

United States Senate

WASHINGTON, DC 20510-2004

May 3, 2021

Dear Colleague:

We write to encourage you to cosponsor a bipartisan joint resolution, S. J. Res. 1, to remove the deadline for ratification of the Equal Rights Amendment (ERA). When Congress passed the ERA in 1972, it specified that the measure required ratification by three-fourths of the states (38 states) within 7 years. A joint resolution enacted by Congress later extended this deadline to 10 years, but ultimately only 35 out of 38 states had ratified the ERA by the revised 1982 deadline.

Congress has the authority as well as the imperative to give the states another opportunity to guarantee equality for women under the law. Our joint resolution would remove the deadline set by Congress for ratification. Article V of the Constitution contains no time limits for ratification of constitutional amendments; furthermore, the ERA time limit originated in a joint resolution rather than the actual text of the amendment. In 1992, the 27th Amendment to the Constitution prohibiting immediate Congressional pay raises was successfully ratified after 203 years. That amendment was initially proposed as part of the original Bill of Rights in 1789.

The Fourteenth Amendment of the Constitution guarantees “equal protection of the laws,” but the Supreme Court has so far held that most sex or gender classifications are subject to only “intermediate scrutiny” when analyzing laws that may have a discriminatory impact. In 2011, the late Supreme Court Justice Antonin Scalia stated: “Certainly the Constitution does not require discrimination on the basis of sex. The only issue is whether it prohibits it. It doesn’t.” Ratification of the ERA by state legislatures would provide the courts with clearer guidance in holding gender or sex classifications to the “strict scrutiny” standard.

On March 17, 2021, the House of Representatives passed companion legislation (H. J. Res 17). Nevada became the 36th state to ratify the ERA in 2017, Illinois the 37th in 2018, and Virginia the 38th and final state required by the Constitution in January of 2020. Congress can help to ensure that this Amendment, ratified by the required number of states, is immediately and formally added to the Constitution by explicitly removing the deadline it once set.

Our resolution has the honor of being designated as S. J. Res. 1 in the 117th Congress, a clear mark of importance. Please contact Helen Rogers in Senator Cardin’s office at Helen_Rogers@cardin.senate.gov or Garrett Boyle in Senator Murkowski’s office Garrett_Boyle@murkowski.senate.gov to join as a cosponsor or with any questions.

Sincerely,



Benjamin L. Cardin
United States Senator



Lisa Murkowski
United States Senator