

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

As Engrossed: H2/6/07 H2/9/07 H2/12/07

HJR 1002

4
5 By: Representatives L. Smith, Allen, Blount, Bond, E. Brown, J. Brown, Burris, Cash, Cheatham,
6 Chesterfield, Cook, Cornwell, Davenport, S. Dobbins, Edwards, Flowers, Gaskill, Hardy, Harrelson,
7 House, Hyde, D. Johnson, J. Johnson, W. Lewellen, Moore, Overbey, Pate, Pennartz, Pickett, Pierce,
8 Powers, S. Prater, Rainey, Reep, J. Roebuck, Rogers, Saunders, Shelby, Stewart, Sumpter, Thyer,
9 Wagner, Webb, Wills, Wood, Petrus
10 By: Senators Madison, Argue, Brown, Bryles, Capps, Crumbly, Faris, Salmon, T. Smith, Steele, Wilkins,
11 R. Thompson

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14 **HOUSE JOINT RESOLUTION**

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

20
21 **Subtitle**

22 RATIFYING THE PROPOSED AMENDMENT TO THE
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24 THAT EQUALITY OF RIGHTS UNDER THE LAW
25 SHALL NOT BE DENIED OR ABRIDGED BY THE
26 UNITED STATES OR ANY STATE ON ACCOUNT OF
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29
30 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-SIXTH GENERAL
31 ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL
32 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

33
34 *SECTION 1. WHEREAS, in 1789 Congress submitted the Madison Amendment,*
35 *which relates to the timing of Congressional pay raises, to the states as*
36 *part of the proposed Bill of Rights, but it was not ratified by three-fourths*



1 (3/4) of the states and certified by the United States archivist until two
2 hundred three (203) years later in 1992, making it the Twenty-seventh
3 Amendment to the United States Constitution and establishing a precedent such
4 that the Equal Rights Amendment is sufficiently contemporaneous and therefore
5 remains viable; and

6
7 WHEREAS, the Equal Rights Amendment was first introduced in Congress in
8 1923 and filed every session thereafter until it was finally approved by
9 Congress in 1972 and sent to the states for ratification with a seven-year
10 deadline, and in 1978 Congress extended the deadline for three (3) more
11 years; and

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

17
18 WHEREAS, Congress passed a time extension for the Equal Rights
19 Amendment on October 20, 1978, demonstrating that a time limit in a resolving
20 clause can be disregarded if it is not part of the proposed amendment; and

21
22 WHEREAS, the United States Supreme Court, in Coleman v. Miller, 307
23 U.S. 433, 456 (1939), recognized that Congress is in a unique position to
24 judge the tenor of the nation, to be aware of the political, social, and
25 economic factors affecting the nation, and to be aware of the importance to
26 the nation of a proposed amendment; and

27
28 WHEREAS, if an amendment to the Constitution of the United States has
29 been proposed by two-thirds (2/3) of both houses of Congress and ratified by
30 three-fourths (3/4) of the state legislatures, it is for Congress under the
31 principles of Coleman v. Miller to determine the validity of the state
32 ratifications occurring after a time limit in the resolving clause but not in
33 the amendment itself; and

34
35 WHEREAS, the Equal Rights Amendment for men and women is needed in the
36 United States Constitution because while women enjoy more rights today than

1 *they did when the Equal Rights Amendment was first introduced in 1923 or when*
2 *it was passed by Congress in 1972, hard-won laws against gender*
3 *discrimination do not rest on any unequivocal constitutional foundation, but*
4 *rather those laws can be inconsistently enforced or even repealed; and*
5

6 *WHEREAS, equality for men and women is necessary in order to have a*
7 *clear constitutional guarantee that gender is considered a suspect*
8 *classification and entitled to the same strict scrutiny that courts reserve*
9 *for race, religion, and national origin; and*
10

11 *WHEREAS, nothing in this House Joint Resolution shall be interpreted to*
12 *conflict with or negate Arkansas Constitution, Amendment 83 regarding*
13 *marriage in Arkansas.*
14

15 SECTION 2. The following article proposed as an amendment to the
16 United States Constitution is ratified:

17 "ARTICLE

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

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

22 Section 3. This amendment shall take effect two years after the date
23 of ratification."
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25 SECTION 3. The Secretary of State of the State of Arkansas is directed
26 to send a certified copy of this resolution to the Director of the General
27 Services Administration of the United States and to the Speaker of the House
28 of Representatives of the Congress of the United States.
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30 */s/ L. Smith, et al*
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