



HOUSE COMMITTEE ON THE JUDICIARY

CHAIRMAN JERROLD NADLER

SUPPORT H.J. RES. 17, REMOVING THE DEADLINE FOR THE RATIFICATION OF THE EQUAL RIGHTS AMENDMENT

Support H.J. Res. 17, a bipartisan joint resolution to eliminate the deadline for the ratification of the Equal Rights Amendment (ERA) to the Constitution. The ERA enshrines the fundamental principle that “Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.” After nearly a century, the ERA is finally on the brink of becoming part of the United States Constitution. H.J. Res. 17 would remove a deadline that Congress previously set for the States to ratify the ERA, ensuring that recent ratifications by Nevada, Illinois, and Virginia are given full effect.

The ERA was passed by overwhelming bipartisan majorities in the House and Senate in 1971 and 1972. Dozens of States ratified it soon after. The initial joint resolution proposing the ERA required it to be ratified by 1979; Congress later extended that deadline to 1982. By the end of that year, 35 State legislatures—just three short of the 38 required by the Constitution—had enacted resolutions to ratify the ERA. Much more recently, Nevada and Illinois ratified the ERA; and on January 27, 2020, Virginia became the 38th State to ratify it. Although a federal district court recently ruled that these “ratifications came too late to count” because the ERA’s ratification deadline had already expired, in doing so, the court reaffirmed Congress’s authority to set a ratification deadline, and if Congress can set a deadline, it should be able to remove it. Thus, by removing the 1982 deadline for ratification, H.J. Res. 17 would take a critical step toward ensuring that the ERA officially becomes the 28th Amendment to the Constitution.

As the late Justice Ruth Bader Ginsburg observed, every national constitution that has been written since World War Two includes the basic principle of gender equality. Although the Supreme Court has interpreted the Equal Protection Clause of the 14th Amendment to prohibit some types of sex discrimination, that precedent is not guaranteed to endure as the Court changes its composition. Furthermore, existing case law and statutes fall short in many ways of ensuring full equality.

The ERA was first proposed in 1923, soon after women gained the right to vote. Yet nearly a century later, women are still subject to pay disparities, sexual harassment, and efforts to roll back gains in areas such as access to healthcare and reproductive rights. The ERA thus remains just as vital today as it was when it was first proposed and when it was submitted to the States for ratification. The Constitution itself contains no deadlines for ratifying amendments. In fact, the 27th Amendment—which prohibits changes to Members of Congress’s salaries during their terms of office—was ratified more than 200 years after it was proposed.

H.J. Res. 17 was introduced by Rep. Speier (D-CA) and is cosponsored by 208 Democrats and one Republican. This resolution previously passed the House of Representatives in the 116th Congress on February 13, 2020, with 5 Republicans joining all 227 voting Democrats to pass the bill. A bipartisan companion resolution in the Senate, S.J. Res. 1, was introduced during the current Congress by Senator Cardin (D-MD) and is cosponsored by Senator Murkowski (R-AK). H.J. Res. 17 and the ERA are supported by a wide array of civil rights, public interest, professional, and labor organizations. These organizations—many of which advocate through the umbrella of the ERA Coalition—include the National Organization for Women, the YWCA, the League of Women Voters, the National Women’s Law Center, the American Civil Liberties Union, the American Association of University Women, GLAAD, and the National Association of Women Lawyers.

Prepared by House Judiciary Committee Staff

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