

Urging the Biden Administration to publish, and Congress to affirm, the Equal Rights Amendment as the Twenty-eighth Amendment to the Constitution

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WHEREAS the Equal Rights Amendment was first introduced in Congress in 1923; and

WHEREAS Article V of the U.S. Constitution sets forth a two-step amending procedure in which

the first step requires a two-thirds vote of both houses of Congress – or approval by a convention called by application of two-thirds of the states – and the second step is ratification by three-fourths of the states; and

WHEREAS in 1972 Congress met the first step by adopting the following joint resolution of the House and Senate – two-thirds of each concurring – with a time limit not within the text of the amendment but only in the preamble (and thus without force or effect):

“That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution when ratified by legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

ARTICLE

Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3. This amendment shall take effect two years after the date of ratification;”

and

WHEREAS the Constitution does not grant Congress the authority to unilaterally limit the time for states to ratify amendments – which itself would be a substantive change to the Constitution – but rather any such change must be within the text of the amendment subject to ratification by the states, as it was with both the Twenty-first and the Twenty-second Amendments, which succeeded within the time limit; and as it was with the District of Columbia Voting Rights Amendment, which expired due to insufficient state ratifications; and

WHEREAS for example, the so-called Madison Amendment – relating to compensation of members of Congress – proposed to the states by two-thirds vote of each house of Congress in 1789, had not been ratified by three-fourths of the states until 1992, but was then published by the Archivist of the United States as the Twenty-seventh Amendment, and subsequently affirmed as such by vote of Congress; and

WHEREAS, although a few states have purported to rescind their ratification of the amendment, the Constitution only gives states the power of ratification, not rescission; and

WHEREAS Samuel Johnson's dictionary (1755) defines "ratify" as "to confirm, to settle"; similarly James Madison wrote to Alexander Hamilton (in a letter dated July 20, 1788) that ratification is "in toto and for ever"; and similarly Bouvier's Law Dictionary (1856) – considered the first American legal dictionary – asserts that a ratification once done "cannot be revoked or recalled"; and

WHEREAS the various attempts throughout history to rescind ratifications of the Constitution or

its amendments, including of the Fourteenth, Fifteenth, and Nineteenth Amendments, have never been honored; and

WHEREAS, as of January 27, 2020, three-fourths of the states have ratified the Equal Rights Amendment, thus completing the second step of the amending procedure; and

WHEREAS the need for the Equal Rights Amendment is as important now as it was in 1923;

THEREFORE BE IT RESOLVED that Democrats Abroad urges the Biden Administration to publish the Equal Rights Amendment – and Congress to pass a joint resolution affirming it – as the Twenty-eighth Amendment to the Constitution; and

BE IT FURTHER RESOLVED that DA calls on state legislatures and state parties to pass the same or similar resolutions; and finally

BE IT RESOLVED that copies of this Resolution shall be transmitted by DA's International Chair to the President and Vice President of the United States, the Majority Leader of the Senate, the Minority Leader of the House of Representatives, the Archivist of the United States, and the Chair of the Democratic National Committee.