

Senate Resolution 535

By: Senators Rhett of the 33rd, Butler of the 55th, Jackson of the 41st, Islam Parkes of the 7th, Merritt of the 9th and others

A RESOLUTION

1 Encouraging the Administration of President Joseph R. Biden, Jr. to publish without delay
2 the Equal Rights Amendment as the Twenty-eighth Amendment to the Constitution of the
3 United States; and for other purposes.

4 WHEREAS, in 1972, the Ninety-second Congress of the United States of America, at its
5 Second Session, in both houses, by a constitutional majority of two-thirds, adopted the
6 following proposition to amend the Constitution of the United States of America:

7 "JOINT RESOLUTION RESOLVED BY THE HOUSE OF REPRESENTATIVES AND
8 SENATE OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED
9 (TWO-THIRDS OF EACH HOUSE CONCURRING THEREIN), That the following
10 article is proposed as an amendment to the Constitution of the United States, which shall
11 be valid to all intents and purposes as a part of the Constitution when ratified by the
12 legislatures of three-fourths of the several States within seven years from the date of its
13 submission by the Congress:

14 "ARTICLE _____
15 Section 1. Equality of rights under the law shall not be denied or abridged by the United
16 States or by any State on account of sex.

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

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

20 WHEREAS, Article V of the Constitution of the United States sets forth a two-step
21 amending procedure; and

22 WHEREAS, the first step of the Article V amending procedure is proposal of an amendment
23 either by a two-thirds' vote of both houses of Congress or by a convention called by
24 application of two-thirds of the states; and

25 WHEREAS, the second and final step of the Article V amending procedure is ratification of
26 an amendment by three-fourths of the states; and

27 WHEREAS, the Constitution of the United States does not limit the time for states to ratify
28 an amendment; and

29 WHEREAS, the Constitution of the United States does not grant Congress the unilateral
30 authority to limit the time for states to ratify amendments; and

31 WHEREAS, a time limit on state ratifications of amendments is a substantive change to the
32 Constitution of the United States; and

33 WHEREAS, to have full force and effect, any substantive change to the Constitution of the
34 United States, such as a time limit on ratification, must be within the text of an amendment

35 where it can also be approved by states as part of each of the two steps of the Article V
36 amending procedure—a proposal step and a ratification step; and

37 WHEREAS, in the proposal step for the Equal Rights Amendment, the time limit on state
38 ratifications was only in the preamble section of the resolution by Congress and not within
39 the text of the amendment presented to states for state approval; and

40 WHEREAS, in the ratification step, the states ratified only the text of the Equal Rights
41 Amendment; and

42 WHEREAS, a time limit was only approved by Congress in 1972, but not subsequently
43 approved by the states, and is thus without force or effect; and

44 WHEREAS, in comparison, in 1978, a two-thirds' vote in both houses of Congress passed
45 the District of Columbia Voting Rights Amendment and included a timeline within the text
46 of the amendment offered to states for ratification; and

47 WHEREAS, the time limit for the District of Columbia Voting Rights Amendment ended
48 before completion of the second and final step of ratification of the amendment by
49 three-fourths of the states; and

50 WHEREAS, because the time limit was within the text of the District of Columbia Voting
51 Rights Amendment, that time limit had full force and effect and such amendment expired in
52 1985; and

53 WHEREAS, in comparison, the text of the Twenty-first and Twenty-second Amendments
54 both include a timeline within the text of each amendment, and such timelines were ratified
55 by three-fourths of the states within the agreed timeline; and

56 WHEREAS, in 1789, by a two-thirds' vote in each house of the First Congress, the so-called
57 Madison Amendment relating to compensation of members of Congress, completed the
58 proposal step of Article V; and

59 WHEREAS, approximately 203 years later, the Madison Amendment completed the
60 ratification step of Article V through ratification by three-fourths of the states; and

61 WHEREAS, in 1992, having met the strict two-step requirements of Article V, the Madison
62 Amendment was published by the Archivist of the United States and affirmed by Congress
63 during the administration of President George H.W. Bush as the Twenty-seventh
64 Amendment to the Constitution of the United States; and

65 WHEREAS, as of January 27, 2020, three-fourths of the states have ratified the Equal Rights
66 Amendment; and

67 WHEREAS, unlike the District of Columbia Voting Rights Amendment, the Equal Rights
68 Amendment does not have a time limit in its text where it would be of full force and effect;
69 and

70 WHEREAS, in contrast to the Madison Amendment, which took 203 years to ratify, the
71 Equal Rights Amendment took a mere 48 years to ratify; and

72 WHEREAS, the text of Article V of the Constitution gives the states the power of
73 ratification, not rescission; and

74 WHEREAS, Samuel Johnson's dictionary of 1755 defines "ratify" as "to confirm; to settle";
75 and

76 WHEREAS, *Bouvier's Law Dictionary* of 1856, considered to be the first American legal
77 dictionary, states that a ratification, once done, "cannot be revoked or recalled"; and

78 WHEREAS, James Madison wrote in a July 20, 1788, letter to Alexander Hamilton that
79 ratification is "in toto and for ever"; and

80 WHEREAS, the various attempts throughout history to rescind the ratifications of the
81 Constitution of the United States or its amendments, including the Fourteenth, Fifteenth, and
82 Nineteenth Amendments, have never been honored; and

83 WHEREAS, the Equal Rights Amendment now meets the strict requirements of Article V
84 of the Constitution of the United States to be added as the Twenty-eighth Amendment.

85 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE that the members of this body
86 encourage the Administration of President Joseph R. Biden, Jr. to publish without delay the
87 Equal Rights Amendment as the Twenty-eighth Amendment to the Constitution of the United
88 States.

89 BE IT FURTHER RESOLVED that the members of this body encourage the Congress of the
90 United States to pass a joint resolution affirming the Equal Rights Amendment as the
91 Twenty-eighth Amendment to the Constitution of the United States.

92 BE IT FURTHER RESOLVED that the members of this body call on other states to join in
93 this action by passing the same or similar resolutions and commend those states which have
94 already done so.

95 BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized and directed
96 to make an appropriate copy of this resolution available for distribution to the President and
97 Vice President of the United States, the Georgia delegation of the United States Congress,
98 and the Archivist of the United States.