between the territory and a state."[16] He was confident that with future population changes "it

12. *See, e.g.*, Akhil Reed Amar, *Of Sovereignty and Federalism*, 96 YALE L.J. 1425, 1430 (1987) (noting this "war of ideas" ignited not only a military struggle between the colonists and the British, but also the "American vision of sovereignty and federalism").

13. THE DECLARATION OF INDEPENDENCE paras. 24 & 2 (U.S. 1776).

14. Augustus Brevoort Woodward, *Considerations on the Government of the Territory of Columbia*, at 5–6 (Paper No. II of 1801), *available at* http://www.equalrightsnow.org/woodward.

15. *Id.* at 6; *see also* Eugene Boyd, *District of Columbia Voting Representation in Congress: An Analysis of Legislative Proposals*, CONG. RES. SERVICE (Jan. 30, 2007), *available at* http://www.dcwatch.com/issues/voting070130.htm (discussing Woodward's proposition to afford the District of Columbia representation in the Senate and House of Representatives).

16. Woodward, *supra* note 14, at 6.

would by no means appear inequitable to give [the District] half the weight of [the smaller states]."[17] Woodward conceded that "[a]n arrangement of this kind cannot . . . be made by an ordinary act of Congress," but rather "require[s] an amendment to the Constitution."[18] He viewed such an amendment as necessary to preserve "the spirit of the Constitution," for even though the District was constitutionally distinct from a state, "the people of the Territory of Columbia do not cease to be a part of the people of the United States," and are therefore "still entitled to the enjoyment of the same rights with the rest of the people of the United States, and to have some participation in the administration of their general government."[19]

Today, Woodward's vision that the national government should provide meaningful representation for all "the people of the United States" has been partially realized through the Twenty-third Amendment, extending the right to vote for President to the residents of the District. Beyond this, more than 150 proposals have been introduced in Congress to extend voting representation to residents of the District through constitutional amendment.[20] In 1978, one of these proposals, the District of Columbia Voting Rights Amendment, was approved on a bipartisan basis by two-thirds of both the House and Senate; however the sixteen ratifying states fell short of the thirty-eight needed.[21] In the territorial context, a 1971 presidential task force called for the right to vote for President to be extended to Americans residing in the Territories,[22] although there have been only limited legislative efforts to follow up on this recommendation.[23] Recently, however, there has been increased national interest with Senator Elizabeth Warren taking a stand

17. *Id.*

18. *Id.*

19. *Id.* at 5, 7.

20. Boyd, *supra* note 15.

21. *Id.* The amendment would have recognized the District as a state for purposes of electing members of the Senate and House of Representatives and presidential electors, and for ratifying amendments to the U.S. Constitution. *Id.*

22. FRED C. SCRIBNER, JR., THE PRESIDENTIAL VOTE FOR PUERTO RICO: REPORT OF THE AD HOC ADVISORY GROUP ON THE PRESIDENTIAL VOTE FOR PUERTO RICO 1 (U.S. Gov't Printing Office, 1971).

23. *See, e.g.*, H.R.J. Res. 1, 109th Cong. (2005) (proposing a constitutional amendment to extend the right to vote for President to residents of the Territories).

for territorial voting rights during a 2016 Senate hearing[24] and comedian John Oliver tackling the issue in a 2015 segment on HBO's award-winning *Last Week Tonight*.[25]

Voting rights for the disenfranchised Americans living in the Territories and the District should not have to wait until the political status of these areas is resolved, whether in favor of statehood, independence, or something in between. While Puerto Rico and the District have had recent votes supporting statehood, it remains uncertain whether a Republican-controlled Congress will be receptive to calls for statehood.[26] If Congress fails to quickly act on statehood for either the District or Puerto Rico, the only alternative which provides full political participation consistent with America's democratic values is to amend the Constitution. A voting rights amendment for these Americans would not take any political status options off the table, and could help build the political power needed to make resolution of political status a reality, particularly in smaller territories where efforts to address status issues have been unable to progress.[27]

Building on Woodward's proposal for the District and other historical precedent, this Article proposes a voting rights amendment that would provide full political participation and

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24. Elizabeth Warren, *American Citizens in U.S. Territories Should Have Full Voting Rights*, at 03:26–03:44 (Apr. 7, 2016), https://www.warren.senate.gov/?p=video&id=1144 ("The four million people who live in the Territories are not the subjects of a King. They are Americans. They live in America. But their interests will never be fully represented within our government until they have full voting rights just like every other American.").

25. John Oliver, *U.S. Territories* (HBO: Last Week Tonight Mar. 8, 2015), *available at* https://www.youtube.com/watch?v=CesHr99ezWE.

26. In 2016, nearly eighty percent of voters in the District of Columbia approved a measure to petition Congress for statehood, although it appears such a petition faces long odds in Congress. Christina Beck, *Will Washington, D.C., Become the 51st State?*, CHRISTIAN SCIENCE MONITOR (Nov. 9, 2016), http://www.csmonitor.com/USA/Politics/2016/1109/Will-Washington-D.C.-become-the-51st-state. In 2012, Puerto Rican voters participated in a two-part political status referendum, with fifty-four percent rejecting "the 'present form of territorial status,'" and sixty-one percent choosing statehood over independence—five percent—or sovereign free associated state—thirty-three percent; but with many voters casting blank ballots in protest of the options, statehood only received forty-five percent support of the total ballots cast. David Royston Patterson, *Will Puerto Rico be America's 51st State?*, N.Y. TIMES at SR4 (Nov. 24, 2012), *available at* http://www.nytimes.com/2012/11/25/opinion/sunday/will-puerto-rico-be-americas-51st-state.html.

27. *See* Office of Insular Affairs, *Self-Determination Discussion*, U.S. DEP'T OF THE INTERIOR, *available at* https://www.doi.gov/oia/self-determination (last visited Feb. 10, 2017) (Interior Assistant Secretary Esther Kia'aina hosting a self-determination panel discussion for U.S. Virgin Islands, American Samoa, and Guam).

representation to the nearly five million U.S. citizens[28] who call the Territories or the District home. Part II provides historical and normative justifications for providing meaningful representation and full enjoyment of the right to vote to all Americans, wherever they live. Part III proposes a constitutional amendment which provides: (1) participation in presidential elections for residents of the Territories; (2) proportional representation in the House of Representatives for residents of each non-state area; (3) one Senator for residents of the Territories together and one for the District; and (4) participation in the Article V amendment process. Finally, Part IV argues that a voting rights amendment for the Territories and the District could make good politics for both Democrats and Republicans alike, a critical element for the success of any proposal to expand representation and the right to vote.

II. AMENDING THE CONSTITUTION IN ORDER TO FORM A MORE PERFECT UNION

Extending representation in the national government to Americans who reside in non-state areas is supported by both the historical and modern understandings of representation in the national government and its importance in a democratic society. If our nation is to fulfill its most cherished democratic principles and constitutional values, the Constitution must be amended to provide full enjoyment of the right to vote to all Americans, wherever they happen to live.

28. While most people born in the Territories are recognized as citizens at birth, Congress has labeled people born in American Samoa as "nationals, but not citizens, of the United States." 8 U.S.C. § 1408(1) (1988). The Author was involved in Tuaua v. United States, a legal challenge to this discriminatory law based on the Citizenship Clause of the Constitution that was rejected by the Court of Appeals for the District of Columbia. 788 F.3d 300 (2015). Judge Janice Rogers Brown, joined by Judges David Sentelle and Lawrence Silberman, relied on an expansive reading of the controversial *Insular Cases* to hold that Congress had the power to limit application of the Constitution's guarantee of birthright citizenship in U.S. Territories, since in the panel's view such a right was not "fundamental." *Id.* at 308. Thus, until another court or Congress says otherwise, these passport-holding Americans would remain disenfranchised even if they live in one of the fifty states, unless they go through the costly and burdensome naturalization process, which amounts to a poll tax and literacy test all rolled into one.

A. Elected Officials in the National Government Represent the People, Not the States

Ours is a government based on "We the People of the *United* States," not We the People of the *States* United.[29] Extending representation to citizens who reside in non-state areas is fully consistent with this foundational American principle. As the Supreme Court recognized in *U.S. Term Limits, Inc. v. Thornton*,[30] "the Framers, in perhaps their most important contribution, conceived of a Federal Government directly responsible *to the people*, possessed of direct power over the people, and chosen directly, not by States, *but by the people*."[31] The Court pointed to Justice Joseph Story's constitutional commentaries, which stated that the President and members of Congress both "owe their existence and functions to the united voice of the whole, *not of a portion*, of the people."[32] The Court observed that in the national government, "representatives owe primary allegiance not to the people of a State, *but to the people of the Nation*."[33] The Court further emphasized that "[t]he Congress of the United States . . . is not a confederation of nations in which separate sovereigns are represented by appointed delegates, but is instead a body composed of representatives *of the people*."[34] As such, the Court concluded that "the right to choose representatives belongs not to the States, *but to the people*," since "[t]he Constitution . . . creates a uniform national body representing the interests of a *single* people."[35] Invoking Lincoln, the Court emphasized that "[o]urs is a 'government of the people, by the people, for the people.'"[36]

Justice Kennedy, writing a separate concurrence in *Term Limits*, agreed that "'[i]n a republican government, like ours, . . . political power is reposed in representatives of the *entire* body of the people.'"[37] He also took the position—which he believed to be

29. U.S. CONST. pmbl. (emphasis added).
30. 514 U.S. 779 (1995).
31. *Id.* at 821 (emphasis added).
32. *Id.* at 803 (citing Justice Story's Commentaries, section 626) (emphasis added).
33. *Id.* (emphasis added).
34. *Id.* at 821 (emphasis added).
35. *Id.* at 820–22 (emphasis added).
36. *Id.* at 821 (quoting Abraham Lincoln, Gettysburg Address (1863)).
37. *Id.* at 839–40 (Kennedy, J., concurring) (quoting Ex Parte Yarbrough, 110 U.S. 651, 666 (1884)) (emphasis added).

"beyond dispute"—that "[t]he political identity of the entire people of the Union is reinforced by the proposition . . . [that] the National Government is, and must be, controlled *by the people* . . . ."[38]

The Founders' understanding that federal elected officials represent the People and not the States received additional support from the Seventeenth Amendment, which was ratified in 1913 and established the popular election of U.S. Senators.[39] The purpose of the Seventeenth Amendment was to shift the mode of selection from the oftentimes corrupt state legislatures and place it instead directly in the hands of the citizenry, something the Constitution originally provided only for Representatives in the House.[40] The motivating principle of the Seventeenth Amendment—that holding U.S. Senators democratically accountable to the People rather than to state legislatures increases the legitimacy, responsiveness, and effectiveness of this office—applies equally to extending representation in the national government to the nearly five million citizens who reside in non-state areas.

Given the view that the President and members of Congress represent the whole People of the United States and not simply the residents of each State, every U.S. citizen should be able to fully participate in the national government, no matter where that citizen happens to live.

B. Constitutional Trend Toward Universal Adult Suffrage and Representation

Consistent with the principle that the national government represents the whole People of the United States and not just some portion thereof, the Constitution has already been amended numerous times to expand participation in our democracy and provide for more direct accountability to the People. The idea of "We the People" has not been static in the history of our constitutional republic. Since the founding of our nation, the idea of "We the People" has been expanded, both to include new groups and to provide expanded suffrage and representation to

38. *Id.* at 841 (Kennedy, J., concurring) (emphasis added).

39. U.S. CONST. amend. XVII.

40. *See, e.g.*, AKHIL REED AMAR, AMERICA'S CONSTITUTION: A BIOGRAPHY 412 (2005) (stating corruption was a major impetus in the reform towards direct election).

existing groups. This constitutional history and precedent strongly supports extending full voting rights and meaningful representation in the national government to citizens who reside in non-state areas.

Because citizenship and enfranchisement are not coextensive in our constitutional framework,[41] the extension of the franchise and the development of a "right to vote" have occurred piecemeal through the process of constitutional amendments. At the Founding, the right to vote was "limited essentially to property-owning, taxpaying white males over the age of twenty-one."[42] Today, there is universal adult suffrage. African-Americans were guaranteed the right to vote in 1870 with the ratification of the Fifteenth Amendment.[43] Women were extended the franchise in 1920 with the ratification of the Nineteenth Amendment.[44] And the voting age was lowered to eighteen in 1971 with the ratification of the Twenty-sixth Amendment.[45]

While a generic "right to vote" likely extends to the citizens who reside in non-state areas,[46] the right to vote has not been interpreted to mean a concomitant right to voting *representation* in the national government.[47] But the importance of providing citizens who reside in non-state areas with meaningful participation and representation in the national government was, at least in part, recognized by the ratification of the Twenty-third

41. *See, e.g.*, Bush v. Gore, 531 U.S. 98, 104 (2000) ("The individual citizen has no federal constitutional right to vote for electors for the President of the United States.").

42. Pamela S. Karlan, *Ballots and Bullets: The Exceptional History of the Right to Vote*, 71 U. CIN. L. REV. 1345, 1345 (2003). At the time, the right to vote for the House of Representatives—then the only federal popular election—was entirely dependent on the voting qualifications for state legislatures; thus, a federal right to vote turned on the right to vote afforded by state law. *Id.* at 1345 n.2.

43. U.S. CONST. amend. XV.

44. *Id.* amend. XIX.

45. *Id.* amend. XXVI.

46. These Amendments have been explicitly extended to U.S. Territories through Congressional legislation. *See, e.g.*, 48 U.S.C. § 1421(b) (1968) (expanding the protections afforded in the Bill of Rights to Guam); *but see* Segovia v. Bd. of Elec. Comm'rs, No. 15 C 10196, 2016 WL 4439947, at *11 (N.D. Ill. Aug. 23, 2016) (holding that the right to vote is not a "fundamental" right in so-called "unincorporated" Territories).

47. *See, e.g.*, Attorney Gen. of Guam v. United States, 738 F.2d 1017, 1019 (9th Cir. 1984) ("The right to vote in presidential elections under Article II inheres not in citizens but in states: citizens vote indirectly for the President by voting for state electors."); Adams v. Clinton, 90 F. Supp. 2d 35, 72 (D.D.C. 2000) (recognizing the "contradiction between the democratic ideals upon which this country was founded and the exclusion of District residents from congressional representation," but concluding that "it is the Constitution and judicial precedent that create the contradiction").

Amendment in 1961.[48] The Twenty-third Amendment extended participation in the Electoral College to residents of the District of Columbia at a level equal to what it would have if it were a State.[49] The significance of this Amendment for non-state areas cannot be understated. For the first time, the Constitution *explicitly* recognized that participation and representation in the national government was not inherently limited to the States—even in the Electoral College, one of the most state-centric elements of the original constitutional framework.

Building on the success of the Twenty-third Amendment, District residents made significant headway toward full representation in Congress through the proposed District of Columbia Voting Rights Amendment in the 1970s. This proposed amendment received the necessary two-thirds support in both the House and Senate in 1978, but it ultimately expired after obtaining ratification in only sixteen of the necessary thirty-eight state legislatures.[50] Nonetheless, the bipartisan approval the amendment received from Congress and the significant support it received from the States provides legitimacy to the idea of non-state representation in *both* the House and Senate.

There have also been efforts to build on the success of the Twenty-third Amendment to extend participation in the Electoral College to citizens who reside in U.S. Territories. In 1971 President Nixon appointed an advisory group to consider this issue and provide recommendations to the President.[51] The advisory group recommended that participation in the Electoral College should be extended to citizens residing in U.S. Territories, and concluded that "place of residence should not be the basis for denying any qualified citizen his right to vote for the two Federal officials who represent us all, not just a portion of this citizenry."[52] Despite the advisory group's recommendations, no action was taken by Congress.

While efforts to provide expanded representation to citizens residing in non-state areas have thus far not been successful, full

48. U.S. CONST. amend. XXIII.

49. *Id.*

50. Boyd, *supra* note 15.

51. SCRIBNER, JR., *supra* note 22, at iii.

52. *Id.* at 1. Although the report most directly considered Puerto Rico, the separate views of Senator Henry M. Jackson emphasized that representation should be extended to all territories, not just Puerto Rico. *Id.* at 13.

participation in federal elections has been secured for citizens who reside *outside* of the United States altogether. The Uniformed Overseas Citizens Absentee Voting Act (UOCAVA) was enacted in 1986 to guarantee that U.S. citizens temporarily or permanently residing overseas in foreign countries or *certain* U.S. Territories are permitted to participate in federal elections in their former place of residence.[53] Each year thousands of U.S. citizens who permanently live outside the fifty states cast votes for President, Senators, and voting Representatives, even as most of the nearly five million citizens who live in non-state areas are denied such representation.[54] The recognition in UOCAVA that citizens who no longer reside in one of the fifty states should nonetheless be able to vote for President and voting representatives in Congress provides additional support to the idea that all Americans, *no matter where they live*, should be able to vote for President and have full representation in Congress.

In addition to expanding suffrage, the Constitution has also been amended to eliminate economic barriers to electoral participation.[55] While property and taxpaying requirements as well as pauper exclusions were common during the nation's early history,[56] economic barriers to electoral participation have since

53. 42 U.S.C. § 1973(ff) (1986) (*transferred to* 52 U.S.C. § 20301 (2016)). *See generally* Kevin J. Coleman, *The Uniformed and Overseas Citizens Absentee Voting Act: Background and Issues*, CONG. RES. SERVICE, *available at* http://fpc.state.gov/documents/organization/22715.pdf (updated Jan. 30, 2003) (stating that "[m]embers of the military and U.S. citizens who live abroad are eligible to register and vote absentee in federal elections under the provisions of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986").

54. Indeed, UOCAVA and similar state laws actually do permit former state residents residing in *certain* U.S. Territories (the Northern Mariana Islands, among others), to continue voting for President by absentee ballot. The Author is counsel in ongoing litigation challenging this discriminatory treatment on equal protection grounds. *See* Segovia v. Bd. of Elec. Comm'rs, No. 15 C 10196, 2016 WL 4439947, at *4 (N.D. Ill. Aug. 23, 2016) (challenge by residents of Puerto Rico, Guam, and the U.S. Virgin Islands who would be able to vote for President by absentee ballot if they had moved instead to the Northern Mariana Islands, American Samoa, or a foreign country); *but see* Romeau v. Cohen, 265 F.3d 118, 125 (2d Cir. 2001) (stating that citizens who move from a state to Puerto Rico are not guaranteed a right to vote in former state's federal election under UOCAVA); Igartúa de la Rosa v. United States, 32 F.3d 8, 10 (1st Cir. 1994) (per curiam) (*Igartúa de la Rosa I*) (stating that UOCAVA does not apply to citizens who move from one jurisdiction to another within the United States).

55. U.S. CONST. amend. XXIV.

56. ALEXANDER KEYSSAR, THE RIGHT TO VOTE: THE CONTESTED HISTORY OF DEMOCRACY IN THE UNITED STATES 8–21 (2000). During the period of 1790–1855, taxation related voting qualifications were at one time or another the law in sixteen of thirty-one states. *Id.* at app., tbl.A.2. Ten of these also had property qualifications, and another two

been eliminated. The conceptual basis for these requirements—that only those who shared the burdens of the state ought to have a voice in its governance—has been replaced with the more democratic vision of universal adult suffrage. This shift was constitutionalized in 1964 by the Twenty-fourth Amendment, which provided that the right to vote in federal elections "shall not be denied or abridged . . . by reason of failure to pay any poll tax or other tax."[57] Shortly after this Amendment, the Supreme Court ruled in *Harper v. Virginia Board of Elections*[58] that poll tax qualifications in state elections were also unconstitutional.[59] The Court found that "[t]o introduce wealth or payment of a fee as a measure of a voter's qualifications is to introduce a capricious or irrelevant factor."[60] Even the dissent recognized that while "[p]roperty qualifications and poll taxes have been a traditional part of our political structure" these requirements "very simply, are not in accord with current egalitarian notions of how a modern democracy should be organized."[61] The dissent also recognized that the reason so many states had abolished property and poll tax requirements that existed during the nation's early history was that "[o]ver the years . . . popular theories of political representation had changed."[62] Thus, while contribution to the federal or state treasury was originally viewed as a necessary responsibility of citizenship, under the theory of political representation reflected in our Constitution today, taxation has no bearing on voting rights or representation.[63]

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states had property qualifications but no taxation qualification. *Id.* From 1790–1920, a pauper exclusion to voting was the law at one time or another in twelve of forty-eight states. *Id.* at app., tbl.A.6.

57. U.S. CONST. amend. XXIV.

58. 383 U.S. 663 (1966).

59. *Id.* at 670 (overruling Breedlove v. Suttles, 302 U.S. 277 (1937), which upheld a poll tax qualification as constitutional).

60. *Id.* at 668.

61. *Id.* at 684, 686 (Harlan, J., dissenting).

62. *Id.* at 684.

63. Citizens in the Territories pay most forms of federal taxation, with the significant exception of federal income tax. STEVEN MAGUIRE, FEDERAL TAXES AND THE U.S. POSSESSIONS: AN OVERVIEW, CRS REP. RL32708, at 2 (2008) ("[R]esidents of the possessions are generally exempt from federal taxes, but one cannot automatically conclude that residents of the possessions are taxed more or less favorably than residents of the 50 states and the District of Columbia."). For example, in 2015 alone, residents of Puerto Rico paid more than $3.5 billion in federal taxes. INTERNAL REVENUE SERV., DATA BOOK, 2015 Pub. 55B, at 12 (Mar. 2016), *available at* https://www.irs.gov/pub/irs-soi/15databk.pdf. At the same time, the federal benefits received by residents of the Territories are greatly reduced compared to what they would be if they lived in a State. As

C. Federal Courts Speak to the Importance of Voting Rights and Representation

The Supreme Court and lower federal courts have also recognized the significance of the right to vote and the importance of federal representation in our constitutional Republic. The Supreme Court has called the right to vote "a fundamental political right [that is] preservative of all rights."[64] Quoting Alexander Hamilton,[65] the Court stated that "[a] fundamental principle of our representative democracy is . . . 'that the people should choose whom they please to govern them.'"[66] In *Wesberry v. Sanders*,[67] the Court presented its view on the importance of popular representation in the national government:

> No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined. Our Constitution leaves no room for classification of people in a way that unnecessarily abridges this right.[68]

Addressing the threat to democracy posed by disenfranchisement, the Court in *Kramer v. Union Free School District No. 15*[69] explained:

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a result, territorial residents would likely end up in a better financial position in the aggregate if they were simply treated the same as state residents for purposes of federal benefits and taxation. *See* U.S. GOV'T ACCOUNTABILITY OFFICE, PUERTO RICO: INFORMATION ON HOW STATEHOOD WOULD POTENTIALLY AFFECT SELECTED FEDERAL PROGRAMS AND REVENUE SOURCES (Mar. 2014), *available at* http://www.gao.gov/assets/670/661334.pdf (finding that increased federal spending in Puerto Rico would likely eclipse increased federal taxation); JOINT COMM. ON TAXATION, AN OVERVIEW OF THE SPECIAL TAX RULES RELATED TO PUERTO RICO AND AN ANALYSIS OF THE TAX AND ECONOMIC POLICY IMPLICATIONS OF RECENT LEGISLATIVE OPTIONS, JCX-24-06 (2006) (finding that increased federal spending would allow Puerto Rico to decrease its own spending and maintain a more balanced budget). As these findings rest on multiple assumptions, more study of the complex interplay between federal taxes and federal benefits in the Territories is warranted.

64. Yick Wo v. Hopkins, 118 U.S. 356, 370 (1886).

65. Hamilton spent much of his childhood in the Caribbean island of St. Croix, then a Danish colony but now a part of the U.S. Virgin Islands. RON CHERNOW, ALEXANDER HAMILTON 7–40 (2004).

66. Powell v. McCormack, 395 U.S. 486, 547 (1969) (internal citation omitted).

67. 376 U.S. 1 (1964).

68. *Id.* at 17–18.

69. 395 U.S. 621 (1969).

> Any unjustified discrimination in determining who may participate in political affairs or in the selection of public officials undermines the legitimacy of representative government. . . . Statutes granting the franchise to residents on a selective basis always pose the danger of denying some citizens any effective voice in the governmental affairs which substantially affect their lives.[70]

While the specific holdings of these decisions may not create any obligation to extend representation to citizens who reside in non-state areas,[71] as a policy matter their reasoning and logic fully support the extension of federal representation to these citizens, who are subject to the full application of federal law.

Lower court judges have expressed concern about the lack of representation for Americans living in non-state areas, even as they have consistently denied legal claims by citizens in non-state areas seeking federal representation. First Circuit Judge Kermit Lipez wrote in a 2010 concurring opinion in *Igartúa de la Rosa v. United States (Igartúa IV)*[72] that "the issue of federal voting rights for [the four million] United States citizens [who reside in Puerto Rico] remains a compelling legal problem. The unequal distribution of the fundamental privilege of voting among different categories of citizens is deeply troubling . . . ."[73] Dissenting in part, Judge Juan Torruella recognized that "the political inequality that exists within the body politic of the United States, as regards the *four million citizens of this Nation* who reside in Puerto Rico . . . is a fundamental constitutional question that will not go away."[74] In *Adams*—where a divided three-judge panel denied requests by residents of the District of Columbia for representation in the U.S. House of

70. *Id.* at 626–27.

71. *See* Igartúa de la Rosa v. United States (*Igartúa II*), 229 F.3d 80, 85 (1st Cir. 2000) (Torruella, J., concurring) ("[T]he Constitution does not guarantee United States citizens residing in Puerto Rico the right to vote in the national Presidential election."); *see also* Ballentine v. United States, 486 F.3d 806, 811 (3d Cir. 2007) ("[C]itizens choosing to reside within [U.S. Virgin Islands] borders are not entitled to vote for electors even if they are denied a role in the selection of the President and Vice-President."); Attorney Gen. of Guam v. United States, 738 F.2d 1017, 1019 (9th Cir. 1984) ("Since Guam concededly is not a state, it can have no electors, and plaintiffs cannot exercise individual votes in a presidential election."); Adams v. Clinton, 90 F. Supp. 2d 35, 45–46 (D.D.C. 2000) ("[R]esidents of United States territories are not entitled to vote in federal elections, notwithstanding that they are United States citizens.").

72. 626 F.3d 592 (1st Cir. 2010).

73. *Id.* at 606 (Lipez, J., concurring).

74. *Id.* at 612 (Torruella, J., concurring in part and dissenting in part).

Representatives—the majority observed that "many courts have found a contradiction between the democratic ideals upon which this country was founded and the exclusion of District residents from congressional representation."[75] The majority noted that it was "not blind to the inequity of the situation plaintiffs seek to change," quoting Justice Marshall's statement in *Loughborough v. Blake*[76] that "it might be more congenial to the spirit of our institutions to admit a representative from the district."[77] In *Romeu v. Cohen*[78]—where the Second Circuit denied a claim brought by a citizen residing in Puerto Rico arguing that under UOCAVA he should be able to continue voting in federal elections in his former state of residence—Judge Pierre Leval recognized "problems of fairness, resentment, and impaired reputation in the community of nations"[79] stemming from the continued disenfranchisement of citizens residing in U.S. Territories, while Judge John Walker expressed concern "that the U.S. citizens residing in the territories are not being afforded a meaningful voice in national governance."[80] Beyond expressing concern over continued disenfranchisement in non-state areas, these views expressed by lower court judges also recognize that either Statehood or an amendment to the Constitution are the only available solutions to the "fundamental Constitutional question" facing citizens who reside in non-state areas.[81]

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75. *Adams*, 90 F. Supp. 2d at 72. Indeed, Judge Louis Oberdorfer, dissenting, believed that "the denial of the right to vote for voting representation in the legislature with exclusive authority over the District" is so inconsistent with "the democratic principles reflected in the structure of the government created pursuant to the Constitution" that he would have found the residents of the District entitled to representation in the House. *Id.* at 97 (Oberdorfer, J., concurring in part and dissenting in part).

76. 18 U.S. 317 (1820).

77. *Adams*, 90 F. Supp. 2d at 55, 72 (quoting *Loughborough*, 18 U.S. at 324–35).

78. 265 F.3d 118 (2d Cir. 2001).

79. *Id.* at 128.

80. *Id.* at 136 (Walker, C.J., concurring).

81. Igartúa de la Rosa v. United States (*Igartúa IV*), 626 F.3d 592, 612 (1st Cir. 2010) (Torruella, J., concurring in part and dissenting in part). *See also id.* at 597 (majority opinion) (recognizing that "[t]here has been no amendment that would permit the residents of Puerto Rico to vote for Representatives to the U.S. House of Representatives"); *Adams*, 90 F. Supp. 2d at 72 n.75 (citing *Representation for the District of Columbia: Hearings Before the Subcomm. on Civil and Constitutional Rights of the Comm. on the Judiciary*, 95th Cong. 131 (1978) (statement of Patricia M. Wald, Assistant Attorney General)) (agreeing that a "constitutional amendment is necessary" to provide the District with voting representation); *but see Romeu*, 265 F.3d at 128, 130 (stating that the assumption "that U.S. citizens residing in Puerto Rico cannot be given a vote in the presidential election without either making Puerto Rico a State, or amending the

The reasoning and logic of these judicial statements provide even further support for a political solution that provides representation and voting rights to citizens who reside in non-state areas.

D. Equal in War, Equal in Peace: Democratic Expansion During Periods of War

Historically, expansions of voting rights and representation in the national government have often been associated with the service of disenfranchised groups in America's wars and armed conflicts. The enfranchisement of African-Americans following the Civil War was endorsed by President Lincoln "on the basis of intelligence and military service," and General William Tecumseh Sherman's observation that "when the fight is over, the hand that drops the musket cannot be denied the ballot."[82] Passage of the Nineteenth Amendment was even more directly linked to military service. In a turning point in the women's suffrage movement, President Woodrow Wilson announced his support of the Amendment "as a war measure," since World War I "could not have been fought . . . if it had not been for the services of women."[83] Scholars have argued that the "white primary" was a judicial casualty of World War II,[84] as the Court was influenced by "the common sacrifices of wartime."[85] The Twenty-sixth Amendment, extending the franchise to eighteen to twenty-one-year-olds, was also linked to the wartime service of young Americans. As President Eisenhower expressed in 1952, "[i]f a man is old enough to fight he is old enough to vote."[86] The

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Constitution . . . may be only partially correct," and proposing that "Congress might permit every voting citizen residing in a territory to vote for the office of President by requiring every State that chooses its electors by popular vote (which all States do) to include in that State's popular vote the State's pro rata share of the votes cast by U.S. citizens in the territories").

82. Karlan, *supra* note 42, at 1349 (citations omitted). In a letter to General Wadsworth, President Lincoln recognized that "the colored race . . . who had so heroically vindicated their manhood on the battle-field, where, in assisting to save the life of the republic, . . . have demonstrated in blood their right to the ballot, which is but the humane protection of the flag they have so fearlessly defended." BENJAMIN QUARLES, LINCOLN AND THE NEGRO 186 (1991).

83. KEYSSAR, *supra* note 56, at 216–17.

84. Karlan, *supra* note 42, at 1355–56.

85. *Id.* at 1356 (citing PHILIP A. KLINKNER & ROGERS M. SMITH, THE UNSTEADY MARCH: THE RISE AND DECLINE OF RACIAL EQUALITY IN AMERICA 193 (1999)).

86. *Id.* at 1359 (footnotes omitted); KEYSSAR, *supra* note 56, at 278.

Supreme Court in *Oregon v. Mitchell*,[87] in recognizing Congress's power to extend the right to vote to eighteen-year-olds through simple statute, commented on the "large stake" these citizens had in modern elections "whether in times of war or peace."[88] Final ratification of the Amendment occurred while tens of thousands of eighteen to twenty-one-year-olds were serving their country in Vietnam.

Americans who reside in non-state areas have a long history of distinguished military service. Yet the same people who have sacrificed so much defending democracy overseas are denied full democratic participation at home. Soldiers from the Territories cannot even vote for their Commander-in-Chief. So while these military service members must follow the orders of the President and live with the decisions made by Congress when it comes to the resources allocated to veterans, they have no say in electing the officials who make those decisions.

Today there are nearly thirty thousand active duty military personnel whose home of record is a Territory or the District of Columbia.[89] Over one-hundred and fifty thousand veterans call these areas home.[90] During the course of Operation Iraqi Freedom and Operation Enduring Freedom, more than twenty-two thousand soldiers from non-state areas were deployed to Iraq and Afghanistan, with casualty rates in the smaller territories ranging from three times the national average in the U.S. Virgin Islands to more than seven times in American Samoa.[91] All told, nearly one hundred service members from the Territories and the District paid the ultimate sacrifice during these conflicts.[92] In the Korean War, 959 members of the armed forces from non-state

87. 400 U.S. 112 (1970).

88. *Id.* at 144.

89. Office of Public Affairs Media Relations, *State Summary: District of Columbia*, DEP'T OF VETERANS AFF. (Sept. 30, 2014), http://www.va.gov/vetdata/docs/SpecialReports/State_Summaries_District_of_Columbia.pdf.

90. *Veterans Statistics*, U.S. CENSUS BUREAU (Nov. 11, 2015), *available at* http://www.census.gov/library/visualizations/2015/comm/veterans-statistics.html.

91. *See* Kirsten Scharnberg, *Young Samoans Have Little Choice but to Enlist*, HONOLULU ADVERTISER (Mar. 21, 2007), http://the.honoluluadvertiser.com/article/2007/Mar/21/ln/FP703210396.html (discussing the historical relationship between the military and young Samoans and their willingness to join the military).

92. *See* Office of Insular Affairs, *Island Military Heroes*, U.S. DEP'T OF THE INTERIOR, http://www.doi.gov/oia/islanders_in_the_military/heroes (last visited Feb. 10, 2017) (listing the names of soldiers lost in the different combat theaters).

areas died serving their country.[93] In Vietnam, 676 lost their lives.[94] Puerto Rican service members have been awarded the Congressional Medal of Honor on nine separate occasions,[95] and in 2016, Congress presented a Congressional Gold Medal to honor the Puerto Rico-based 65th Infantry Regiment, known as the Borinqueneers, "for its pioneering military service, devotion to duty, and many acts of valor in the face of adversity."[96]

Despite this distinguished record of sacrifice, veterans' services in the Territories often fall far below that provided in the rest of the United States. For example, as investigative journalist Maria Hinojosa discovered, while up to one in eight adults in Guam is a veteran, Guam ranks dead last when it comes to per capita spending on medical care for veterans.[97] For many common problems, like Post Traumatic Stress Disorder, the closest full-service treatment is nearly four thousand miles away.[98]

These patriotic Americans have sacrificed greatly to defend American Democracy. It is past time they are able to be full participants in the voting booth the way they have been on the battlefield.

E. The Law of Nations in the Twenty-First Century

Today, the Law of Nations supports the extension of meaningful representation in the national government for residents of non-state areas, just as the Law of Nations as it

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93. *See State-Level Fatal Casualty Lists for the Korean War*, U.S. NAT'L ARCHIVES & REC. ADMIN., http://www.archives.gov/research/military/Korean-war/casualty-lists/state-level-alpha.html (last visited Feb. 10, 2017) (listing casualties by State and Territory).

94. *See State-Level Fatal Casualty Lists for the Vietnam War*, U.S. NAT'L ARCHIVES & REC. ADMIN., http://www.archives.gov/research/military/Vietnam-war/casualty-lists/state-level-alpha.html (last visited Feb. 10, 2017) (listing casualties by State and Territory).

95. For a list of the original five Puerto Rican recipients of the Medal of Honor, see *Puerto Rican Medal of Honor Recipients*, GENI, https://www.geni.com/projects/Medal-of-Honor-recipients-Puerto-Rican/5002 (last visited Feb. 10, 2017). For the remaining four recent recipients, see *Medal of Honor Awards to Puerto Rican Soldiers*, PUERTO RICO REP. (Feb. 21, 2014), http://www.puertoricoreport.com/medal-of-honor-awards-to-puerto-rican-soldiers/#.WEcHq03FB9M.

96. Office of the Speaker of the House, Press Release, *Gold Medal Ceremony: Congress to Honor 65th Infantry Regiment, the Borinqueneers* (Mar. 18, 2016), http://www.speaker.gov/press-release/gold-medal-ceremony-congress-honor-65th-infantry-regiment-borinqueneers.

97. *America by the Numbers: Island of Warriors* 03:00–03:09 (PBS television broadcast Oct. 11, 2014), *available at* http://www.pbs.org/wgbh/america-by-the-numbers/episodes/episode-102/.

98. *Id.* at 14:00–16:58.

existed in the late nineteenth century was used as a justification for the acquisition and governance of overseas territories by the United States without representation.[99] The International Covenant on Civil and Political Rights (ICCPR), which the United States ratified in 1992, recognized that "[e]very citizen shall have the right and the opportunity . . . (a) [t]o take part in the conduct of public affairs, directly or through freely chosen representatives; (b) [t]o vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage."[100]

The United States has been subject to substantial international pressure as a result of the democratic deficit that exists in its non-state areas.[101] While federal courts have held that none of the treaties the United States has ratified create an individual cause of action for citizens who reside in non-state areas,[102] the democratic values set forth therein are nonetheless principles of customary international law that the United States has adopted. A constitutional amendment expanding the right to

99. As Justice White explained in *Downes v. Bidwell*, the most prominent of the *Insular Cases*, "[t]he general principle of the law of nations . . . is that acquired territory, in the absence of agreement to the contrary, will bear such relation to the acquiring government as may be by it determined." 182 U.S. 244, 306 (1901).

100. International Covenant on Civil and Political Rights, art. 25 (Dec. 16, 1966), 999 U.N.T.S. 171.

101. *See, e.g.*, Statehood Solidarity Comm. v. United States, Case 11.204, Inter-Am Comm'n Report No. 98/03, OEA/Ser./L/V/II.114, doc. 70 rev. ¶ 109 (2003) (on file with *Stetson Law Review*) (concluding that the United States "has failed to justify the denial to the [residents of D.C.] of effective representation in their federal government, and consequently that [they] have been denied an effective right to participate in their government, directly or through freely chosen representatives and in general conditions of equality, contrary to Articles XX and II of the American Declaration"); Mary Beth Sheridan, *International Body Backs Vote for D.C.*, WASH. POST at B08 (July 6, 2005), *available at* http://www.washingtonpost.com/wp-dyn/content/article/2005/07/05/AR2005070501943.html (reporting the recommendation of the Organization for Security and Cooperation in Europe that the United States provide full congressional representation to residents of the District of Columbia); Press Release, General Assembly, *Special Committee on Decolonization Adopts Text Calling on United States to Expedite Self-Determination Process for Puerto Rican People*, UNITED NATIONS GA/COL/317296 (June 9, 2008), *available at* https://www.un.org/press/en/2008/gacol3176.doc.htm.

102. *See, e.g.*, Sosa v. Alvarez-Machain, 542 U.S. 692, 728 (2004) ("[T]he Senate has expressly declined to give the federal courts the task of interpreting and applying . . . [ICCPR]" because the Senate declared its substantive provisions "were not self-executing."); *see also* Ballentine v. United States, 486 F.3d 806, 815 (3d Cir. 2007) (concluding the court "lacks jurisdiction over any ICCPR claim, as beyond the province of the federal judiciary"); Igartúa de la Rosa v. United States (*Igartúa III*), 417 F.3d 145, 148 (1st Cir. 2005) ("No treaty claim, even if entertained, would permit a court to order that the electoral college be enlarged or reapportioned.").

vote in non-state areas would fully satisfy the United States' democratic commitments under international law.[103]

In sum, the understanding that federal elected officials represent the whole People of the United States; the constitutional trend towards universal suffrage and representation; the recognition by the Supreme Court that voting is a fundamental right; the distinguished record of military service and sacrifice from citizens who reside in non-state areas; and America's commitments to voting rights and representation under international law all support amending the Constitution to embrace U.S. citizens living in non-state areas as full and equal members of the American political community.

III. A PROPOSAL TO AMEND THE CONSTITUTION

A constitutional amendment must achieve certain objectives in order to realize America's democratic principles in non-state areas. Americans who live in non-state areas, as part of the sovereign "We the People," must be granted participation and representation in *all* aspects of the national government: from electing the President, to selecting members of the House and Senate, to amending the Constitution. There are of course a number of ways in which a constitutional amendment may fulfill each of these goals. The proposal presented in this Article, provided in full in Appendix A, is one place from which to continue the discussion.[104]

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103. International law also protects the right to self-determination and indigenous rights in the Territories, areas where the United States also needs to make progress. *See, e.g.*, Declaration on the Granting of Independence to Colonial Countries and Peoples, U.N. General Assembly Resolution 1514 (XV) (Dec. 14, 1960) ("All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."); United Nations Declaration on the Rights of Indigenous Peoples, U.N. General Assembly Resolution (Sept. 17, 2007) (same); Principles Which Should Guide Members in Determining Whether or Not an Obligation Exists to Transmit the Information Called for Under Article 73e of the Charter, U.N. General Assembly Resolution 1541 (XV) (Dec. 15, 1960) ("Free association should be the result of a free and voluntary choice by the peoples of the territory concerned expressed through informed and democratic processes."); *see also* Jon M. Van Dyke, Carmen Di Amore-Siah & Gerald W. Berkley-Coats, *Self-Determination for Nonself-Governing Peoples and for Indigenous Peoples: The Cases of Guam and Hawai'i*, 18 U. HAW. L. REV. 623, 623–24 (1996) (discussing the self-governance and self-determination rights of indigenous people and those in nonself-governing territories under international law as "separate and distinct from the rights of colonized peoples").

104. For an example of another proposal of a voting rights amendment that would address certain voting rights issues in the Territories and the District, see Jamin Raskin,

A. Full Participation in Presidential Elections

> ***Section 1.*** *When the Number of Persons in a Territory of the United States shall exceed thirty Thousand inhabitants, that Territory shall appoint in such manner as Congress may direct:*
>
> *A number of electors of President and Vice President equal to the whole number of Representatives to the United States House of Representatives to which it would be entitled if it were a State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the Territory in which they were appointed and perform such duties as provided by the twelfth article of amendment.*
>
> *For purposes of choosing a President should no candidate for President receive a majority of the whole number of Electors appointed, the District constituting the seat of government of the United States together with the Territories of the United States shall be treated as though they were a State.*

Section 1 of the proposed amendment provides full participation in presidential elections for Americans who reside in non-state areas.[105] It provides Americans residing in U.S. Territories with a number of electors based upon how many Representatives the Territory would have if it were a State. This approach breaks from the approach taken by the Twenty-third Amendment, which provides the District of Columbia three

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Democratic Capital: A Voting Rights Surge in Washington Could Strengthen the Constitution for Everyone, 23 WM. & MARY BILL RTS. J. 47, 54–58 (2014) (proposing a "Comprehensive Democracy Amendment" that would provide the right to vote for President to residents of the Territories (but no congressional representation), and treat the District as a State for purposes of Senate and House representation, in addition to creating an express "right to vote," eliminating the "natural-born citizenship" requirement to run for President, and limiting the participation of corporations in the political process); *but see* Heather K. Gerken, *The Right to Vote: Is the Amendment Game Worth the Candle?*, 23 WM. & MARY BILL RTS. J. 11, 19 (2014) (dismissing that a broad right to vote amendment "is going to lend greater moral weight to the claims of U.S. citizens in the territories or D.C.").

105. The requirement in this section that a Territory have a population of thirty thousand, as in other sections, ensures that representation is extended to the five populated Territories, and not the largely uninhabited U.S. island possessions like Palmyra Atoll.

electors. The basis for the difference is that the population of the Territories is either very much smaller than the smallest State or very much larger. Providing three electors for small Territories like Guam or the U.S. Virgin Islands is hard to justify on the basis of proportional representation. Similarly, limiting Puerto Rico to just three electors would unfairly dilute the vote of its residents, since it has a population larger than almost half the States.[106] While it may be most consistent with democratic principles to eliminate the Electoral College altogether, absent support for that,[107] this approach gets the proportional representation about right.[108]

The second clause of section 1 allows non-state areas to participate in the selection of the President in the rare case that no candidate receives the majority of presidential electors. Under the Twelfth Amendment, if no candidate wins a majority, then the House of Representatives must choose the President, with the representation from each State casting a single vote regardless of population.[109] While this process clearly conflicts with any concept of proportional representation, the approach taken in the proposed amendment seeks to provide some notion of proportional representation and deference to states by treating

106. U.S. CENSUS BUREAU, *supra* note 1, at tbl. 1 & tbl. A. Using the 2010 Census numbers, Puerto Rico's estimated population of 3,725,789 would make Puerto Rico the twenty-ninth most populous state. *Id.*

107. Recognizing the difficulty of convincing three-quarters of the States to eliminate the Electoral College, one novel approach has been the National Popular Vote Plan, which would effectively substitute a national popular vote through an interstate compact. *See* JOHN R. KOZA ET AL., EVERY VOTE EQUAL: A STATE-BASED PLAN FOR ELECTING THE PRESIDENT BY NATIONAL POPULAR VOTE 255 (2013) (proposing to reform the presidential election process without constitutional amendment). The plan has been "enacted by 11 jurisdictions possessing 165 electoral votes—61% of the 270 electoral votes necessary to activate it." *Agreement Among the States to Elect the President by National Popular Vote*, NAT'L POPULAR VOTE, http://www.nationalpopularvote.com/written-explanation (last visited Feb. 10, 2017). Unfortunately, this proposal as currently drafted does not include residents of the Territories as part of the national popular vote, so even if activated, it would not extend a right to vote for President to these Americans.

108. Wyoming has the smallest number of people per presidential elector with approximately 189,433 people per elector, slightly more than the current population of Guam. *2012–2020 Federal Representation by People per House Seat, Senate Seat, and Electors*, GREEN PAPERS (last modified Jan. 5, 2011), http://www.thegreenpapers.com/Census10/FedRep.phtml. Seven states and the District of Columbia have fewer than 300,000 people per elector; California has the highest ratio with approximately 678,945 people per elector. *Id.*

109. This procedure has only been used once in American history, deciding the 1825 presidential election. Scott Bomboy, *Looking Back at the Last Presidential Election Settled by the House*, NAT'L CONST. CENTER (Feb. 11, 2015), http://blog.constitutioncenter.org/2015/02/the-day-that-the-12th-amendment-worked/.

all of the non-state areas together as a whole.[110] So, under this proposal, each of the fifty states would have one vote, and the non-state areas, together, would have one vote. This provision is justified since citizens who reside in non-state areas, as part of "We the People," should participate in the selection of the President at every level. To limit the ultimate selection of the President in the House by excluding the participation of non-state areas conflicts with the principle that the President represents all Americans, not just Americans who reside in the States.

B. Representation in the House of Representatives

> ***Section 2.*** *For purposes of representation in the United States House of Representatives, the District constituting the seat of government of the United States and, separately, each Territory of the United States with a population of thirty Thousand inhabitants, shall be treated as though it was a State.*

Representation in the House of Representatives for Americans who reside in non-state areas is provided for in section 2 of the proposed amendment. For purposes of this section, each of the non-state jurisdictions are treated as though it were a State, meaning that small Territories and the District of Columbia would each receive one voting Representative, and Puerto Rico would receive five or six Representatives.[111] While the Representatives in the smaller Territories would each represent substantially fewer Americans than even the smallest existing congressional district,[112] this difference is small, for example, when compared with the differences in representation that already exist in the Senate between large states and small states.[113]

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110. The population of the non-state areas considered together, 4.7 million, is higher than twenty-eight States. U.S. CENSUS BUREAU, *supra* note 1, at tbl. 1 & tbl. A.

111. *See, e.g.*, José R. Coleman Tió, *Six Puerto Rican Congressmen Go to Washington*, 116 YALE L.J. 1389, 1390–93 (2007) (arguing the legal reasoning of the District of Columbia House Voting Rights Act of 2007 (H.R. 1433) would support granting Puerto Rico up to six Representatives).

112. Rhode Island's Congressional District 2 is the smallest district with 523,741 people; Montana's At-Large district is the largest with 1,032,949. *My Congressional District*, U.S. CENSUS BUREAU, https://www.census.gov/mycd/ (last visited Feb. 10, 2017).

113. In California, each Senator represents over eighteen million people, while in Wyoming each Senator represents only around 280,000 people, for a ratio of 66:1. *2012–*

C. Representation in the Senate

> ***Section 3.*** *For purposes of representation in the United States Senate, the District constituting the seat of government of the United States and, considered together, the Territories of the United States, shall each be entitled to one Senator, who shall have the same rights, duties and qualifications as Senators elected by a State.*

In order for representation in Congress to be meaningful, residents of non-state areas must also have representation in the Senate. Section 3 of the proposed amendment provides the residents of the Territories, considered together, one Senator, and the residents of the District of Columbia one Senator. Increasing the size of the Senate by just two to provide representation for non-state areas attempts to balance the competing democratic values of proportional representation and the goal of providing diverse communities with their own representation. Under this approach, the number of people represented by each Senator will be on par with the number of people per Senator in many, if not most, of the States.[114] And while it may be ideal for representational purposes to provide each political jurisdiction with its own Senator, the Territories, as island communities, do share many common geographic, economic, and even cultural similarities and interests. The geographic distances between Territories would surely pose some challenges, but these challenges are not insuperable given today's modern travel and communications. Indeed, the examples of large states like Texas, Alaska, or Hawaii demonstrate it is possible to address the challenges of representing diverse, far-flung communities.

The Senator representing the Territories would likely be from Puerto Rico, given its large population. But because Puerto Rican elections are historically very close,[115] candidates would

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2020 Federal Representation by People per House Seat, Senate Seat, and Electors, *supra* note 108.

114. In the District of Columbia there would be over six-hundred thousand people per senator, a ratio greater than eight States: Alaska, Delaware, Montana, North Dakota, Rhode Island, South Dakota, Vermont, and Wyoming. *Id.* In the territories, there would be approximately 4.1 million people per senator, a ratio greater than all but the eleven largest States: California, Florida, Georgia, Illinois, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Texas. *Id.*

115. For example, the top two congressional candidates in Puerto Rico's 2016 election were separated by just 1.5%. *The Green Papers: Puerto Rico 2016 General Election*, GREEN

need to compete for votes in other Territories if they hope to prevail, meaning whoever is elected is likely to be responsive to the interests of the other Territories. Sharing a single Senator might also help foster more of a sense of a united delegation among the various Territories, resulting in greater opportunities for coordination and amplification of political power as occurs in each of the state congressional delegations.

Representation in the Senate is essential because the Senate serves a unique constitutional role for many purposes. The Senate alone may ratify treaties.[116] It is also the role of the Senate to provide advice and consent to the appointment of federal judges, ambassadors, and all other "Officers of the United States."[117] The Senate also has sole responsibility to try the impeachment of the President, federal judges, and all federal officers.[118] Finally, the Senate chooses the Vice President in the event no candidate receives a majority of the electoral votes.[119]

Furthermore, since all legislation must originate in both the House and the Senate, a lack of representation in one chamber of Congress dramatically diminishes the ability of a jurisdiction to promote its legislative agenda and protect its interests. When it comes to the appropriations process, jurisdictions that lack representation in both chambers are put at great disadvantage since items that appear in only one version of a bill may be the most likely to be cut. Thus, absent representation in the Senate, the citizens of non-state areas will be substantially excluded from major decisions that impact their lives.

PAPERS, http://www.thegreenpapers.com/G16/PR (last updated Jan. 27, 2017, 01:27:59 AM EST). In 2012 it was less than 1.2%. *The Green Papers: Puerto Rico 2012 General Election*, GREEN PAPERS, http://www.thegreenpapers.com/G12/PR (last updated Dec. 8, 2012, 01:29:23 PM EST).

116. U.S. CONST. art. II, § 2, cl. 2. The President makes treaties, but needs two-thirds approval by the Senate. *Id.*

117. *Id.* Significantly, federal criminal law fully applies in the Territories, despite a lack of democratic accountability in the making of those laws or in selecting the federal prosecutors and judges who send territorial residents to jail, sometimes for life. In 2012, the most recent year for available statistics, more than 2,100 individuals were prosecuted for federal crimes in the Territories, with more than 1,500 receiving a criminal sentence. Lauren E. Glaze & Erinn J. Herberman, *Correctional Populations in the United States, 2012*, BUREAU OF JUST. STAT. (Dec. 19 2013), *available at* http://www.bjs.gov/index.cfm?ty=pbdetail&iid=4843.

118. U.S. CONST. art. I, § 3, cl. 6.

119. U.S. CONST. amend. XII.

Senate representation is also particularly important for the non-state areas because Congress has plenary power to legislate in these jurisdictions, subject only to the limitations of the Constitution.[120] This places non-state areas at a greater risk of tyranny of the majority than the fifty states, which have the added protection of federalism. The Senate serves an important function of protecting the interests of the minority against the excesses of the majority since the Senate's open procedural rules and tradition of unlimited debate gives individual Senators great power to obstruct legislation they view to be contrary to the interests of their constituency.[121] Because most pieces of legislation rely on unanimous consent to reach the Senate floor, a single Senator has the power to effectively delay or even kill legislation by placing a "hold" on a bill.[122] This powerful tool may serve as a shield for a Senator to protect his or her jurisdiction from unfavorable legislation or as a sword to elicit concessions. Senate rules also allow Senators to use the legislative amendment process to try and delay legislation once it reaches the floor or include an unfavorable "poison pills" amendment that might ensure a bill's defeat. The final weapon in a Senator's arsenal is the filibuster, which, because of the Senate's tradition of unlimited debate, allows an individual Senator to delay legislation so long as he or she can keep talking, subject only to a vote of cloture, which requires the support of three-fifths of the Senate.[123] Thus, a Senator representing the District of Columbia or the Territories would have a broad array of procedural tools to serve as a check against Congress using its plenary authority in a manner detrimental to the interests of the citizens who reside in these areas. Indeed, Senate representation may be *the key* to

120. The Supreme Court has recently stated that "[t]he Constitution grants Congress and the President the power to acquire, dispose of, and govern territory, not the power to decide when and where its terms apply." Boumediene v. Bush, 553 U.S. 723, 765 (2008). However, lower courts continue to rely on the controversial *Insular Cases* to rule that Congress may define for itself its own constitutional limitations in so-called "unincorporated territories." *See* Tuaua v. United States, 788 F.3d 300, 306–07 (D.C. Cir. 2015) (upholding Congress' power to restrict the application of the Citizenship Clause in American Samoa).

121. *See generally* GREGORY J. WAWRO & ERIC SCHICKLER, FILIBUSTER: OBSTRUCTION AND LAWMAKING IN THE U.S. SENATE (2006); SARAH A. BINDER & STEVEN S. SMITH, POLITICS OR PRINCIPLE, FILIBUSTERING IN THE UNITED STATES SENATE (1996).

122. BINDER & SMITH, *supra* note 121, at 11–12.

123. *Filibuster and Cloture*, UNITED STATES SENATE, http://www.senate.gov/artandhistory/history/common/briefing/Filibuster_Cloture.htm (last visited Feb. 10, 2017).

creating more meaningful autonomy in non-state areas. In this way, the fact that the District of Columbia and the Territories do not enjoy the protection of federalism that comes with being a state actually weighs *in favor* of providing the important political safeguard of Senatorial representation to these jurisdictions.[124]

D. Participation in the Article V Amendment Process

> ***Section 4.*** *For purposes of Article V of the Constitution, the District constituting the seat of government of the United States together with the Territories of the United States shall be treated as though they were a State.*

The Article V amendment process serves as a procedural surrogate for the popular sovereignty of "We the People."[125] Thus, Americans who reside in non-state areas, like their state-residing counterparts, should have a role in the ratification process of Constitutional amendments. The alternative is that millions of Americans who reside in non-state areas would be altogether excluded from the ratification process—even as they would most assuredly be bound by its results. And yet, their representatives in Congress would still be able to propose amendments and vote on them in Congress. This odd disjuncture of participation in the amendment process is avoided in the proposed amendment by extending to the non-state areas a single vote for Article V ratification purposes. By providing non-state areas with one vote total, rather than providing each jurisdiction with a separate vote, the principle of proportional representation is more closely met, protecting the relative power of each State. For logistical reasons, amendment ratification in non-state areas will need to proceed by Convention, because there is no single "Legislature" that represents all of the non-state areas. Because Article V currently leaves the mode of ratification up to Congress, there is no need to provide otherwise here.

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124. *See* Herbert Wechsler, *The Political Safeguards of Federalism: The Role of the States in the Composition and Selection of the National Government*, 54 COLUM. L. REV. 543, 546–47 (1954) (explaining the Senate's role in protecting the interests of states that are a part of the minority in the House of Representatives).

125. Robert Post, *Democracy, Popular Sovereignty, and Judicial Review*, 86 CAL. L. REV. 429, 437 (1998).

E. Implementation Provisions

> ***Section 5.*** *The Congress shall have power to enforce this article by appropriate legislation.*

The final section of the proposed amendment simply gives Congress the power to provide any necessary implementing legislation for the amendment.

IV. EMERGING POLITICAL OPPORTUNITIES FOR AMENDING THE CONSTITUTION

While the recent history of constitutional amendments has been sparse—the last ratified amendment was 1992, and before that 1971—there are actually reasons to be optimistic about the emerging political opportunities associated with a voting rights amendment to extend full representation to the nearly five million Americans living in U.S. Territories and the District of Columbia. Historically, when the political stars have aligned, voting rights amendments have actually been added to the Constitution rather quickly. The Twenty-sixth Amendment, lowering the voting age to eighteen, was proposed on March 23, 1971 and ratified by the states just over three months later on July 1, 1971. The Twenty-third Amendment, extending the right to vote for President to residents of the District, was proposed and ratified in under ten months, becoming part of the Constitution on March 29, 1961. In fact, none of the voting rights amendments took more than two years to be ratified once proposed.

So what signs are there that the political stars may be aligning for extending voting rights to the nearly five million Americans living in non-state areas? Although not often recognized, residents of the Territories are actually swing voters, not committed to either party, making support of a voting rights amendment more attractive to Democrats and Republicans alike. This is critical, since expansions in voting rights and representation that overwhelming favor one party are unlikely to receive support from the other party.

Partisan perceptions have been a tremendous obstacle for the District of Columbia, which is overwhelmingly Democratic.[126] As 2016 Republican Presidential candidate John Kasich explained during an interview with the *Washington Post* editorial board on the question of congressional voting representation of the District, "What it really gets down to if you want to be honest is because they know that's just more votes in the Democratic Party."[127] On the other hand, the Territories actually have a rich history of voting across traditional party lines, and would truly constitute "swing votes" in every sense of the word. This political balance makes it more likely that bipartisan support may be found if non-state areas as a whole are the focus, rather than past proposals that would have just extended voting rights to just the District.

Looking at Puerto Rico, the largest non-state area, its residents—and its five million strong diaspora living in the States—have a history of voting for both Democrats and Republicans. Its recently elected Governor Ricardo Rosselló is a Democrat, while its recently elected Congresswoman Jenniffer González is a Republican.[128] Former Puerto Rico Governor Luis Fortuño was even considered a possibility for joining the Republican ticket in 2012 as Vice President.[129]

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126. Micah Cohen, *District of Columbia's Demographics Change, but Democratic Voting Doesn't*, N.Y. TIMES (July 4, 2012, 12:51 PM), *available at* http://fivethirtyeight.blogs.nytimes.com/2012/07/04/district-of-columbias-demographics-change-but-democratic-voting-doesnt/?_r=1.

127. Perry Stein, *Kasich on D.C. Voting Rights: 'That's Just More Votes in the Democratic Party'*, WASH. POST (Apr. 21, 2016), https://www.washingtonpost.com/news/local/wp/2016/04/21/kasich-on-d-c-voting-rights-thats-just-more-votes-in-the-democratic-party/.

128. Puerto Rican officials affiliate at a national level as Republicans or Democrats, but at the local level Puerto Rico's three major political parties are organized based on political status preference, with the Popular Democratic Party (PDP) supporting "Commonwealth" status, the New Progressive Party (PNP based on its Spanish acronym) supporting statehood, and the Puerto Rico Independence Party (PIP) supporting independence. R. Sam Garrett, *Political Status of Puerto Rico: Options for Congress*, CONG. RES. SERVICE 13 (June 7, 2011), https://www.fas.org/sgp/crs/row/RL32933.pdf. None align directly with the national parties, but most elected officials and candidates affiliate with either the national Democratic or Republican parties, in addition to affiliating with a local party.

129. Daniel Strauss, *GOP Strategists: Puerto Rico Gov. Foruno is a Sleeper Vice Presidential Pick*, THE HILL (Apr. 14, 2012, 7:30 PM EDT), *available at* http://thehill.com/blogs/ballot-box/presidential-races/221497-gop-strategists-puerto-rico-gov-fortuno-is-a-sleeper-vp-pick.

Puerto Rico also has a growing diaspora living throughout the United States, including more than one million Puerto Ricans in Florida. There, the eight lawmakers of Puerto Rican descent in the Florida Legislature are split evenly between Republicans and Democrats.[130] In future elections, Puerto Ricans living in Florida will continue to be a key demographic for both Democrats and Republicans, with opportunities to be gained or lost by both parties.[131] So far, Republican support among Puerto Ricans in Florida is slipping;[132] support for voting rights in Puerto Rico may be one way for the Republican Party to make inroads with the powerful Puerto Rican swing vote in Florida and other states.

In the smaller Territories, both Republican and Democratic candidates have found success in recent elections. In Guam and the Northern Mariana Islands, the current Governors are Republicans, while the current Delegates to Congress are Democrats. This is reversed in American Samoa, where the Governor is a Democrat and the Delegate is a Republican. In the U.S. Virgin Islands, the Governor is an Independent (former Republican), while the Delegate is a Democrat. The fact that residents of the Territories are swing voters should not be surprising—these communities tend to be socially and religiously conservative with a strong history and tradition of military service.[133]

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130. In the Florida House, there are three Puerto Ricans who are Republicans—David Santiago, Bob Cortes, and Rene Plasencia—and three Puerto Ricans who are Democrats—John Cortes, Robert Asencio, and Amy Mercado; there are two Puerto Ricans in the Florida Senate, Senate President Joe Negron, a Republican, and Victor Torres, a Democrat. Lizette Alvarez, *Puerto Ricans Seeking New Lives Put Stamp on Central Florida*, N.Y. TIMES (Aug. 24, 2015), http://www.nytimes.com/2015/08/25/us/central-florida-emerges-as-mainland-magnet-for-puerto-ricans.html?_r=0. The number of elected officials in Florida who are of Puerto Rican descent is likely to continue to grow in the future.

131. Molly O'Toole, *How Puerto Ricans in Florida Could Seal the Fate of the Republican Party*, FOREIGN POL'Y (Mar. 14, 2016), http://foreignpolicy.com/2016/03/14/how-puerto-ricans-in-florida-could-seal-the-fate-of-the-republican-party/; Nick Timiraos & Beth Reinhard, *Influx of Puerto Ricans Could Shift Battleground States in Presidential Vote*, WALL ST. J. (Aug. 11, 2016, 8:30 PM ET), http://www.wsj.com/articles/influx-of-puerto-ricans-could-shift-battleground-states-in-presidential-vote-1470947827.

132. O'Toole, *supra* note 131.

133. James Brooke, *On Farthest U.S. Shores, Iraq Is a Way to a Dream*, N.Y. TIMES (July 31, 2005), http://www.nytimes.com/2005/07/31/us/on-farthest-us-shores-iraq-is-a-way-to-a-dream.html; David Crary, *In Far-flung US Territories, Gay Marriage Hasn't Arrived*, MSN (Mar. 14, 2015), http://www.msn.com/en-us/news/us/in-far-flung-us-territories-gay-marriage-hasnt-arrived/ar-AA9LaNg.

While residents of the Territories are unable to vote for President in November, they do fully participate in the party primaries. In 2016 on the Democratic side, the Territories had a total of eighty-six pledged delegates and twenty-seven unpledged delegates—a total greater than Virginia.[134] On the Republican side, the Territories had thirty-eight pledged delegates and twenty-one unpledged delegates, more total delegates than Indiana.[135] These delegates were a significant factor in the razor-close Democratic and Republican nominating contests in 2016, just as they were in the 2012 Republican primary and the 2008 Democratic primary.

Ultimately, residents of the Territories and their diaspora living in the states have more political leverage than they perhaps recognize. If Democrats and Republicans in the Territories made their 2020 primary votes contingent on a candidate supporting a constitutional amendment to extend full voting rights to these areas, presidential candidates from both parties would have a strong political incentive to support such a proposal. Similarly, if the diaspora of these areas living in the states—particularly the large and growing Puerto Rican diaspora—made support for a constitutional amendment a litmus test for their vote for President in 2020, candidates from both parties would have a strong political incentive for supporting voting rights in the Territories. Indeed, with over two million Puerto Ricans living in the 2016 swing states,[136] both parties' fortunes for the foreseeable future at the national level may rise or fall with Puerto Rican swing voters. In the states with the closest margins in 2016—Florida, Pennsylvania, New Hampshire, Wisconsin, and Michigan—the Puerto Rican population was greater than the margin of difference in the presidential election.

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134. *Democratic Pledged and Unpledged Delegate Summary*, GREEN PAPERS, http://www.thegreenpapers.com/P16/D-PU.phtml (last modified Sept. 5, 2016, 12:47:34 PM EDT).

135. *Republican Pledged and Unpledged Delegate Summary*, GREEN PAPERS, http://www.thegreenpapers.com/P16/R-PU.phtml (last modified Aug. 20, 2016, 9:24:31 AM EDT).

136. *Puerto Ricans in the United States: 2014*, CENTRO: CENTER FOR PUERTO RICAN STUD. (April 2016), *available at* https://centropr.hunter.cuny.edu/sites/default/files/PDF/STATE%20REPORTS/PR-US-2016-CentroReport.pdf.

Selected 2016 Swing States	Estimated 2014 Puerto Rican Population[137]
Florida	1,005,424
Pennsylvania	439,818
Ohio	106,135
Virginia	98,254
North Carolina	89,160
Georgia	87,927
Wisconsin	62,672
Michigan	46,468
Arizona	40,012
Colorado	26,906
Nevada	22,638
New Hampshire	9,857
Minnesota	9,592
Total	**2,044,863**

More broadly, the diverse demographics of the Territories reflect some of the fastest growing populations in the United States. In the coming decades, Hispanic, Asian, Pacific Islander, and Afro-Caribbean communities will continue to grow into larger segments of the overall American electorate.[138] At the national, state, and local level, Republicans will increasingly need a share of these voters in order to win elections, and Democrats simply cannot take these votes for granted. The racial and ethnic groups reflected in the populations of the Territories do not have deep roots with either party. However, absent active outreach to these groups by Republicans, these minority groups may be lost to the Democratic party, as has largely been the case with the African-American community. Support for a right to vote amendment in the Territories may demonstrate not only that Republicans do not fear these voters, but that they welcome them into full participation in the American electorate. Support for such a voting rights amendment may be helpful for Republicans to expand their party's appeal to a broader demographic as population trends in America continue to shift.

137. *Id.*

138. Paul Taylor, *The Demographic Trends Shaping American Politics in 2016 and Beyond*, PEWRESEARCH CENTER (Jan. 27, 2016), http://www.pewresearch.org/fact-tank/2016/01/27/the-demographic-trends-shaping-american-politics-in-2016-and-beyond/.

V. CONCLUSION

Over two centuries after Augustus Woodward called for full representation for Americans living in the District, there is simply no justification for continuing to deny Americans who reside in non-state areas full participation and representation in the national government. Unless the voting and representational rights of these Americans are realized, the relationship between the national government and non-state areas will continue to resemble the relationship between the British Parliament and the thirteen colonies. The Founders of our nation were correct to denounce this relationship in 1776, and every American should denounce this relationship today.

The Constitution should embrace the dignity and political rights of all Americans, no matter where they live. Every American living under the U.S. flag should have the right to full participation and representation in their national government, regardless of a jurisdiction's specific political status. This is also an important racial justice issue, since more than nine out of ten of the residents of these areas are racial or ethnic minorities.[139]

No longer should Americans who live in the Territories or the District be treated as second-class members of the American political family. By uniting the concerns of Americans who live in the Territories with those who live in the District, the proposed voting rights amendment creates a united call for America to live up to its best constitutional principles and its greatest democratic values when it comes to these nearly five million U.S. citizens. It is long past time that the Americans who reside in non-state areas—who today represent an enduring part of America's national fabric—be welcomed as full and equal members of "We the People of the United States."

139. *Supra* note 6.

APPENDIX A

Voting Rights Amendment

Section 1. When the Number of Persons in a Territory of the United States shall exceed thirty Thousand inhabitants, that Territory shall appoint in such manner as Congress may direct:

A number of electors of President and Vice President equal to the whole number of Representatives to the United States House of Representatives to which it would be entitled if it were a State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the Territory in which they were appointed and perform such duties as provided by the twelfth article of amendment.

For purposes of choosing a President should no candidate for President receive a majority of the whole number of Electors appointed, the District constituting the seat of government of the United States together with the Territories of the United States shall be treated as though they were a State.

Section 2. For purposes of representation in the United States House of Representatives, the District constituting the seat of government of the United States and, separately, each Territory of the United States with a population of thirty Thousand inhabitants, shall be treated as though it was a State.

Section 3. For purposes of representation in the United States Senate, the District constituting the seat of government of the United States and, considered together, the Territories of the United States, shall each be entitled to one Senator, who shall have the same rights, duties and qualifications as Senators elected by a State.

Section 4. For purposes of Article V of the Constitution, the District constituting the seat of government of the United States together with the Territories of the United States shall be treated as though they were a State.

Section 5. The Congress shall have power to enforce this article by appropriate legislation.

Committee on General Government Operations
and Federal, Foreign & Regional Affairs
Senator Michael F.Q. San Nicolas, *Chairman*
I Mina'Trentai Kuåttro na Liheslaturan Guåhan • 34th Guam Legislature

COMMITTEE VOTE SHEET

Resolution No. 27-34 (COR) – "RELATIVE TO RECOGNIZING THE WE THE PEOPLE PROJECT FOR ADVANCING VOTING RIGHTS FOR THE PEOPLE OF GUAM AND OTHER TERRITORIES BY REPRESENTING LUIS SEGOVIA AND THE OTHER PLAINTIFFS IN SEGOVIA V. CHICAGO BOARD OF ELECTIONS COMMISSIONERS; AND DOES FURTHER COMMEND THEM FOR ADVOCATING FOR THE VOTING RIGHTS OF THE PEOPLE OF GUAM, THE OTHER TERRITORIES, AND THE DISTRICT OF COLUMBIA."

	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
Senator Michael F.Q. San Nicolas Chairman		✓				
Senator Mary Camacho Torres Vice Chairwoman		✓				
Speaker Benjamin J.F. Cruz Member		✓				
Senator Thomas C. Ada Member		✓				
Senator James V. Espaldon Member						
Senator Régine Biscoe Lee Member		✓				
Senator Telena C. Nelson Member						

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Committee on General Government Operations
and Federal, Foreign & Regional Affairs
Senator Michael F.Q. San Nicolas, *Chairman*
I Mina'Trentai Kuåttro na Liheslaturan Guåhan • 34th Guam Legislature

COMMITTEE REPORT DIGEST

I. OVERVIEW

Resolution No. 27-34 (COR) – "RELATIVE TO RECOGNIZING THE WE THE PEOPLE PROJECT FOR ADVANCING VOTING RIGHTS FOR THE PEOPLE OF GUAM AND OTHER TERRITORIES BY REPRESENTING LUIS SEGOVIA AND THE OTHER PLAINTIFFS IN SEGOVIA V. CHICAGO BOARD OF ELECTIONS COMMISSIONERS; AND DOES FURTHER COMMEND THEM FOR ADVOCATING FOR THE VOTING RIGHTS OF THE PEOPLE OF GUAM, THE OTHER TERRITORIES, AND THE DISTRICT OF COLUMBIA," was introduced by Senator Michael F.Q. San Nicolas on February 13, 2017 and was subsequently referred by the Committee on Rules to the Committee on General Government Operations and Federal, Foreign, and Regional Affairs that same day.

The Committee on General Government Operations and Federal, Foreign, and Regional Affairs convened a public hearing on Resolution No. 27-34 (COR) on Monday, February 20, 2017 in *I Liheslatura*'s Public Hearing Room. The hearing for Resolution No. 27-34 (COR) began at 10:34 AM and was adjourned at 10:55 AM.

PUBLIC NOTICE REQUIREMENTS

Public Hearing notices were disseminated via electronic mail to all senators and all main media broadcasting outlets on Monday, February 10, 2017, and again on Friday, February 17, 2017.

SENATORS PRESENT

Senator Michael F.Q. San Nicolas, *Chairperson*
Senator Thomas C. Ada, *Committee Member*
Senator James V. Espldon, *Committee Member*
Senator Régine Biscoe Lee, *Committee Member*
Senator Telena C. Nelson, *Committee Member*
Vice Speaker Therese M. Terlaje
Senator Frank B. Aguon, Jr.
Senator Louise Borja Muña
Senator Joe S. San Agustin

APPEARED BEFORE THE COMMITTEE

None

SUBMITTED WRITTEN TESTIMONY

Neil Weare, *President & Founder of We the People Project*

II. TESTIMONY & DISCUSSION

Senator Michael F.Q. San Nicolas, Chairman, Committee on General Government Operations and Federal, Foreign, and Regional Affairs (the "Committee"), convened the hearing for Resolution No. 27-34 (COR) ("the Resolution"). Before presenting his opening statement as sponsor of the Resolution, Chairman San Nicolas wished to clarify that a public hearing was being held for the Resolution in compliance with *I Liheslatura*'s process for resolutions of substantive nature, which calls for a public hearing to allow for comment from the community. As a part of his opening statements, Chairman San Nicolas read the Resolution[1] into the record for the benefit of the public. Upon completion of reading the Resolution, Chairman San Nicolas recognized that there were no individuals signed up to provide oral testimonies, however, written testimony[2] supporting the Resolution had been submitted by Mr. Neil Weare, founder of the We the People Project in the form of a research-based editorial and an opinion piece jointly written by Mr. Weare and Leevin Camacho, to the Guam Daily Post dated January 1, 2017. Chairman San Nicolas continued that the Resolution is being introduced to support the efforts of Mr. Weare and the We the People Project in pursuit of our voting rights in the United States. Chairman San Nicolas clarified that it is fully understood that we (People of Guam) cannot directly vote for the President of the United States, but that he is hoping that some form of judicial resolution would provide an Electoral College remedy to perhaps allow the people of Guam and other U.S. territories to participate in the U.S. presidential election process. In closing, Chairman San Nicolas asked that the Resolution be passed by the Legislative Body, to show the official support of the People of Guam and *I Liheslatura* behind the efforts of the We the People Project.

Senator Frank B. Aguon, Jr. firstly, wanted to commend and thank all the participants of the We the People Project litigation process, especially Mr. Weare for advocating the issue. Secondly, he wanted to recognize Veteran Segovia, who is the main plaintiff in this case, and recognizing that Veteran Segovia also served on Guam. Senator Aguon further wanted to highlight that many Guam veterans today, who have served alongside "any and all veterans participating in combat to preserve the constitution and the freedom that we have" for many years still do not have the right to vote for the U.S. President and therefore, just as those included in the litigation, deserve the right to vote.

Chairman San Nicolas thanked Senator Aguon and recognized Senator Espaldon who wished to be heard.

Senator James V. Espaldon thanked Chairman San Nicolas for being recognized and stated that he agreed with everything stated in the Resolution. However, there was a technical point that he wanted to bring attention to, specifically in the attached *Stetson Law Review* article ("the article"), where a note indicated that no distribution or reproduction of the article may be made in accordance with the publication agreement

[1] Resolution No. 27-34 (COR) is attached.
[2] N. Weare testimonies are attached.

between the Author and *Stetson Law Review*. Senator Espaldon understood that Mr. Weare, who is the stated author was the one who submitted the article for the hearing, nevertheless, he believed it was a technical point that should be questioned on whether the article can be included in the official committee report or not.

Chairman San Nicolas thanked Senator Espaldon for his point, and agreed that it was a valid point and that the Committee will reconfirm with Mr. Weare as to the inclusion of the Law Article in the official committee report. (Permission was granted by Mr. Weare, *Stetson Law Review Article* is attached along with permission email.)

Vice Speaker Therese M. Terlaje thanked Chairman San Nicolas for being recognized and also commended the attorneys and veterans pursuing the suit. Vice Speaker stated how the suit points out an inequity that our veterans are currently facing among many others, as well as the People of Guam. Vice Speaker Terlaje wished to put on the record that a case, similar to Segoia v. Chicago, had been brought forth by an American Samoan descent, however was not supported by the American Samoan government due to implications that the case would have. Vice Speaker Terlaje explained that in order to address the inequities that Veterans and the People of Guam have, Guam must first address the issue of its status, and take very seriously the strategy to addressing the issues, in lieu of "piece-mealing" them. Vice Speaker further stated for the record that American Samoa did not support the lawsuit because it was not going to be the American Government's strategy in terms of what their present and future negotiations with the United States would be, again because of the implications that the suit would bring. Reiterating her previous statements about looking at strategy seriously, Vice Speaker stated that the Government of Guam too should take the Resolution very seriously in terms of deciding their strategy.

Chairman San Nicolas thanked Vice Speaker for her statements and echoed her sentiments on the American Samoan state government not supporting the original case. Chairman San Nicolas indicated it is because of that reason that *I Liheslatura* should "chime in" on the issue, one way or the other, considering that the only voice being heard now at the federal level is that of a particular state government not supporting the case, and in turn that can be extrapolated as to whether or not the other U.S. territories support the case. Chairman San Nicolas indicated that the time is now to decide on the issue, and that the Resolution can help that case.

III. FINDINGS & RECOMMENDATIONS

The Committee on Committee on General Government Operations and Federal, Foreign, and Regional Affairs hereby reports out **Resolution No. 27-34 (COR)** – "RELATIVE TO RECOGNIZING THE WE THE PEOPLE PROJECT FOR ADVANCING VOTING RIGHTS FOR THE PEOPLE OF GUAM AND OTHER TERRITORIES BY

REPRESENTING LUIS SEGOVIA AND THE OTHER PLAINTIFFS IN SEGOVIA V. CHICAGO BOARD OF ELECTIONS COMMISSIONERS; AND DOES FURTHER COMMEND THEM FOR ADVOCATING FOR THE VOTING RIGHTS OF THE PEOPLE OF GUAM, THE OTHER TERRITORIES, AND THE DISTRICT OF COLUMBIA." with the recommendation TO DO PASS.

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I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

2017 FEB 13 PM 3:58

Resolution No. 27-34 (COR)

Introduced by: Michael F.Q. San Nicolas

Relative to recognizing the We the People Project for advancing voting rights for the people of Guam and other territories by representing Luis Segovia and the other plaintiffs in Segovia v. Chicago Board of Elections Commissioners; and does further commend them for advocating for the voting rights of the people of Guam, the other territories, and the District of Columbia.

BE IT RESOLVED BY *I LIHESLATURAN GUÅHAN*:

WHEREAS, the We the People Project is representing the plaintiffs in Segovia v. Chicago Board of Elections Commissioners, a federal voting rights lawsuit which seeks to expand the right to vote in U.S. territories by arguing that the right to vote as an American should not depend on where you live; and

WHEREAS, the We the People Project fights for the day when the five million (5,000,000) Americans living in U.S. territories and the District of Columbia are treated as full and equal members of We the People; in short, "Equal Rights, Wherever You Live;" and

WHEREAS, contrary to the Supreme Court's decisions in the Insular Cases, which established a doctrine of "separate and unequal" status for Americans in overseas territories, Congress should not have the power to turn constitutional rights on and off in U.S. territories; and

WHEREAS, the goal of the We the People Project is to start a new conversation that will elevate these issues to the national level and open the door to new possibilities; and

WHEREAS, the We the People Project represents six (6) U.S. citizens living in Puerto Rico, Guam, and the U.S. Virgin Islands who are challenging federal and state laws that deny them the right to vote for President and voting representation in Congress while protecting full enjoyment of the right to vote for citizens living in other U.S. territories as well as in foreign countries. Guam-based Veterans organization, Iraq Afghanistan and Persian Gulf Veterans of the Pacific, and the League of Women Voters of the Virgin Islands are also plaintiffs in the case; and

WHEREAS, lead plaintiff Luis Segovia, a U.S. citizen who lives in Guam with his family, served an eighteen (18) month tour in Iraq with the U.S. Army, a 12 month tour in Afghanistan with the Illinois National Guard, and a 10 month tour in Afghanistan as part of the Guam National Guard. In Iraq, he helped provide security for the 2005 Iraqi elections. He was deployed on his second tour to Afghanistan just months after the 2012 presidential elections, unable to vote for President; and

WHEREAS, under the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and Illinois' Military and Overseas Voter Empowerment ("MOVE") law, a former resident of Illinois who is now a resident of the Northern Mariana Islands, American Samoa, or a foreign country can continue voting for President and voting representation in Congress in Illinois by absentee ballot. But plaintiffs – each a former resident of Illinois – have lost full enjoyment of their right to vote by virtue of living in Puerto Rico, Guam, or the U.S. Virgin Islands; and

WHEREAS, this lawsuit is part of a broader effort to advocate for full voting rights for every American, whether one lives in a State, Territory, or the District of Columbia; now therefore be it

RESOLVED, that the Committee on Rules of *I Mina'Trentai Kuåttro Na Liheslaturan Guåhan* does hereby, on behalf of *I Liheslaturan Guåhan* and the people of Guam, recognize the We the People Project for advancing voting rights for the people of Guam and other territories by representing Luis Segovia and the other plaintiffs in Segovia v. Chicago Board of Elections Commissioners; and does further commend them for advocating for the voting rights of the people of Guam, the other territories, and the District of Columbia; and be it further

RESOLVED, that the Speaker and the Chairperson of the Committee on Rules certify, and the Legislative Secretary attest to, the adoption hereof, and that copies of the same be thereafter transmitted to Mr. Neil Weare, Esq., President and founder of the We the People Project; the Honorable Madeleine Z. Bordallo, Guam's Delegate to the U.S. Congress; the Honorable Amata C. Radewagen, American Samoa's Delegate to the U.S. Congress; the Honorable Gregorio Kilili C. Sablan, the Northern Mariana Islands' Delegate to the U.S. Congress; the Honorable Jenniffer Gonzalez, Puerto Rico's Delegate to the U.S. Congress; the Honorable Stacey Plaskett, the U.S. Virgin Islands' Delegate to the U.S. Congress; the Honorable Eleanor Holmes Norton, District of Columbia's Delegate to the U.S. Congress; and the Honorable Eddie Baza Calvo, *I Maga'lahen Guåhan.*

DULY AND REGULARLY ADOPTED ON THE ___ DAY OF _____, 2017.

BENJAMIN J.F. CRUZ
Speaker

MICHAEL F.Q. SAN NICOLAS
Chairperson, Committee on Rules

REGINE B. LEE
Legislative Secretary

COMMITTEE ON RULES

Senator Michael F.Q. San Nicolas, *Chairman*
I Mina'Trentai Kuåttro na Liheslaturan Guåhan • 34th Guam Legislature

COMMITTEE REPORT CHECKLIST

Part 1 / 1

RESOLUTION NO. 27-34 (COR)

Relative to recognizing the We the People Project for advancing voting rights for the people of Guam and other territories by representing Luis Segovia and the other plaintiffs in *Segovia v. Chicago Board of Elections Commissioners*; and does further commend them for advocating for the voting rights of the people of Guam, the other territories, and the District of Columbia.

Referred to:

(A) PUBLIC HEARING

(1) HEARING NOTICES
SR §§ 6.04(a)(1) and 6.04(a)(2), Open Government Law (5 GCA, Ch. 8)

☑ **(a)** Five (5) working days prior (ALL Senators & ALL Media)	**Date and Time of Notice:** 2/13/17 4:21pm
☑ **(b)** Forty-eight (48) hours prior (ALL Senators & ALL Media)	**Date and Time of Notice:** 2/17/17 8:44am
(2) Date and Time of Hearing: 2/20/17 10:30am	***or*** **(4) HEARING WAIVED by Speaker in case of emergency** SR § 6.04(a)(1) ☐ YES ☐ NO ☑ N/A *If YES:* **Attach memo indicating WAIVER**
(3) Location: Public Hearing Room	

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Committee Report Checklist on Resolution No. 27-34 (COR)
Part 1/1

(B) COMMITTEE REPORT	**(1) Committee Report filed with COR?** ☑ YES ☐ NO *If YES:* **Date & Time:** 2/27/17 12:19pm **(1)(a) Secondary CMTE Report filed with COR?** ☐ YES ☐ NO ☑ N/A *If YES:* **Date & Time:**	*If NO:* **UNABLE TO PLACE ON SESSION AGENDA** SR § 6.04(d)(1)

(2) COMMITTEE REPORT COMPONENTS	
(a) Front Page Transmittal to Speaker	☑
(a)(1) *COR Chair Signature Line*	☑
(b) Title Page	☑
(c) Committee Chair Memo to All Committee Members	☑
(d) COR Referral Memorandum	☑
(e) Notice of Public Hearing & Other Correspondence	☑
(f) Public Hearing Agenda	☑
(g) Public Hearing Sign-in Sheet	☑
(h) Written Testimonies & Additional Documents	☑
(i) Committee Vote Sheet(s)	☑
(j) Committee Report Digest(s)	☑
(k) Resolution History	☑
(k)(1) Copy of Resolution as introduced	☑
(k)(2) Copy of Bill as amended/substituted by Committee (if applicable) n/a	☑
(n) Related News Reports (optional) n/a	☑
(o) Miscellaneous (optional) n/a	☑
(p) Committee Report Checklist(s)	☑

(C) COR Action	☒ CMTE Report duly filed; Available for Placement on Session Agenda ☐ CMTE Report non-conforming for acceptance; Return to Committee	**COR CHAIR** (Signature, Date & Time) 4/20/17 2:55 pm