
Equal Rights Amendment

REMARKS BY SENATOR PATRICIA (PAT) SPEARMAN

UNITED STATES HOUSE ON THE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS
AND CIVIL LIBERTIES

WASHINGTON, D.C.

APRIL 30, 2019

Good afternoon Chairman Nadler and members of the Subcommittee on the Constitution, Civil Rights and Civil Liberties. For the record, I am Pat Spearman, State Senator representing Senate District 1 in the great State of Nevada. It is an honor to be here today to discuss the Equal Rights Amendment (ERA).

In 1972 Congress passed the ERA and sent it to the states for ratification. At that time, Congress, set a seven-year time limit for ratification in the resolving clause of the amendment. This was later extended to June of 1982. Thirty-five of the necessary 38 states ratified the ERA between 1972 and 1977.

On March 22, 2017, 45 years after the ERA was submitted to Congress, Nevada became the first state to ratify the ERA after the expiration of the June 30, 1982, deadline. The State of Illinois followed with ratification on May 30, 2018. Thirty-seven states have now ratified the ERA.

It was my great privilege to sponsor State Senate Joint Resolution 2, which supported Nevada's ratification in 2017. When this resolution was discussed, one of the questions posed was, "Is the ERA still necessary?" I continue to see evidence of the need for the ERA every day.

A 1997 article in the *William & Mary Journal of Women and the Law*, concludes that "while women enjoy more rights today than they did when the ERA was first introduced in 1923 or when it passed out of Congress in 1972, hard-won laws against sex discrimination do not rest on any unequivocal constitutional foundation; they can be inconsistently enforced or even repealed." The article further concludes that "the need for a federal Equal Rights Amendment remains as compelling as it was in 1978, when now Supreme Court Justice Ruth Bader Ginsburg wrote in the *Harvard Women's Law Journal*: 'With the Equal Rights Amendment, we may expect Congress and the state legislatures to undertake in earnest, systematically and pervasively, the law revision so long deferred. And in the event of legislative default, the courts will have an unassailable basis for

applying the bedrock principle: All men and all women are created equal.’”¹

THIS IS WHY WE NEED THE ERA

Pay equity—or should I say, pay inequity—is still a significant concern. Although the gender pay gap is narrowing, according to the Pew Research Center, women in the United States earn just 85 percent of what their male counterparts earn.² When looking at women of color, black women typically make only 60 percent and Latinas make 50 percent of what white, non-Hispanic male counterparts make.³ A common theme of work force issues for women is the lack of paid leave and affordable child care, which are critical to women joining the labor force and narrowing the gender wage gap. Pay inequity often means women, who are the income earners, work more than one job, have less time to spend helping their children have academic success, and more women retire below the national poverty level than men. In Nevada, the Legislature is currently considering a measure that would require a private employer, with 50 or more employees, to provide paid leave to each employee.⁴ Just

¹ Allison L. Held, Sheryl L. Herndon, and Danielle M. Stager, *The Equal Rights Amendment: Why the Era Remains Legally Viable and Properly before the States*, Volume 3, Issue 1, Article 5, *William & Mary Journal of Race, Gender, and Social Justice*, <https://scholarship.law.wm.edu/wmjowl/vol3/iss1/5/>.

² Pew Research Center, *The Narrowing, but Persistent, Gender Gap in Pay*, March 22, 2019, <https://www.pewresearch.org/fact-tank/2019/03/22/gender-pay-gap-facts/>.

³ National Women’s Law Center, *The Wage Gap: The Who, How, Why, and What to Do*, <https://nwlc.org/resources/the-wage-gap-the-who-how-why-and-what-to-do/>.

⁴ 2019 Nevada Legislature, Senate Bill 312, <https://www.leg.state.nv.us/Session/80th2019/Reports/history.cfm?ID=703>.

last week, the Nevada Senate passed Senate Bill 166 to ensure equal pay for equal work and penalize employers who practice pay discrimination based on gender. The Nevada Assembly will hear the bill soon, and I anticipate they will pass the bill as well. Governor Sisolak said in his "State of the State address, he intends to make pay equity the law in Nevada. Our state WILL have a "Pay Equity" law before mid-June of this year.

Another area that represents gender inequality concerns pay in sports. College and professional sports often provide unequal funding and compensation for women. How is it that the U.S. Women's National Team received a bonus of only \$2 million when it won the 2015 Women's World Cup, and when the 2014 U.S. men's team finished in 11th place, it collected \$9 million? In a recent move, 28 members of the world champion U.S. women's soccer team filed a gender discrimination lawsuit citing "institutionalized gender discrimination."⁵ Ratification of the ERA continues to be relevant.

Moreover, when it comes to crimes against women, we continue to suffer from victim-blaming, such as shame, stigma, and the ingraining of guilt upon the female victim. The Civil Rights Act of 1964 prohibits employment discrimination based on race, sex, color, national origin,

⁵ The New York Times, U.S. Women's Soccer Team Sues U.S. Soccer for Gender Discrimination, March 8, 2019, <https://www.nytimes.com/2019/03/08/sports/womens-soccer-team-lawsuit-gender-discrimination.html?module=inline>.

or religion. Sexual harassment became codified in U.S. law based upon sexual harassment cases in the 1970s and 1980s. In 1980, the Equal Employment Opportunity Commission (EEOC) issued regulations defining sexual harassment as a form of sex discrimination prohibited by the Civil Rights Act. In the last few years, we have clearly heard the voices of women that sexual harassment in the work place happens frequently and often silently. The #MeToo movement has supported a significant increase in sex-based discrimination filings. The EEOC saw a 13.6 percent increase in workers alleging sexual harassment from Fiscal Year 2017 to Fiscal Year 2018.⁶ To begin the journey of addressing sexual discrimination and harassment in Nevada, we now have a Governor’s Task Force on Sexual Harassment Discrimination Law and Policy to reduce harassment in the executive branch.⁷ In addition, the Nevada Legislature is reviewing legislation relating to this form of discrimination. Clearly, we still struggle with discrimination and victim-blaming of women, and the ERA will advance our commitment to end this unjust treatment.

February 4, 2019, the Nevada Legislature became the FIRST FEMALE majority legislature in the country. Women hold nearly 51 percent of the _____ state’s

⁶ Bloomberg Law Daily Labor Report, Rise in Sexual Harassment Claims Has EEOC Looking for Answers, February 21, 2019, <https://news.bloomberglaw.com/daily-labor-report/rise-in-sexual-harassment-claims-has-eeoc-looking-for-answers>.

⁷ Nevada Executive Department, Executive Order 2019-02 Order To Collect Sexual Harassment And Discrimination Policies From Marijuana And Gaming Privileged License Holders And State Vendors, http://gov.nv.gov/News/Executive_Orders/2019/2019-02_Order_To_Collect_Sexual_Harassment_And_Discrimination_Policies_From_Marijuana_And_Gaming_Privileged_License_Holders_And_State_Vendor/.

63 legislative seats. Nationally, the number of women in legislative seats is also on the rise. In 2019, women-held seats will grow to at least 28.6 percent in state legislatures, up from 25.4 percent.⁸ In addition to the legislative majority in Nevada, women will also make up more than 40 percent of state legislators in Colorado, Oregon, and Washington. Although we celebrate this historic milestone, we know the job is not yet done. Women make up nearly 51 percent of the U.S. population, but the percentage of women in elected office, falls far short of equal representation.

We celebrate the fact that in this Congress 23 percent are women, and this is one of the most diverse in American History! Yes, we are making progress, but the job is not done. While improvements are occurring, our nation still struggles with inequality under the law and the ratification of the ERA continues to be necessary.

Mr. Chair and members of the Subcommittee, when the ERA first gained popularity in the late-1960s and 1970s, it was heard as a clarion call for change. Just as the call for change continues for racial equality, fairness, and justice some 154 years after the adoption of the 13th Amendment, this call has not diminished for the ERA. The cry for change today has become a clarion call to act in a responsible manner that ensures equality for all citizens.

⁸ CNBC, Nevada Makes History as the First State with a Majority Female Legislature, December 20, 2018, <https://www.cnbc.com/2018/12/20/nevada-becomes-the-first-state-with-a-female-majority-legislature--.html>.

Fifty years ago, as the equal rights movement gained momentum, President Lyndon B. Johnson said these words:

*"We have talked long enough in this country about equal rights. We have talked for one hundred years or more. It is time now to write the next chapter, and to write it in the books of law."*⁹

In 1995, then First Lady, Hillary Clinton, spoke at the United Nations Fourth World Conference on Women in Beijing and said, "Women's Rights Are Human Rights."

In her 1970 speech to Congress, Representative Shirley Chisholm built the argument FOR the Equal Rights Amendment by declaring the current state of inequality for women. She said, [the absence of the ERA] "... provides a legal basis for attack on the most subtle, most pervasive, and most institutionalized form of prejudice that exists. Discrimination against women, solely on the basis of their sex, is so widespread that it seems to many persons normal, natural and right.

Mr. Chairman and members of the Subcommittee, I am before you today because I believe, from the bottom of my heart, in the foundations of the ERA and what it stands for—for ALL people. A

⁹ United States Senate, Landmark Legislation: The Civil Rights Act of 1964, <https://www.senate.gov/artandhistory/history/common/generic/CivilRightsAct1964.htm>.

quote by Gloria Steinem expresses the meaning of equal rights for ALL when she said, "A gender-equal society would be one where the word 'gender' does not exist: where everyone can be themselves."¹⁰ When it comes to the ratification of the ERA, we ALL must **PERSIST** for equality.

The ratification of the ERA has been delayed long enough. We need a 38th state to ratify the ERA and provide the means for Congress to move forward with an amendment to the *Constitution of the United States*.

The restricting time limit for ratification of the ERA can be found in the resolving clause and is not part of the amendment that was proposed by Congress. I believe that having passed a time extension for the ERA on October 20, 1978, Congress demonstrated that a time limit in the resolving clause may be disregarded if it is not part of the proposed amendment. If an amendment to the *Constitution of the United States* has been proposed by a two-thirds vote of both houses of Congress and ratified by three-fourths of the state legislatures, I believe that the validity of the state ratifications occurring after a time limit in the resolving clause will prevail.

¹⁰ Bustle, 17 Inspiring Quotes About Women's Equality for Women's Equality Day, Because We've Made A Lot of Progress, Even If We Aren't There Yet, <https://www.bustle.com/articles/106640-17-inspiring-quotes-about-womens-equality-for-womens-equality-day-because-weve-made-a-lot-of>.

The time is NOW to show the global neighborhood that we, as Americans, lead when it comes to equality for all. At every decision point in history, the quest for equality has met with stiff and recalcitrant opposition. Equal justice has NEVER been given. During antebellum times, abolitionists **PERSISTED** to end the heinous practice of slavery, and Negroes in the south **PERSISTED** to end Jim Crow. African Americans also **PERSISTED** to get the 1964 Civil Rights Act passed. In addition, Cesar Chavez and migrant workers **PERSISTED** to improve working conditions; Vietnam Veterans **PERSISTED** to get health care, recognition of their service, and appreciation for their sacrifice; HIV/AIDS activists **PERSISTED** to ensure that human dignity was not diminished for those infected and affected by such a terrible disease; and members of the LGBTQ community **PERSISTED** to gain marriage equality.

Persistence, faith, and hope fuel the indomitable spirit of this movement. We must honor the sacrifices of our mothers and grandmothers, and we must commit to the preservation of justice and equality for our posterity. Galatians 6:9 says, "Be not weary in well doing, you will reap the harvest if you do not faint."

Mr. Chair and members of the Subcommittee, we got tired, but we did not faint, we became weary, but we did not stop. History demands that we take a stand on this most important journey toward full equality. We stand on the right side of history or will your second, third, and fourth generations question the decision to NOT support the

Equal Rights Amendment. We must persist in the name of all that is good. The road is long and has been full of twists and turns, but we must continue on this road until the ERA becomes a part of the *Constitution of the United States*.

Thank you for your time and attention.

Senator (Dr.) Pat Spearman
Majority Co-Whip
Nevada State Senate
Senate District 1