URGING THE UNITED STATES CONGRESS TO PROPOSE AND ADOPT A
PROPOSED AMENDMENT TO THE UNITED STATES CONSTITUTION
PURSUANT TO ARTICLE V OF THE UNITED STATES CONSTITUTION TO
CLARIFY THE CONSTITUTIONAL RIGHT TO BEAR ARMS.

WHEREAS, the Second Amendment of the United States Constitution reads: "A well regulated Militia, being necessary
to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."; and

WHEREAS, this language has created considerable debate regarding the constitutional provision's intended scope; and

WHEREAS, some believe that this constitutional provision creates an individual constitutional right for citizens of the United States; and

WHEREAS, under this "individual right theory", the United States Constitution restricts legislative bodies from prohibiting firearm possession, or at the very least, the Second Amendment renders prohibitory and restrictive regulation presumptively unconstitutional; and

WHEREAS, however, others contend that the prefatory language of "a well regulated militia" indicates that the framers of the United States Constitution intended only to restrict the United States Congress from legislating away a state's right to self-defense; and

WHEREAS, under this "collective rights theory", the Second Amendment asserts that United States citizens do not have an individual right to possess guns and that local, state, and federal legislative bodies possess the authority to regulate firearms without implicating a constitutional right; and
WHEREAS, these two interpretations of the Second Amendment have been considered and adopted by the United States Supreme Court; and

WHEREAS, in 1939, the United States Supreme Court adopted a collective rights approach under United States v. Miller, 307 U.S. 174 (1939) by determining that the United States Congress could regulate a sawed-off shotgun that had moved in interstate commerce under the National Firearms Act of 1934; and

WHEREAS, the Miller Court determined the evidence did not suggest that the shotgun had a reasonable relationship to the preservation or efficiency of a well-regulated militia; and

WHEREAS, the Court further held that the framers of the United States Constitution included the Second Amendment to ensure the effectiveness of the military; and

WHEREAS, the precedent established under United States v. Miller stood for nearly seventy years until the United States Supreme Court revisited the issue in 2008 under District of Columbia v. Heller, 554 U.S. 570 (2008); and

WHEREAS, the plaintiff in District of Columbia v. Heller challenged the constitutionality of the District of Columbia handgun ban, which is a statute that stood for thirty-two years; and

WHEREAS, the Heller Court held that the Second Amendment established an individual right for United States citizens to possess firearms and struck down the District of Columbia handgun ban as a violation of that right; and

WHEREAS, the majority in Heller carved out Miller as an exception to the general rule that United States citizens may possess firearms by claiming that law abiding citizens cannot use sawed-off shotguns for any law abiding purpose; and

WHEREAS, thus, the United States Supreme Court has revitalized the discussion of whether the Second Amendment is a collective or individual constitutional right; and
WHEREAS, in light of the numerous tragic mass shootings at schools, work places, and public events, this body believes that it is necessary to repeal or amend the Second Amendment of the United States Constitution; now, therefore,

BE IT RESOLVED by the Senate of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2019, the House of Representatives concurring, that the United States Congress is urged to propose and adopt a proposed amendment to the United States Constitution pursuant to article V of the United States Constitution to clarify the constitutional right to bear arms; and

BE IT FURTHER RESOLVED that the United States Congress is requested to consider and discuss whether the Second Amendment of the United States Constitution should be repealed or amended to clarify that the right to bear arms is a collective, rather than individual, constitutional right; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the President Pro Tempore of the United States Senate, Speaker of the United States House of Representatives, Members of the Hawaii congressional delegation, and the Governor.

OFFERED BY: