IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

COMMONWEALTH OF VIRGINIA, STATE OF ILLINOIS, AND STATE OF NEVADA,

Plaintiffs,

v.

DAVID S. FERRIERO, in his official capacity as Archivist of the United States,

Defendant,

ALABAMA, LOUISIANA, NEBRASKA, SOUTH DAKOTA, and TENNESSEE,

Intervenor-Defendants.

Case No. 1:20-cv-242-RC

BRIEF OF AMICUS CURIAE MONTANA GOVERNOR STEVE BULLOCK

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INTEREST OF AMICUS CURIAE

Amicus, Montana Governor Steve Bullock ("Bullock" or "Governor"), submits this brief under Local Civil Rule 7(o)(1) in support of Plaintiffs—the States of Virginia, Illinois, and Nevada. The Governor files this brief to inform the Court about Montana's unique history advancing equality and to explain the people of Montana's interest in recognition of the Equal Rights Amendment ("ERA").

Forty-six years ago, the people of the State of Montana ratified the ERA. Theirs was not an isolated act, but rather formed an important milestone in a unique history of advocating for sex and gender equality. Crucial here, Montanans ratified the ERA with a good-faith expectation that when a total of two-thirds of U.S. States also ratified, the people of Montana would benefit from the bargain struck by their own ratification: federal, nationwide adoption of the ERA in the United States Constitution. Though the constitutionally required number of states have ratified, Defendant Archivist of the United States would improperly exercise his discretion to elevate a *statutory* deadline over *constitutional* lawmaking by the people, including Montanans.

As Governor of the State of Montana, a ratifying state, amicus has fundamental interests in the case. Like Plaintiff States and amici States of New York, Colorado, Connecticut, Delaware, Hawai'i, Maine, Maryland, Minnesota, New Jersey, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, Wisconsin, the Governor of Kansas, and the District of Columbia ("amici States"), Montana is a sovereign participant in the constitutional amendment process. Pursuant to Article V of the United States Constitution, States are empowered to ratify amendments to the Constitution. Montana exercised that power when it ratified the ERA in 1974. Precisely as required by the Constitution, thirty-eight States—three-fourths of the fifty States—have now ratified the ERA, rendering it a valid Amendment and part of the Constitution.

Only a single ministerial act stands between the people of the United States and the guarantee that they cannot be subject to discrimination on account of sex.

Montana's history of supporting and celebrating equality includes, among other things, electing the first woman to Congress in 1916—four years before women across the country were permitted to vote—and including in its pre-ERA state constitution a prohibition against sex discrimination. Montana and its citizens have a vested interest in ensuring that Montanans be protected from sex discrimination whether at home or visiting throughout the country. That federal law may not expressly prohibit sex discrimination due to an executive official's refusal to publish and certify an amendment lawfully ratified is an affront to all citizens, and especially those who travel among the States, who engage in interstate commerce, who seek remedies for sex discrimination in federal court and under federal law, and who participate in federal contracts, among other pursuits and activities.

BACKGROUND: THE PURSUIT OF EQUAL RIGHTS

When Montana ratified the Equal Rights Amendment, it was the culmination of trailblazing advocacy on behalf of sex equality as old as the State itself. In fact, the first woman and first Native American elected to public office in Montana, Helen Piotopowaka Clarke, was elected county superintendent of schools in Helena in 1882 while Montana was still only a Territory.[1] In 1892, Montana's first female attorney, Ella Knowles, ran for Attorney General of Montana—becoming only the second woman in the United States to run for state attorney general. Even though it would be twenty-two years before women in Montana would be permitted to cast ballots in general

[1] And, when Montana became a State in 1889, the Montana Constitution gave women the right to run and vote in school elections. Kristen Inbody, *Women's suffrage: Montana backers targeted their message to each group they spoke with*, Great Falls Tribune (Nov. 8, 2014) *available at* https://www.greatfallstribune.com/story/life/my-montana/2014/11/09/great-falls-early-backer-womens-suffrage/18673029/ (last accessed July 1, 2020).

elections, Knowles lost by only a few votes. Her opponent was so impressed that he hired her as assistant attorney general.[2] In 1914, the non-Native women of Montana won suffrage, six years before passage of the Nineteenth Amendment.

Montana women put on a well-organized campaign for suffrage and, when the time finally came, Montana men voted for suffrage. The campaign touched every corner of Montana and brought new voices into the political process. One historian describes Belle Fligelman of Helena, who "shocked her mother by speaking on street corners and in front of saloons" in support of suffrage.[3] And "outside talent" for the cause included "New York laundry worker Margaret Hinchey," an Irish immigrant who "undoubtedly converted at least some of Montana's class-conscious miners and loggers with her fiery speeches advocating equal suffrage as a tool for advancing the cause of working women."[4]

Meanwhile, Emma Ingalls of Kalispell founded the Kalispell *Inter Lake* newspaper with her husband—which still exists today—and used it to advocate civic reform. A compelling writer who has been described as wielding "a caustic pen," Ingalls is due significant credit for the more than sixty percent of men who voted for women's suffrage in Flathead County.[5] Maggie Smith

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[2] Ellen Baumler, *Ella Knowles: Portia of the People*, Women's History Matters (Jan. 28, 2014) *available at* http://montanawomenshistory.org/ella-knowles-portia-of-the-people/ (last accessed July 1, 2020).

[3] Martha Kohl, *Nuggets From Helena: The fight for women's suffrage in Montana*, Independent Record (March 2, 2020) *available at* https://helenair.com/news/local/history/nuggets-from-helena-the-fight-for-womens-suffrage-in-montana/article_0d3a32d7-9225-5d80-9159-741607ba87f2.html (last accessed July 1, 2020).

[4] *Id.*

[5] *See* Ellen Baumler, *After Suffrage: Women Politicians at the Montana Capitol*, Women's History Matters (Feb. 25, 2014) *available at* http://montanawomenshistory.org/after-suffrage-women-politicians-at-the-montana-capitol/#more-1511 (last accessed July 1, 2020); Dillon Tabish, *100 Years Later, Montana Stands Out as Champion for Women's Suffrage*, Flathead Beacon (Nov. 5, 2014) *available at* https://flatheadbeacon.com/2014/11/05/100-years-later-montana-stands-champion-womens-suffrage/ (last accessed July 1, 2020).

Hathaway of Stevensville, nicknamed "the Whirlwind," was a schoolteacher who traveled more than 5,700 miles campaigning for women's suffrage.[6] Like Ingalls, she was renowned for her persuasive power—more than seventy percent of Ravalli County voted for women's suffrage. Both Hathaway and Ingalls were elected in 1916 to represent their counties in the Montana State Legislature. May Trumper was also elected Superintendent of Public Instruction by "the largest majority of any candidate in the state."[7]

In the same election, Montanans also elected the first woman ever to serve in the United States Congress. Jeannette Rankin of Missoula was a 36-year-old pacifist and a committed suffragist. She participated in the Committee on Public Lands and the Committee on Woman Suffrage, which she helped create. In January 1918, Rankin opened floor debate on the Committee's proposed constitutional amendment on suffrage for women. Though it passed the House, the proposed amendment died in the Senate.[8] She ultimately served two terms in Congress, though not consecutively. She lost a Senate bid in 1918 and only ran for the House again in 1940. Because Rankin was in office during both World Wars and remained staunchly anti-war, she is the only person to have voted against U.S. involvement in both World Wars.[9]

In 1919, Montana and Michigan passed the first state Equal Pay Acts in the country.[10] In 1921, the Montana Federation of Negro Women's Clubs met for the first time in Butte, bringing

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[6] Kohl, *ibid.* note 2.
[7] Bari R. Burke, *Foreword to When a Woman Campaigns: Emily Sloan's Races to Become Montana's First Female County Attorney*, 74 Montana L. Rev. 343, 344 & n.8 (2013).
[8] *History, Art & Archives, U.S. House of Representatives*, "Rankin, Jeannette," *available at* https://history.house.gov/People/Listing/R/RANKIN,-Jeannette-(R000055)/ (last accessed July 1, 2020).
[9] *Id.*
[10] Cynthia Harrison, *On Account of Sex: The Politics of Women's Issues, 1945–1968* (1988).

together at least nine Black women's clubs from communities around the state.[11] In 1933, Dolly Akers was the first Native American elected to the Montana State Legislature and, in 1975, Geraldine Travis was the first African American elected to the Montana State Legislature.

Of particular importance here, in 1972, 100 delegates—selected democratically from across the State, and representing a diverse cross section of the populace—gathered in Helena, Montana, for a Constitutional Convention. Br. for Mont. Constitutional Convention Delegates as Amici Curiae at 1, *Espinoza v. Mont. Dep't of Rev.*, No. 18-1195 (Nov. 14, 2019). Delegates ranged in age from 24 to 74. *Id.* They came from backgrounds in local government, school boards, civic organizations, and included among them ranchers, farmers, homemakers, ministers, lawyers, and teachers, as well as a beekeeper, an accountant, a veterinarian, and an insurance agent, and many, many more. *Id.* Together, they drafted a document that was unanimously adopted after two months of exchanging and debating ideas, and then presented it to voters. *Id.* Montanans adopted the Constitution of the State of Montana on June 6, 1972. *Id.* The new State Constitution included Article II § 4, on Individual Dignity:

> The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. Neither the state nor any person, firm, corporation, or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas.

This provision has now been the law of the land for nearly fifty years in Montana, and the 1972 Constitution from which its protections emanate has been held up as providing "the most inclusive scheme of 'equal rights' of any known constitution."[12]

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[11] Montana.gov, *Montana's African American Heritage Resources: Women's History*, *available at* https://mhs.mt.gov/Shpo/AfricanAmericans/Womens-History#:~:text=When%20the%20Montana%20Federation%20of,lived%20Afro%2DAmerican%20Women's%20Club (last accessed July 1, 2020).

[12] Larry Elison & Fritz Snyder, *The Montana State Constitution*, 41 (2000).

In its first session following the new state constitution, the Montana Legislature created new state agencies dedicated to monitoring discrimination—the Human Rights Bureau, the Equal Employment Opportunity Bureau, and the Women's Bureau—as well as a new administrative arm to handle discrimination complaints.[13] Legislators worked resolutely to legislate the equality that the State's new Constitution envisioned.

Montana's history on the vanguard of sex equality is something significant—and Montana is proud of it—but it is not nearly enough. Now that the requisite number of States have ratified the ERA, the next step is its formal inclusion in the United States Constitution. The discrete legal question before the Court is a justiciable one. On its resolution hangs the meaning and force of decades of history fighting for equality, in Montana and across the United States.

ARGUMENT

The Governor incorporates by reference the arguments made in Plaintiffs' opposition to the motion to dismiss, Dkt. 37, and in amici States' brief, Dkt. 67, particularly regarding the ineffectual and unlawful attempt of five States to rescind their ratifications of the ERA, *id.* at 20–25. For purposes of emphasis and clarity, the Governor offers responses to points that Defendant has raised in relation to justiciability. At bottom, Plaintiff States believe in good faith belief that Article V requires that when three-fourths of states ratify an amendment, it becomes a valid part of the Constitution. Defendant has no discretion to prevent the Amendment from being added to

[13] Annie Hanshew, *Working to Give Women "Individual Dignity": Equal Protection of the Laws under Montana Constitution* (Nov. 25, 2014) *available at* http://montanawomenshistory.org/working-to-give-women-individual-dignity-equal-protection-of-the-laws-under-montanas-constitution/ (last accessed July 1, 2020).

the Constitution. The resulting claim centers on the proper understanding of the Constitution and the Equal Rights Amendment and is properly before the Court.

I. Justiciability

The Constitution empowers Congress to propose constitutional amendments and to propose one of two modes of ratification. Defendant argues that the Court should defer to Congress and executive branch staff members of the Office of Legal Counsel ("OLC") in *interpreting* the meaning of Article V of the Constitution. But constitutional interpretation is not the proper role of either the executive or the legislative branches. Rather, "[i]t is emphatically the province and duty of the judicial department to say what the law is." *Marbury v. Madison*, 5 U.S. 137, 177 (1803). As Plaintiffs note, Defendant "Archivist's justiciability arguments blur this line by asking the Court to dismiss the case as a political question *because* the purported deadline in the Equal Rights Amendment is valid." Pls.' Opp. to Def.'s Mot. to Dismiss, Dkt. 37, at 16 (June 29, 2020) ("Opp."). But the question is *whether* it is valid, in this circumstance without congressional input beyond its original passage and proposal of the Equal Rights Amendment. While congressional deadlines on ratification may be permissible when properly presented to the States, in this case, the deadline in question was not written into the Amendment and cannot be enforceable where thirty-eight States—the requisite number of states for constitutional amendment as contemplated by the Constitution itself—have ratified the Amendment in question.

A. Plaintiffs' Case Presents a Justiciable Question.

First, Plaintiff States' Complaint presents a justiciable question. That is, determining whether Congress may impose a statutory deadline on the ratification of a constitutional amendment—particularly in prefatory language—is a legal question the Court can and should decide. Courts are necessarily and appropriately reticent to insert themselves into the narrow field

of truly political matters. *See, e.g.*, *Baker v. Carr*, 369 U.S. 186, 223–24 (1962) (collecting cases). But here, the question squarely before the Court is one of constitutional and statutory interpretation, and thus falls directly within the Court's inherent powers. *See, e.g.*, *Nat'l Treasury Emps.' Union v. Nixon*, 492 F.2d 587, 603 (D.C. Cir. 1974) ("All that is involved in this case is interpretation of the interrelation of federal statutes concerning federal pay and determination of the President's duty under those statutes. Such interpretation and determination is the essence of judicial duty.").

Plaintiffs correctly point out that Defendant has overstated *Coleman v. Miller*'s precedential value. Opp. at 37; *see* 307 U.S. 433 (1939). This is particularly so because *Coleman* did not involve an Amendment that had been properly ratified by three-fourths of the States. 307 U.S. at 451 (observing that States were continuing to ratify the Child Labor Amendment in the early 1930s). The questions at issue in *Coleman* were related to a state process and challenged the validity of ratification for various reasons at the state level. *See id.* at 451 (finding no reason to interfere in the process by which official notice is communicated when a state legislature has adopted a resolution of ratification). Though plaintiffs in *Coleman* raised the question whether a lapse in time since the amendment's submission might preclude its ratification, the notion of a time limit was in that case theoretical—"No limitation of time for ratification is provided in the instant case either in the proposed amendment or in the resolution of submission." *Id.* at 452. As a result, any theorizing about possible implications of time limits and reasonableness was advisory. *Preiser v. Newkirk*, 422 U.S. 395, 401 (1975) (holding that federal courts have "neither the power to render advisory opinions nor to decide questions that cannot affect the rights of litigants" before them; judgments resolve "a real and substantial controversy admitting of specific relief through a

decree of a conclusive character, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts").

The office of the courts is to interpret legislative and constitutional writing and intent and to do so where parties with real interests in the outcome of the interpretation raise genuine disputes. Here, Plaintiff States have come before the Court with the good faith belief that the proper reading of Article V is that when three-fourths of states have ratified an amendment, it becomes part of the Constitution. Defendant Archivist must not be allowed to exercise discretion where he has none. The resulting dispute inquires as to the proper understanding of both the Constitution and the Equal Rights Amendment. It presents a justiciable question properly before the Court.

B. Plaintiffs' Request for Mandamus Is Appropriate.

Second, it is within the particular province of the Court to direct the Archivist to perform the nondiscretionary task of publication and certification. As the Supreme Court contemplated in 1803, "[i]t is not by the office of the person to whom the writ is directed, but the nature of the thing to be done that the propriety or impropriety of issuing a mandamus, is to be determined." *Marbury*, 5 U.S. at 170. There are tasks within the purview of the Archivist that require his or her discretion. This is not one of them. Precedent firmly holds that the role of the Archivist in this context—the publication and certification of amendments to the Constitution—is not discretionary. *See U.S. ex rel. Widenmann v. Colby*, 265 F. 998, 999 (once official notice received, no discretion to refuse publication as it is a "ministerial act"), *affirmed sub. nom U.S. ex rel. Widenmann v. Hughes*, 257 U.S. 619 (1921); *cf. Dalton v. Specter*, 511 U.S. 462, 476 (1994) ("How the President chooses to exercise the discretion Congress has granted him is not a matter for [the courts'] review."). It is thus within this Court's power and authority to grant Plaintiffs' writ of mandamus and require that the Archivist certify and publish the ERA.

C. The Court Owes No Deference to Executive Branch Staff Attorneys.

Third, neither the opinions of OLC staff attorneys in general nor the specific OLC opinion relied on by Defendant in his motion to dismiss merit this Court's deference.

To begin, the OLC opinion that the Archivist purports to rely on for approval of the statutory (not constitutional) deadline is inconsistent with prior OLC interpretations and prior Archivist practice. *See* Opp. at 12–13; Ratification of the Equal Rights Amendment, 44 Op. O.L.C. --, 2020 WL 402222 (Jan. 6, 2020) (concluding that the ERA Resolution has expired and is no longer pending before the States). It is axiomatic that courts owe no deference to executive agencies on constitutional questions. *See, e.g.*, *Llapa-Sinchi v. Mukasey*, 520 F.3d 897, 900 (8th Cir. 2008) ("We review constitutional issues de novo.") (citing *Coal. for Fair & Equitable Reg. of Docks on the Lake of the Ozarks v. Fed. Energy Reg. Comm'n*, 297 F.3d 771, 778 (8th Cir. 2002) (Although "we accord substantial deference to an agency's interpretation of its own regulation. . . we review de novo constitutional questions."); *Nat'l Org. for Women, Wash., Dist. of Columbia Chapter v. Soc. Sec. Admin. of Dep't of Health & Human Servs.*, 736 F.2d 727, 734 n.78 (D.C. Cir. 1984) (noting that absent factors including lengthy practical experience or technical knowledge, "administrative rulings on legal questions are not entitled to any particular degree of homage"). In 1992, the OLC explained that despite the fact that "the ratification of the Congressional Pay Amendment has stretched across more than 200 years," Article V "contains no time limits for ratification." Mem. Op. Cong. Pay Amendment, 16 Op. O.L.C. 87, 88 (Nov. 2, 1992). OLC reasoned that the way the Constitution is written "strengthens the presumption that when time periods are part of a constitutional rule, they are specified. *Id.* Moreover, OLC concluded that to the extent *Coleman* and *Dillon v. Gloss*, 256 U.S. 368 (1921), suggest that constitutional amendments must be ratified within a "reasonable" time, that "doctrine is not within

the holding of those cases . . . [and] any dicta supporting the doctrine are unsound." 16 Op. O.L.C. at 90. As to congressional promulgation, OLC concluded that "[t]o give one branch of government ultimate control over the Constitution's very content would be to repudiate the American approach in favor of a return to parliamentary supremacy." *Id.* at 102–03. Indeed, Congress has already approved and proposed the Amendment and, when the Archivist himself contemplated the question, he concluded that publication and certification of the ERA would be forthcoming upon the thirty-eighth state's ratification. *See* Letter from David S. Ferriero to Hon. Carolyn Maloney (Oct. 25, 2012) ("[O]nce NARA [the National Archives and Records Administration] receives at least 38 state ratifications of a proposed Constitutional Amendment, NARA publishes the amendment along with a certification of the ratifications and it becomes part of the Constitution without further action by the Congress.").

Even if the Executive had consistently expressed the view that Congress could impose a deadline on States for ratification purposes, the Executive's opinion does not prevent the Court from making a different final determination. Where an OLC opinion "cannot be reconciled" with a court's opinion—or the Constitution—the OLC opinion can only control so far as the force of its reasoning will allow. *See Cherichel v. Holder*, 591 F.3d 1002, 1016 (8th Cir. 2010) ("Without expressing an opinion as to the amount of weight or deference due the 2004 OLC Memorandum, we decline to adopt its reasoning."); *Comm. on the Judiciary v. Miers*, 558 F. Supp. 2d 53, 104 (D.D.C. 2008) ("[T]he Court concludes that the opinions are entitled to only as much weight as the force of their reasoning will support."); *Pub. Citizen v. Burke*, 655 F. Supp. 318 (D.D.C. 1987) (ruling that conflict between the D.C. Circuit's holding in *Nixon v. Freeman*, and a DOJ/OLC opinion could not be reconciled and that the D.C. Circuit's holding that it was within the Archivist's discretion to accept or reject claims of executive privilege was controlling); *cf. Elec.*

Frontier Found. v. U.S. Dep't of Justice, 739 F.3d 1, 10 (D.C. Cir. 2014) ("That the OLC Opinion bears these indicia of a binding legal decision does not overcome the fact that OLC does not speak with authority on the FBI's policy."). Any and all OLC opinions at issue in this case are therefore only worthy of consideration insofar as they are legally correct—a determination the Court must make de novo on its own analysis of the Constitution, statute, and their differing force as applied to the facts of this case.

D. Defendants Misapprehend the Requested Relief.

Fourth, Plaintiffs ask not whether the deadline is reasonable or how much time *should* be allowed, but instead whether Article V *allows* a deadline to appear in the prefatory language of a proposed Amendment rather than in its text. Opp. at 19–22. In other words, the question is whether the proposed Amendment, as written by Congress, effectively imposes a deadline on the States.

This presents an interpretive question left open by the text of the Constitution itself. Congress has offered its own, inconsistent answers to the interpretive question by placing deadlines in different locations, or omitting them altogether. The Court should give meaning to differences in amendments as drafted, particularly where they are consequential enough to potentially amend the Constitution. *See Holloway v. United States*, 526 U.S. 1, 6 (1999) ("[We] consider not only the bare meaning of the critical word or phrase but also its placement and purpose in the statutory scheme.").

On the merits of the deadline, the Governor joins Plaintiffs' arguments and incorporates them herein, choosing to emphasize only the following: States' role as separate sovereigns accountable to their citizens and to the Union requires that their powers to improve the Constitution by lawful amendment remain full and intact. There is danger here of undermining States' well-considered and important role in the balance of powers between two sovereigns. Montana urges

the Court to read the Constitution as it is written: When three-fourths of the States ratify an amendment to the Constitution, it "shall be valid." Const. Art. V.

II. Ratifying States Like Montana and Plaintiffs Will Suffer Real Injury Absent Publication and Certification of the Equal Rights Amendment

Forty-six years ago, the people of Montana ratified the ERA. They did so consistent with the expectation that, as now, when the requisite number of other States did the same, Montanans would enjoy the benefits of the ERA as part of the United States Constitution.

This moment presents a rare opportunity. Guaranteeing protection from discrimination on account of sex creates needed uniformity in the country. Whether in federal court or in transactions between States, the law must consistently prohibit discrimination. Citizens of all States deserve protection, especially as individuals interact with state and federal governments in the course of their lives, whether in the context of their work, travel, needed healthcare, and remedies at law.

Amici from all backgrounds have weighed in and tell the stories of women who lose $900 billion each year because of the wage gap. Dkt. 51-1 at 23. They tell the stories of women missing from leadership and positions of authority, of industries lacking diversity in every corner, and of undervalued contributions that women make. Dkt. 40-1 at 9, 11. Amici remind us that women are disproportionately the victims of sexual assault. Dkt. 40-1 at 22–23. They point out that sex discrimination is subject only to intermediate scrutiny, but is as irrational as discrimination based on race, religion, and national origin and should, accordingly, be subject to strict scrutiny. Dkt. 51-1 at 16. They report that internationally, there is consensus that constitutional provisions are effective and necessary to recognize sex and gender equality. Dkt. 61-1 at 13–15. Moreover, amici inform the Court that efforts toward equality have wide popular support, particularly among youth and young adults, who are directly affected by education policies that recognize and support victims of sexual assault and harassment and that work to prevent discrimination and stereotyping

on account of sex. Dkt. 64-2 at 14–16. Amici report that such efforts are particularly salient as COVID-19 ravages the country, disproportionately impacting women, who make up nearly two-thirds of minimum wage workers. Dkt. 64-2 at 24. Women of color make up a disproportionate measure of the industries hit hardest by the pandemic. *Id.*

Forty-six years ago, the people of Montana made a clear statement that inalienable rights are not defined by physical attributes. That truth, however self-evident, must be enshrined in our federal Constitution to preserve and protect what we know to be true by giving it the force of law. The Governor joins Montana's sister States in attempting to create a more perfect Union and in asserting a fundamental interest in ensuring that proper deference and legal enforcement be given its ratification of the Equal Rights Amendment.

CONCLUSION

The motion to dismiss should be denied.

Dated: July 7, 2020

Respectfully submitted,

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By: /s/ *Rylee K. Sommers-Flanagan*
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*Application for *Pro Hac Vice* Admission forthcoming

CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2020, the foregoing document was filed electronically with the Clerk of Court and served on all parties or their counsel of record through the CM/ECF system.

Dated: July 7, 2020

By: /s/ *Rylee K. Sommers-Flanagan*
Rylee K. Sommers-Flanagan (DC Bar No. 1552582)