

Hall of the House of Representatives

86th General Assembly - Regular Session, 2007

Amendment Form

Subtitle of House Joint Resolution No. 1002

"RATIFYING THE PROPOSED AMENDMENT TO THE UNITED STATES CONSTITUTION
PROVIDING THAT EQUALITY OF RIGHTS UNDER THE LAW SHALL NOT BE DENIED
OR ABRIDGED BY THE UNITED STATES OR ANY STATE ON ACCOUNT OF SEX."

Amendment No. 1 to House Joint Resolution No. 1002.

Amend House Joint Resolution No. 1002 as originally introduced:

Add Representative Petrus as a cosponsor of the resolution

AND

Add Senator Thompson as a cosponsor of the resolution

AND

Page 1, immediately following the BE IT RESOLVED clause, add a new section to read as follows:

"SECTION 1. WHEREAS, in 1789 Congress submitted the Madison Amendment, which relates to the timing of Congressional pay raises, to the states as part of the proposed Bill of Rights, but it was not ratified by three-fourths (3/4) of the states and certified by the United States archivist until two hundred three (203) years later in 1992, making it the Twenty-seventh Amendment to the United States Constitution and establishing a precedent such that the Equal Rights Amendment is sufficiently contemporaneous and therefore remains viable; and

WHEREAS, the Equal Rights Amendment was first introduced in Congress in 1923 and filed every session thereafter until it was finally approved by Congress in 1972 and sent to the states for ratification with a seven-year deadline, and in 1978 Congress extended the deadline for three (3) more years; and

WHEREAS, the restricting time limit for the Equal Rights Amendment is in the resolving clause and is not part of the amendment proposed by Congress, and the amendment is already ratified by thirty-five (35) states; and



WHEREAS, Congress passed a time extension for the Equal Rights Amendment on October 20, 1978, demonstrating that a time limit in a resolving clause can be disregarded if it is not part of the proposed amendment; and

WHEREAS, the United States Supreme Court, in Coleman v. Miller, 307 U.S. 433, 456 (1939), recognized that Congress is in a unique position to judge the tenor of the nation, to be aware of the political, social, and economic factors affecting the nation, and to be aware of the importance to the nation of a proposed amendment; and

WHEREAS, if an amendment to the Constitution of the United States has been proposed by two-thirds (2/3) of both houses of Congress and ratified by three-fourths (3/4) of the state legislatures, it is for Congress under the principles of Coleman v. Miller to determine the validity of the state ratifications occurring after a time limit in the resolving clause but not in the amendment itself; and

WHEREAS, the Equal Rights Amendment for men and women is needed in the United States Constitution because while women enjoy more rights today than they did when the Equal Rights Amendment was first introduced in 1923 or when it was passed by Congress in 1972, hard-won laws against gender discrimination do not rest on any unequivocal constitutional foundation, but rather those laws can be inconsistently enforced or even repealed; and

WHEREAS, equality for men and women is necessary in order to have a clear constitutional guarantee that gender is considered a suspect classification and entitled to the same strict scrutiny that courts reserve for race, religion, and national origin; and

WHEREAS, nothing in this House Joint Resolution shall be interpreted to conflict with or negate Arkansas Constitution, Amendment 83 regarding marriage in Arkansas."

AND

Appropriately renumber the sections of the resolution.

The Amendment was read _____
By: Representative L. Smith
KLL/TAT - 02-05-2007 15:48
KLL153

Chief Clerk