

1 [Urging the California State Legislature to Pass Senate Constitutional Amendment 5 and Send
2 It to the Voters]

3 **Resolution urging the California State Legislature to pass Senate Constitutional**
4 **Amendment 5 that would, with voter approval, amend the State Constitution and**
5 **overturn the ban on using affirmative action criteria for recruitment and admissions to**
6 **state institutions of higher education.**

7
8 WHEREAS, The passage of Proposition 209 in 1996 has led to a proportional decline
9 in underrepresented students, particularly in the UC system, by banning the use of race, sex,
10 color, ethnicity, or national origin as factors in recruiting and admitting students into public
11 educational institutions; and

12 WHEREAS, Although California public educational institutions can give admission
13 preference based on military service, income, geographic background, athletic ability, and
14 legacy, Proposition 209 bars state schools from using race for recruitment and admissions,
15 thus diminishing campus and workforce diversity, the fight for equality and racial integration,
16 and the development of future minority leadership; and

17 WHEREAS, After passage of Proposition 209, in 1998 enrollment by African-American
18 and Latino students dropped by over 50% at UC Berkeley and over 30% at UCLA according
19 to the UC President's Office of Student Affairs and Admissions; and

20 WHEREAS, Systemwide in 2012, 54% of California high school graduates were in
21 underrepresented groups; 39%, based on GPA and test scores, were in the eligibility pool for
22 UC campuses; but only 31% were admitted to the freshman class; and

23 WHEREAS, According to a 2012 amicus brief filed by 444 American social science
24 researchers from 42 states and 172 educational institutions and research centers, many from
25 both public and private colleges and universities in California, submitted in the *Fisher v.*

1 *University of Texas* case brought before the U.S. Supreme Court, lower diversity levels lead to
2 racial isolation and a negative racial climate, harming the nation’s future and the quality of
3 education for all students; and

4 WHEREAS, The same amicus brief states that allowing race as a consideration in
5 admissions can serve as a “symbolic beacon of a welcoming environment’ that helps
6 students to overcome their reluctance to apply or enroll at a selective institution;” and

7 WHEREAS, As established by the U.S. Supreme Court, in *Regents of the University of*
8 *California v. Bakke* and *Grutter v. Bollinger*, race can be used in admissions policies under a
9 standard of “strict scrutiny,” to ensure a diverse student body and educational experience,
10 benefitting both minority and non-minority students alike; and

11 WHEREAS, Proposition 209 went beyond what is required by the U.S. Supreme Court
12 and banned completely the use of race in admissions; and

13 WHEREAS, State Senator Ed Hernandez proposed Senate Constitutional Amendment
14 5 (SCA 5) on December 3, 2012, to amend the California Constitution, Section 31 of Article I;
15 and

16 WHEREAS, SCA 5 allows public educational institutions, like private educational
17 institutions, to use affirmative action criteria in recruiting and admissions to the full extent of
18 the law, in accordance with the Equal Protection Clause of the Fourteenth Amendment, and
19 thus does not and cannot operate as a quota, nor would it allow for admitting unqualified
20 students; and

21 WHEREAS, Support for SCA 5 has come from medical associations such as the
22 California Medical Association, the California Nurses Association, the California Pharmacists
23 Association and many others, since research has shown that the drop in racial diversity is
24 greatest in science fields, thus endangering a diverse medical workforce and the health of
25 underrepresented communities; and

1 WHEREAS, Further support has come from educational and student associations
2 throughout the state, among others; and

3 WHEREAS, SCA 5 has been heard in the Senate Committees on Education, Elections
4 and Constitutional Amendments, and Appropriations, and on January 30, 2014 was approved
5 in the California Senate by a vote of 27 to 9; and

6 WHEREAS, Notwithstanding all the aforementioned evidence and support, as of March
7 17, 2014, SCA 5 has been stalled in the California State Assembly; now, therefore, be it

8 RESOLVED, That the San Francisco Board of Supervisors urges the California State
9 Assembly to pass Senate Constitutional Amendment 5 to allow California voters the chance to
10 amend the State Constitution, overturn the ban on affirmative action in public educational
11 institutions, and create more a equitable and diverse public education system, workplace, and
12 society.

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