

March 15, 2023

Dear Senators:

Independent Women's Law Center (IWLC) and Independent Women's Voice (IWV) applaud Senator Cindy Hyde-Smith for introducing S.Res.107, recognizing the expiration of the Equal Rights Amendment proposed by Congress in March 1972, and observing that Congress has no authority to modify a resolution proposing a constitutional amendment after the amendment has been submitted to the States or after the amendment has expired.

More than half a century ago, Congress passed the misnamed Equal Rights Amendment (ERA) and sent it to the states for ratification within seven years. But the flawed proposal expired when it failed to receive approval from $\frac{3}{4}$ of the states within the prescribed time frame.

It is now apparent that Majority Leader Schumer may soon force a cloture vote on S.J.Res.4, a resolution that purports to retroactively remove the ERA's ratification deadline. IWLC and IWV urge you to oppose all such efforts to short-circuit the amendment process and request your support for S.Res.107.

Any attempt by Congress to “remove” the ratification deadline is unconstitutional and anti-democratic.

Congress's legitimate role in the amendment process ended on March 22, 1972, when it submitted the ERA to the states for consideration. On September 28, 2022, the Department of Justice acknowledged as much, stating in court that “[t]he Constitution doesn't contemplate any role for Congress at the back end. Congress proposes the amendment, it goes out into the world, and the states do what they're going to do.” Congress lacks constitutional authority to do anything else.

What's more, Article V requires that constitutional amendments receive approval from $\frac{2}{3}$ of Congress and relatively contemporaneous approval from $\frac{3}{4}$ of the States. Any attempt by Congress to remove the ratification deadline

that was critical to Congress's passage of the ERA in 1972 short-circuits these constitutional requirements. *As such, it deprives today's voters—more than 62% of whom either weren't alive or were too young to vote when the ERA expired—of their right to fully consider the ramifications of the proposed amendment.*

Make no mistake, the ramifications of adopting the ERA in 2023 are serious.

In 2023, there isn't a single right that men and women do not share equally. As such, if the ERA is to be anything more than symbolic, it is likely to be interpreted as going further than current law, requiring government to treat males and females *the same* in all circumstances, irrespective of actual differences.

In practice, the ERA is likely to be used to:

- ❑ prohibit female-only spaces, such as women's shelters, prisons, sororities, and sports teams;
- ❑ require the military to send equal numbers of women and men into combat; and
- ❑ eliminate countless programs designed to support women and girls—programs such as the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), federal grants that attempt to increase the participation of females in STEM, and grants administered pursuant to the Violence Against Women Act.

Those are just some of the downsides.

Since men and women are already equal under American law, the ERA has no upside.

We strongly urge you to reject illegitimate attempts to revive the ERA and to support S.Res.107, recognizing the proper role of Congress in the amendment process.

Respectfully,



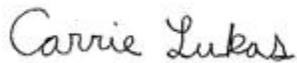
Jennifer C. Braceras

*Director
Independent Women's Law Center*



Heather R. Higgins

*CEO
Independent Women's Voice*



Carrie Lukas

*Vice President
Independent Women's Voice*



Hadley Heath Manning

*Vice President for Policy
Independent Women's Voice*