SUSAN B. ANTHONY
PRO-LIFE
AMERICA

February 24, 2023

Dear Senator,

On behalf of our more than one million members from all 50 states, Susan B. Anthony Pro-Life America strongly opposes and will score against any attempts to pass S.J.Res. 4, *A joint resolution removing the deadline for the ratification of the Equal Rights Amendment*. We stand absolutely opposed to any attempt to revive the Equal Rights Amendment (ERA), which would enshrine a right to abortion into the United States Constitution. **Votes will be scored, and double-weighted, in each member's profile on SBA Pro-Life America's National Pro-Life Scorecard.**

In June of 2022, the Supreme Court corrected a 49-year-old error, by affirming in *Dobbs v. Jackson Women's Health* that the United States Constitution does not confer a right to abortion. The faulty precedent set in *Roe v. Wade* was finally overturned. Now, as legislators are passing laws to protect the unborn and support their moms, the pro-abortion industry is doing everything it can to enshrine a supposed right to abortion. The Equal Rights Amendment to the U.S. Constitution as proposed in 1972 and as interpreted by a wide range of legal scholars and by several lower courts, **would install a sweeping legal mandate for abortion on demand, funded with taxpayer dollars, into the U.S. Constitution.** Even the most egregious laws and regulations can be rolled back eventually, but a constitutional amendment would indefinitely block state and federal legislation to protect the unborn and the consciences of Americans who do not wish to participate in abortion.

- ***NARAL Pro-Choice America****: "With its ratification, the ERA would reinforce the constitutional right to abortion by clarifying that the sexes have equal rights, which would require judges to strike down anti-abortion laws because they violate both the constitutional right to privacy and sexual equality."*
- ***National Organization for Women (NOW):*** *"An ERA –properly interpreted – could negate the hundreds of laws that have been passed restricting access to abortion care."*

The original ERA Joint Resolution passed in 1972 in the 92nd Congress, stated that the ERA would become a Constitutional amendment "*when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress*." When it failed to reach the required 38 states for ratification, Congress then attempted to extend the deadline by three more years, from 1979 to 1982, but no more states ratified the ERA during that period. Additionally, of the 35 states that had ratified the ERA during the timeline approved in 1972, the following five states voted either to *rescind or sunset* their ratification: Idaho, Kentucky, Nebraska, South Dakota, and Tennessee. Advocates for the ERA are trying to enact a gimmick that would let them have it both ways. They want to count the states that attempted to ratify the ERA decades late—long after the deadline for ratification had passed— *and* the states that have rescinded their earlier ratification.

This trick has already been rejected by both the courts and the Department of Justice. For example, in January of 2020, the Justice Department Office of Legal Counsel published a decisive opinion stating that the 1972

ERA had expired and that new efforts to ratify it were void and would not be accepted as valid. And on March 5, 2021, an Obama-appointed federal district judge in the District of Columbia ruled in *Virginia v. Ferriero* that the original 1972 ratification deadline was still valid.

Because the amendment was first proposed a half century ago, one year prior to the U.S. Supreme Court decisions inventing a federal constitutional right to abortion, the evidence of the ERA's impact can easily be overlooked. The following points are central:

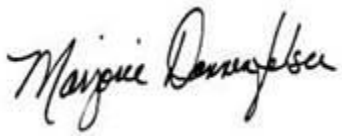
- Because the ERA prohibits the enactment of any law that imposes a rule or condition that applies to one sex and not to the other, any law limiting abortion or imposing upon it such conditions as a funding limit will be struck down as violating the amendment's plain language. Interest groups, including the ACLU, National Organization for Women (NOW), NARAL Pro-Choice America, Planned Parenthood and others have argued that state-level ERAs with nearly identical wording guarantee a right to abortion with public funding.
- In 1998, the New Mexico Supreme Court ruled unanimously, at the urging of the groups listed above, that the state constitutional ERA *required* tax funding of abortion.
- Efforts by the National Right to Life Committee (NRLC) and others to render the ERA neutral with respect to abortion were opposed and defeated by ERA sponsors in the U.S. Congress.

There is no question, this resolution is an attempt to enshrine abortion on demand in the Constitution of the United States.

Since *Roe v. Wade,* abortion has been the cause of death for an estimated 60 million unborn children, of which approximately 30 million were unborn little girls. An amendment to create a constitutional right to abortion on demand would lead to the deaths of untold millions more, paid for by American taxpayers. That is not equality.

This effort to ignore the will of the states that rescinded their ratification while including ratifications that were decades late is outrageous. We strongly oppose attempts to use this simple majority vote to move the goalposts set by Congress under a two-thirds majority. We also vigorously oppose the ERA unless amended. Susan B. Anthony Pro-Life America will consider any votes in support of the ERA when assessing the pro-life record of each member for this Congress. Because of the enormous consequences of enacting a constitutional amendment enshrining a right to abortion, **a vote in favor of S.J.Res. 4 will be weighed against a member as if it were two votes.**

Sincerely,



Marjorie Dannenfelser
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