***How Do I Respond? Addressing Common Assertions***

**“We don’t need it anymore.”**

* Every day, we read another testimonial of inequities experienced by women. Without equality in the Constitution, the Supreme Court can continue to strike down legislation protecting women as it did with a portion of the Violence Against Women Act.
* The American Bar Association said the ERA will reinvigorate enforcement of existing laws.
* Sex discrimination currently receives “intermediate scrutiny” in courts, whereas other forms of discrimination (racial, religious, and country of origin) all receive “strict scrutiny.” Under intermediate scrutiny, it is easier for the government to discriminate.
* Justice Bader Ginsburg has said the Equal Rights Amendment is the one Amendment she would like to see added to our Constitution.

**“Didn’t the ratification deadline pass?”**

* Both Nevada (March 22, 2017) and Illinois (May 30, 2018) have ratified the Equal Rights Amendment.
* The Constitution does not give Congress authority to set a deadline.
* In fact, Congress can remove the deadline. On May 11, 2018 Attorney General Mark Herring addressed a formal opinion to Virginia Sen. Black. He did not see any reason why Congress could not change or remove the deadline, and said:

“It is my opinion that the lapse of the ERA’s original and extended ratification periods has not disempowered the General Assembly from passing a ratifying resolution.”

* The Virginia legislature should enact laws reflecting the will of the citizens and not seek to divine the intention of Congress or the Supreme Court.

**“I don’t think we should add this amendment because we don’t know what will happen and there could be unintended consequences.”**

* The simplicity of the ERA and our nation’s many cases about discrimination based on race, national origin, and religion mean there is little room for “unintended consequences.” The Equal Rights Amendment does not confer special rights. It simply prohibits discrimination.
* Failure to act continues the current path of unintended consequences of not ratifying the Equal Rights Amendment. The patchwork of rights across America results in unpredictability for women and employers.

**“We don’t need the ERA, since we may soon have a constitutional convention.”**

* Currently, 12 states have passed legislation to call for a convention, and none of the agenda items seek constitutional equality.
* Since the ERA is just one state shy of achieving approval, there is no reason to encourage or cause a delay in constitutional sex equality.

**“We’re not really at 37 states because some states revoked their ratifications.”**

* According to legal precedent and statutory language, Congress can ignore a state’s withdrawal or rescission of ratification.

When considering ratifications of other amendments, such as the 14th, Congress included states that rescinded in the final tally of ratifying states.

**“Doesn’t this open the door for abortion rights?”**

* *Roe v. Wade* was decided based on the right to privacy, not a non-existent federal Equal Rights Amendment. Subsequent abortion decisions, including those concerning Medicaid funding, turned on privacy and/or self-determination (freedom) interests of women.
* Virginia has an Equal Rights guarantee in our state constitution. We do not have increased abortion rights.

**Military and the Draft: Would the wording “equality of rights under the law” force women to be drafted?**

* Women are already eligible to be drafted and were nearly drafted in the last couple of days of WWII, as nurses.
* Requiring both men and women to register for the draft is not dependent on passage of the ERA. Already, in October 2017, the Pentagon recommended that women should register with the selective service.
* Regardless of ratification, a reinstated draft likely will include everyone, not just men. Women have proven their worth in our modern military. If a draft were necessary, our military would want the very best, including women.

**“Women contractors will lose enhanced status for contract bids.”**

* The enhanced status program for female contractors will continue unabated with a ratified federal ERA, just like those same programs can give enhanced status to minority-owned businesses even though racial equality is protected under the Fourteenth Amendment.
* Virginia’s equal rights amendment has had no effect on this issue.

**“Widows will lose social security benefits.”**

* Social security has been inclusive for all surviving spouses since a legal challenge in 1975.  This is an anachronistic concern from the early 1970s.

**“If the Equal Rights Amendment is ratified, women’s insurance rates will go up!”**

* Insurance rates are regulated by the states. Since Virginia has regulated insurance with equal rights guaranteed in our Virginia state constitution, it can be assumed no change would occur.

***Reasons for ratifying the ERA***

**The Law**

* The courts currently treat gender discrimination more leniently (“intermediate scrutiny”) than discrimination on the basis of race, national origin, or alienage (“strict scrutiny”).
* Ratifying the ERA will give Congress greater Constitutional authority to enact legislation to protect women. Without this, legislation protecting women could be invalidated, as happened in 2000, in the case striking down part of the Violence Against Women Act.

**Politics**

* Ratification of the Equal Rights Amendment is good politics for Virginia, especially now when national attention is focused on women’s issues and tech companies are looking to locate in welcoming sites in the Southeast.
* The November 2017 House races reflect Virginia women’s growing interest in politics and an increased focus on equality and parity of representation.
* Nonpartisan majorities in Virginia counties are passing resolutions requesting ratification. A recent Wason Center poll found that 81% of Virginians want the ERA. Ratification will give the General Assembly statewide praise for its leadership and bipartisanship in contentious times.

**Economics**

* Virginia competes for college students, corporate headquarter relocations, top industry talent, etc. An unmistakable indicator of Virginia’s support for equality will attract these newcomers.
* Virginia has already benefited economically from North Carolina’s divisive politics. Ratifying the ERA would further this advantage.
* McKinsey and Deloitte studies found that increasing gender equity increases corporate profits and national gross domestic product.