

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074
<https://oversight.house.gov>

MEMORANDUM

October 18, 2021

To: Members of the Committee on Oversight and Reform

Fr: Committee Staff

Re: Hearing on “The Equal Rights Amendment: Achieving Constitutional Equality for All”

On **Thursday, October 21, 2021, at 10:00 a.m. ET, in room 2154 of the Rayburn House Office Building and over Zoom**, the Committee on Oversight and Reform will hold a hybrid hearing marking the 50th anniversary of House passage of the Equal Rights Amendment (ERA) and the need to certify and publish the ERA as the 28th Amendment to the U.S. Constitution.

I. BACKGROUND

The ERA was first introduced in Congress in 1923. It passed in the House on October 12, 1971—50 years ago this month—in a strong bipartisan vote of 354 to 24. It passed in the Senate the next year by a vote of 84 to 8 and was shortly thereafter ratified by 35 states.¹ The 38th and final state necessary to ratify the ERA did so in January 2020, which should make the ERA the 28th Amendment to the Constitution.² However, uncertainty remains around the status of the Amendment, and some have questioned the validity of ratifications that occurred after the deadline set by Congress.

¹ Alex Cohen and Wilfred U. Codrington III, *The Equal Rights Amendment Explained*, Brennan Center for Justice (Jan. 23, 2020) (online at www.brennancenter.org/our-work/research-reports/equal-rights-amendment-explained).

² *Virginia Approves the E.R.A., Becoming the 38th State to Back It*, New York Times (Jan. 15, 2020) (online at www.nytimes.com/2020/01/15/us/era-virginia-vote.html).

A large majority of Americans support the ERA. A poll just last year found that three-quarters of Americans back the ERA, including 90% of Democrats and 60% of Republicans.³ The recent ratifications of Nevada, Illinois, and Virginia have been recognized by the Archivist of the United States, who is tasked by statute with recording and tracking ratifications during the amendment process, but the Archivist has not certified those ratifications.⁴ Under 1 U.S.C. § 106b, it is also the Archivist's duty to certify and publish an amendment once ratified by the requisite number of states.⁵ However, the Archivist has not yet published the ERA.

In March 2021, the House passed H.J. Res. 17, which would clarify that state ratifications of the ERA are valid regardless of whether they occurred after the deadline included by Congress in the proposing clause of the Equal Rights Amendment resolution.

II. HEARING PURPOSE

The purpose of the hearing is to examine the enduring importance of the ERA and to consider steps to ensure the Amendment is officially enshrined as the 28th Amendment to the Constitution.

III. WITNESSES

The Honorable Jennifer McClellan
Virginia State Senator

Ms. Bamby Salcedo
President, TransLatin@ Coalition
Board Member, ERA Coalition

Ms. Victoria Nourse
Professor of Law, Georgetown University Law Center

Ms. Carol Jenkins
President, ERA Coalition

Ms. Alyssa Milano
Actor
ERA Advocate

³ *Poll: Three-quarters of Americans Support the Equal Rights Amendment*, The Hill (Feb. 24, 2020) (online at <https://thehill.com/regulation/court-battles/484312-poll-three-quarters-of-americans-support-the-equal-rights-amendment>).

⁴ National Archives and Records Administration, *Equal Rights Amendment: List of State Ratification Actions* (Mar. 24, 2020) (online at www.archives.gov/files/foia/pdf/era-list-of-state-ratification-actions-03-24-2020.pdf).

⁵ 1 U.S.C. § 106b.

Ms. Eleanor Smeal

Founder and President, Feminist Majority Foundation

Ms. Inez Feltscher Stepman

Senior Policy Analyst, Independent Women's Forum

Staff contacts: Kate Kelly, Christina Parisi, and Cameron MacPherson at (202) 225-5051.