



URGING THE GOVERNOR AND LEGISLATURE OF THE STATE OF HAWAII TO GRANT SAME SEX COUPLES THE SAME RIGHTS, BENEFITS, PROTECTIONS AND RESPONSIBILITIES OF MARRIAGE ENJOYED BY OPPOSITE SEX COUPLES UNDER THE LAWS OF THE STATE OF HAWAII.

WHEREAS, in 1993, the Hawaii Supreme Court issued a landmark decision in Baehr v. Miike (originally Baehr v. Lewin), which found that the state of Hawaii's refusal to grant same sex couples marriage licenses violated the state Constitution's prohibition against sex discrimination; and

WHEREAS, in 1998, Hawaii voters ratified a constitutional amendment to add article I, section 23, to the state Constitution, which grants the state Legislature the power to reserve marriage to opposite sex couples; and

WHEREAS, section 572-1, Hawaii Revised Statutes, states that a valid marriage contract exists only between a man and a woman; and

WHEREAS, in 2012, United States District Court judge Alan Kay dismissed Jackson v. Abercrombie, by rejecting the plaintiffs' claim that the state of Hawaii's failure to provide for same sex marriage violated the United States Constitution's guarantees of due process and equal protection under the 14<sup>th</sup> amendment, stating in his decision:

"If the traditional institution of marriage is to be restructured...it should be done by a democratically-elected legislature...not through judicial legislation that would inappropriately preempt democratic deliberation regarding whether or not to authorize same-sex marriage."

and

WHEREAS, during the 2013 legislative session, the state Legislature is contemplating SB1369 and HB1109, both of which will legally recognize marriages between individuals of the same sex in the state of Hawaii; and

WHEREAS, in February 2011, President Barack Obama released a statement declaring that the federal Defense of Marriage Act (DOMA) violates the equal protection component of the Fifth Amendment to the United States Constitution, and as such, his administration will no longer defend DOMA in any legal challenge; and



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## RESOLUTION

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WHEREAS, in January 2013, both Hawaii United States Senator Brian Schatz and Hawaii United States Congresswoman Tulsi Gabbard issued statements declaring their support for same sex marriage and intent to repeal DOMA; and

WHEREAS, nine states currently legally recognize same sex marriages, specifically, Connecticut, Iowa, Maine, Maryland, Massachusetts, New Hampshire, New York, Vermont, Washington and the District of Columbia; and

WHEREAS, a poll conducted in January 2013 for the Equality Hawaii Foundation, reported that 55 percent of Hawaii voters polled support legalizing same sex marriage, thereby indicating a growing support to allow same sex couples to legally marry in the state of Hawaii; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that this body believes that no legal distinction should be made between same sex couples and opposite sex couples with respect to marriage; and

BE IT FURTHER RESOLVED that the Council urges the Governor and the state Legislature to adopt SB1369 and HB1109 during the 2013 legislative session and grant same sex couples the same rights, benefits, protections and responsibilities of marriage enjoyed by opposite sex couples under the current laws of the state of Hawaii; and

