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# THE EQUAL RIGHTS AMENDMENT

111<sup>TH</sup> CONGRESS

Prepared by the Office of Congresswoman Carolyn B. Maloney  
July 13, 2009

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# WOMEN’S EQUALITY AMENDMENT

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# TEXT OF THE EQUAL RIGHTS CONSTITUTIONAL AMENDMENT

*Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.*

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

*Section 3. This amendment shall take effect two years after the date of ratification*

## **LEGISLATIVE HISTORY**

The ERA was written by the famous leader of the Women's Rights Movement, Alice Paul, in 1923. It was first introduced in Congress that year, and was reintroduced each year thereafter until it was passed and submitted to the states for ratification in 1972. The original deadline for ratification was seven years, but this was later extended by Congress until 1982.

Unfortunately, by that date only 35 of the necessary 38 states had voted for ratification. Indiana was the 35<sup>th</sup> state to ratify the ERA in 1977. Five states (Kentucky, Tennessee, Idaho, South Dakota, and Nebraska) voted to withdraw their ratifications only following extreme pressure from anti-ERA supporters.

The ERA has continued to be reintroduced each year since 1982. Congresswoman Carolyn Maloney (D-NY) has been the sponsor since the 105<sup>th</sup> Congress. Senator Edward M. Kennedy (D-MA) championed the resolution in the Senate from the 99<sup>th</sup> Congress through the 110<sup>th</sup> Congress. In the 110<sup>th</sup> Congress, the ERA was introduced in the House of Representatives as H.J. Res 40, with 193 original sponsors. It was introduced in the Senate as S.J.Res 10, with 20 original cosponsors.

In addition to this resolution, Congressman Robert Andrews (D-NJ) usually introduces a resolution stipulating that the House of Representatives shall take any necessary action to verify ratification of the ERA when an additional three states ratify. This "three state strategy" is based on the legal theory that Congress has the power to maintain the viability of the existing 35 ratifications of the ERA. Representatives Maloney and Andrews and traditionally supported each others resolutions, with the idea that both strategies are necessary to increase the chances that the ERA will be included in the Constitution.

July 8, 2009

# Equality begins with the Women's Equality Amendment

Dear Colleague:

Over thirty-five years have passed since the Congress passed the Equal Rights Amendment (also known as the Women's Equality Amendment). This historic Constitutional Amendment was intended to ensure equality for women and men in all areas of society.

The 27<sup>th</sup> amendment to the Constitution, which concerns Congressional pay raises, was accepted after a 203 year ratification period. When Congress passed the ERA in 1972, it provided that the measure had to be ratified by the necessary number of states (38) within 7 years. This was later extended to the still tight deadline of 10 years, but unfortunately the ERA was just three states shy of full ratification when the deadline passed in 1982. We believe Congress should give the states another chance.

In the past several decades, women have made extraordinary strides toward achieving equality – but this progress is not irreversible. Without the ERA, women have often been denied the ability to seek justice when they have experienced discrimination. The Supreme Court decision in the Virginia Military Institute case (Virginia v. United States) helped clarify that gender “classifications may not be used... to create or perpetuate the legal, social, and economic inferiority of women.” However, laws can still perpetuate gender classifications that keep women from achieving their full potential. Passage of the ERA is the Constitutional affirmation of the Supreme Court decision.

Our democracy rests on the principle of “liberty and justice for all.” We need the ERA to ensure that this concept applies equal to women. If you would like to become an original cosponsor or would like more information about the ERA, please contact Ally Adams-Alwine with Rep. Maloney at x5-7944.

Sincerely,

**CAROLYN B. MALONEY**  
**Member of Congress**

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July 13, 2009

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## COSPONSORS IN THE 110<sup>TH</sup> CONGRESS

Rep Abercrombie, Neil [HI-1] - 3/27/2007  
Rep Ackerman, Gary L. [NY-5] - 3/27/2007  
Rep Allen, Thomas H. [ME-1] - 3/27/2007  
Rep Andrews, Robert E. [NJ-1] - 3/27/2007  
Rep Arcuri, Michael A. [NY-24] - 3/27/2007  
Rep Baca, Joe [CA-43] - 3/27/2007  
Rep Baird, Brian [WA-3] - 3/27/2007  
Rep Baldwin, Tammy [WI-2] - 3/27/2007  
Rep Bean, Melissa L. [IL-8] - 3/27/2007  
Rep Becerra, Xavier [CA-31] - 3/27/2007  
Rep Berkley, Shelley [NV-1] - 3/27/2007  
Rep Berman, Howard L. [CA-28] - 3/27/2007  
Rep Berry, Marion [AR-1] - 3/27/2007  
Rep Biggert, Judy [IL-13] - 3/27/2007  
Rep Bishop, Sanford D., Jr. [GA-2] - 3/27/2007  
Rep Bishop, Timothy H. [NY-1] - 3/27/2007  
Rep Blumenauer, Earl [OR-3] - 3/27/2007  
Rep Bordallo, Madeleine Z. [GU] - 3/27/2007  
Rep Boswell, Leonard L. [IA-3] - 3/27/2007  
Rep Boucher, Rick [VA-9] - 3/27/2007  
Rep Boyd, Allen [FL-2] - 4/17/2007  
Rep Brady, Robert A. [PA-1] - 3/27/2007  
Rep Braley, Bruce L. [IA-1] - 3/27/2007  
Rep Brown, Corrine [FL-3] - 3/27/2007  
Rep Butterfield, G. K. [NC-1] - 3/27/2007  
Rep Capps, Lois [CA-23] - 3/27/2007  
Rep Capuano, Michael E. [MA-8] - 3/27/2007  
Rep Cardoza, Dennis A. [CA-18] - 3/27/2007  
Rep Carnahan, Russ [MO-3] - 3/27/2007  
Rep Carson, Andre [IN-7] - 6/12/2008  
Rep Carson, Julia [IN-7] - 3/27/2007  
Rep Castle, Michael N. [DE] - 3/27/2007  
Rep Castor, Kathy [FL-11] - 3/27/2007  
Rep Chandler, Ben [KY-6] - 3/27/2007  
Rep Christensen, Donna M. [VI] - 3/27/2007  
Rep Clarke, Yvette D. [NY-11] - 3/27/2007  
Rep Clay, Wm. Lacy [MO-1] - 3/27/2007  
Rep Cleaver, Emanuel [MO-5] - 3/27/2007  
Rep Clyburn, James E. [SC-6] - 3/27/2007  
Rep Cohen, Steve [TN-9] - 6/15/2007  
Rep Conyers, John, Jr. [MI-14] - 3/27/2007  
Rep Cooper, Jim [TN-5] - 3/27/2007  
Rep Costa, Jim [CA-20] - 3/27/2007  
Rep Costello, Jerry F. [IL-12] - 3/27/2007  
Rep Crowley, Joseph [NY-7] - 3/27/2007  
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Rep Davis, Artur [AL-7] - 3/27/2007  
Rep Davis, Danny K. [IL-7] - 3/27/2007  
Rep Davis, Susan A. [CA-53] - 3/27/2007  
Rep DeFazio, Peter A. [OR-4] - 3/27/2007  
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Rep Delahunt, William D. [MA-10] - 3/27/2007  
Rep DeLauro, Rosa L. [CT-3] - 3/27/2007  
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Rep Doggett, Lloyd [TX-25] - 3/27/2007  
Rep Doyle, Michael F. [PA-14] - 3/27/2007  
Rep Edwards, Chet [TX-17] - 3/27/2007  
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Rep Fattah, Chaka [PA-2] - 3/27/2007

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Rep Gonzalez, Charles A. [TX-20] - 3/27/2007  
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Rep Green, Gene [TX-29] - 3/27/2007  
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Rep Gutierrez, Luis V. [IL-4] - 3/27/2007  
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Rep Higgins, Brian [NY-27] - 3/27/2007  
Rep Hinchey, Maurice D. [NY-22] - 3/27/2007  
Rep Hinojosa, Ruben [TX-15] - 3/27/2007  
Rep Hirono, Mazie K. [HI-2] - 3/27/2007  
Rep Hodes, Paul W. [NH-2] - 7/27/2007  
Rep Holt, Rush D. [NJ-12] - 3/27/2007  
Rep Honda, Michael M. [CA-15] - 3/27/2007  
Rep Hooley, Darlene [OR-5] - 3/27/2007  
Rep Hoyer, Steny H. [MD-5] - 3/27/2007  
Rep Inslee, Jay [WA-1] - 3/27/2007  
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Rep Jackson-Lee, Sheila [TX-18] - 3/27/2007  
Rep Jefferson, William J. [LA-2] - 3/27/2007  
Rep Johnson, Eddie Bernice [TX-30] - 3/27/2007  
Rep Johnson, Henry C. "Hank," Jr. [GA-4]  
Rep Jones, Stephanie Tubbs [OH-11] - 3/27/2007  
Rep Kagen, Steve [WI-8] - 8/3/2007  
Rep Kaptur, Marcy [OH-9] - 3/27/2007  
Rep Kennedy, Patrick J. [RI-1] - 3/27/2007  
Rep Kildee, Dale E. [MI-5] - 3/27/2007  
Rep Kilpatrick, Carolyn C. [MI-13] - 3/27/2007  
Rep Kind, Ron [WI-3] - 3/27/2007  
Rep Kirk, Mark Steven [IL-10] - 3/27/2007  
Rep Klein, Ron [FL-22] - 3/27/2007  
Rep Kucinich, Dennis J. [OH-10] - 3/27/2007

Rep Langevin, James R. [RI-2] - 3/27/2007  
Rep Lantos, Tom [CA-12] - 3/27/2007  
Rep Larsen, Rick [WA-2] - 3/29/2007  
Rep Larson, John B. [CT-1] - 8/2/2007  
Rep Lee, Barbara [CA-9] - 3/27/2007  
Rep Levin, Sander M. [MI-12] - 3/27/2007  
Rep Lewis, John [GA-5] - 3/27/2007  
Rep LoBiondo, Frank A. [NJ-2] - 3/27/2007  
Rep Loeb sack, David [IA-2] - 3/27/2007  
Rep Lofgren, Zoe [CA-16] - 3/27/2007  
Rep Lowey, Nita M. [NY-18] - 3/27/2007  
Rep Lynch, Stephen F. [MA-9] - 3/27/2007  
Rep Markey, Edward J. [MA-7] - 3/27/2007  
Rep Matsui, Doris O. [CA-5] - 3/27/2007  
Rep McCarthy, Carolyn [NY-4] - 3/27/2007  
Rep McCollum, Betty [MN-4] - 3/27/2007  
Rep McDermott, Jim [WA-7] - 3/27/2007  
Rep McGovern, James P. [MA-3] - 3/27/2007  
Rep McNerney, Jerry [CA-11] - 3/27/2007  
Rep McNulty, Michael R. [NY-21] - 3/27/2007  
Rep Meehan, Martin T. [MA-5] - 3/27/2007  
Rep Meek, Kendrick B. [FL-17] - 3/27/2007  
Rep Meeks, Gregory W. [NY-6] - 3/27/2007  
Rep Melancon, Charlie [LA-3] - 3/27/2007  
Rep Michaud, Michael H. [ME-2] - 3/27/2007  
Rep Millender-McDonald, Juanita [CA-37]  
Rep Miller, Brad [NC-13] - 3/27/2007  
Rep Miller, George [CA-7] - 3/27/2007  
Rep Moore, Dennis [KS-3] - 3/27/2007  
Rep Moore, Gwen [WI-4] - 3/27/2007  
Rep Moran, James P. [VA-8] - 3/27/2007  
Rep Nadler, Jerrold [NY-8] - 3/27/2007  
Rep Napolitano, Grace F. [CA-38] - 3/27/2007  
Rep Neal, Richard E. [MA-2] - 3/27/2007  
Rep Norton, Eleanor Holmes [DC] - 3/27/2007  
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Rep Ortiz, Solomon P. [TX-27] - 3/27/2007  
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Rep Pascrell, Bill, Jr. [NJ-8] - 3/27/2007  
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Rep Payne, Donald M. [NJ-10] - 3/27/2007  
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 Rep Velazquez, Nydia M. [NY-12] - 3/27/2007  
 Rep Walz, Timothy J. [MN-1] - 3/27/2007  
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 Rep Waters, Maxine [CA-35] - 3/27/2007  
 Rep Watson, Diane E. [CA-33] - 3/27/2007  
 Rep Watt, Melvin L. [NC-12] - 3/27/2007  
 Rep Waxman, Henry A. [CA-30] - 3/27/2007  
 Rep Weiner, Anthony D. [NY-9] - 3/27/2007  
 Rep Welch, Peter [VT] - 8/1/2007  
 Rep Wu, David [OR-1] - 3/27/2007  
 Rep Wynn, Albert Russell [MD-4] - 3/27/2007  
 Rep Yarmuth, John A. [KY-3] - 3/29/2007  
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 Rep Slaughter, Louise McIntosh [NY-28]  
 Rep Smith, Adam [WA-9] - 3/27/2007  
 Rep Snyder, Vic [AR-2] - 3/27/2007  
 Rep Solis, Hilda L. [CA-32] - 3/27/2007



## SOME FACTS YOU SHOULD KNOW...

Throughout the mid-to-late 1900's, legislative efforts increased women's rights...but the gains were often hard won! Why is there such strong opposition to giving women the same rights as men?

- Did you know...The 19<sup>th</sup> Amendment which grants women the right to vote was slimly ratified? It came down to one single vote in the state of Tennessee.
- Did you know...The Civil Rights Act of 1964 which bans discrimination because of a person's color, race, national origin, religion, or *sex* was passed after a 75-day *filibuster* in the Senate? The debate was one of the longest in Senate history.
- With the growing attention to the importance of worldwide equal rights for women, it is OUTRAGEOUS that unlike the constitutions of over 50 nations, the United States Constitution still does not guarantee equal rights on account of sex. The following are just a few countries which have explicit statements on women's equality or non-discrimination based on gender in their constitutions:

Austria  
Bosnia and Herzegovina  
Canada  
Ethiopia  
Madagascar  
Thailand

Fiji  
Finland  
Hungary  
Japan

Mexico  
Portugal  
South Africa  
Switzerland  
Turkey

- Over thirty-five years have elapsed since Congress passed the Equal Rights Amendment. This historic Constitutional Amendment was intended to ensure equality for women and men in all areas of society. When Congress passed the ERA in 1972, it provided that the measure had to be ratified by the necessary number of states (38) within 7 years. (The deadline was later extended to 10 years). The ERA was only three states shy of full ratification at the 1982 deadline.
- During the last 30 years, women have made extraordinary strides toward achieving equality. The Supreme Court decision in the Virginia Military Institute case (*Virginia v. United States*) helped clarify that gender "classifications may not be used... to create or perpetuate the legal, social, and economic inferiority of women." But without the ERA, laws can still

perpetuate gender classifications that keep women from achieving their full potential. Passage of the ERA is not only the constitutional affirmation of the Supreme Court's Virginia Military Institute decision, but it could potentially subject the government to a higher level of scrutiny when making classifications based on sex.

- Because of *Virginia v. United States*, the courts currently determine whether a government statute or classification is discriminatory by using a heightened standard of the intermediate scrutiny test. The intermediate scrutiny test provides that the government must prove that its classification based on sex is *substantially related to achieve an important government interest*. The passage of a constitutional amendment regarding sex discrimination would likely raise the standard utilized by the courts from intermediate scrutiny to strict scrutiny. The strict scrutiny test, which is currently only applied to classifications based on race, national origin, and alienage, is nearly impossible to overcome. Strict scrutiny requires that the government prove the classification is *necessary to achieve a compelling government interest, with no less restrictive means to achieving that interest available*. This standard makes the government's task in justifying a classification extremely difficult, and therefore, a government classification based on sex would likely be held unconstitutional if the strict scrutiny standard were utilized.

# 2003 DINGELL-MALONEY GLASS CEILING REPORT

The General Accounting Office (GAO) examined 18 years of data on over 9,300 Americans for earnings study commissioned by Representatives Carolyn Maloney (D-NY) and John Dingell (D-MI). The new study is a follow-up to the more narrowly-focused 2002 GAO report on the earnings gap between female and male managers.

Results of the GAO study show:

**The pay gap is real.** Women working full-time today are paid an average of 80 cents for every dollar that men are paid, even when accounting for demographic and work-related factors such as occupation, industry, race, marital status and job tenure. This 20 percent earnings gap cannot be explained due to differences in work patterns or histories.

**Differing work patterns lead to an even larger earnings gap between men and women** - suggesting that working women are penalized for their dual role as wage earners and those who disproportionately care for home and family obligations. The GAO study confirms that women in the workforce are less likely to work a full-time schedule and are more likely to leave the labor force for longer periods of time than men, suppressing women's earnings even further. And, men with children are paid about 2% more than men without children, whereas women with children are paid about 2.5% less than women without children.

**The pay gap has persisted for past two decades.** The GAO study confirms that the earnings gap between women and men has been consistent from 1983-2000, despite a sense of continued progress toward gender equality in the workplace.

# 2002 DINGELL-MALONEY GLASS CEILING REPORT

## Study shows glass ceiling is hardening, not shattering; It's time to pass the Equal Rights Amendment

The Dingell-Maloney report (2002), "A New Look at the Glass Ceiling: Where are the Women?" yielded shocking data suggesting that the "glass ceiling" in the management ranks of American companies is hardening, not shattering. The study, which was based on current census data analyzed by the GAO, contributes to a body of research contradicting conventional wisdom that the status of women in the workplace is improving. We believe this research presents the need to revisit writing equal opportunity for women into the United States Constitution. Among the survey's most telling conclusions:

- **In seven of the ten industries studied, the earnings gap between full-time women and men managers actually widened between 1995 and 2000.**
- **Full-time women managers earned less than their male counterparts in both 1995 and 2000 in all ten industries studied.**
- **Women hold a share of management jobs proportionate to their share of the industry workforce in only five of the ten industries studied.**
- **While women may hold 'management titles', the positions are often in less strategic, lower-paying areas of the company's operations.**

This study and others with similar findings, highlight the need for additional research and hearings, and regulatory and statutory changes at the federal, state and local levels. It should also be a wake-up call for corporate America to reassess its employment and promotion practices. But above all, the hardening of the glass ceiling begs something that fell three states short of ratification 20 years ago: a constitutional amendment. Passing the Women's Equality Amendment, also known as the ERA, would help set the tone for equality in the workplace by writing into the Constitution what most Americans strongly believe: that equal rights under the law shall not be denied or abridged on account of sex.

The most common argument against the Women's Equality Amendment is that women already have equal rights. We urge you to read this report ([www.house.gov/maloney](http://www.house.gov/maloney) or [www.house.gov/dingell](http://www.house.gov/dingell)) and decide for yourself if indeed this is the case. If you have questions, please contact Bethany Sousa with Rep.

Maloney at x5-7944 or Katie Murtha with Rep. Dingell at x5-4071.

## ERA PUBLIC AWARENESS POLL

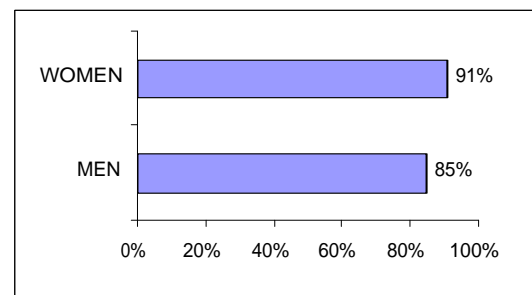
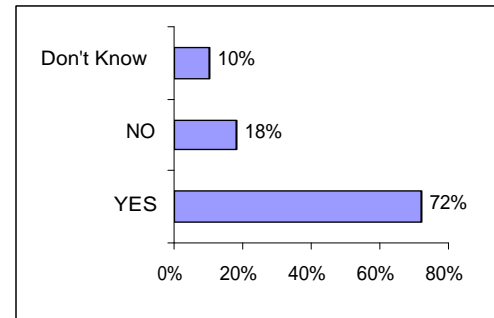
In a survey of 1,002 men and women conducted by Opinion Research Corporation Caravan Services in July 2001, 500 men and 502 women were asked:

*“As far as you know, does the Constitution of the United States make it clear that male and female citizens are supposed to have equal rights?”*

**7 out of 10 people surveyed think that the Constitution ALREADY makes it clear that male and female citizens are entitled to *equal rights*.**\*

*“In your opinion, SHOULD the Constitution make it clear that male and female citizens are supposed to have equal rights?” Yes:*

**NINE out of every Ten Americans, both MEN and WOMEN believe the Constitution should state that male and female citizens are entitled to equal rights.**



Although most Americans believe that women have the same rights as men under our Constitution, they are mistaken. Men’s rights are guaranteed by specific language in the Constitution. Women’s rights are secured only at the whim of Congress or state legislatures and the courts.

It is time women’s rights were embedded in the CONSTITUTION. Men do not rely on Congress to ensure them the right to life, liberty and the pursuit of happiness. Why should American women have their rights subject to the mercy of politicians or judges?

***Isn’t it time that equality is guaranteed to all persons regardless of sex?***

\*Survey conducted by Opinion Research Corporation Caravan Services in July 2001. Sample size 1,002 adults, 500 men, 502 women. Margin of error at 95% confidence level,  $\pm 3\%$  whole sample;  $\pm 4\%$  for male/female respondents reported separately.

Prepared by the Office of Congresswoman Carolyn B. Maloney

July 13, 2009

For more information, contact Ally Adams-Alwine at 5-7944 or [Ally.Adams-Alwine@mail.house.gov](mailto:Ally.Adams-Alwine@mail.house.gov)

# STATISTICAL SNAPSHOT OF AMERICAN WOMEN

## THE EQUALITY AMENDMENT: AN IMPORTANT STEP FORWARD FOR WOMEN

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### WOMEN: A STATISTICAL SNAPSHOT

- There are 4 million more women in the United States than men; women are 51 percent of the population.
- 59 percent of women age 16 and older participated in the labor force in 2005.
- The projected life expectancy at birth for women in 2004 is 80 years.
- 15% of the armed forces are women. Of the 203,000 women in the military in 2005, 35,000 women were officers. 1.7 million military veterans are women.
- In 2002, women earned 48% of law degrees, and in 2003 women earned 47% of doctoral degrees. 58 percent of the bachelor's and 61 percent of the master's degrees are projected to be awarded to women in the 2006-07 school year.
- In 2002, there were nearly 6.5 million women-owned businesses in the United States, generating over \$939 billion, and employing over 7.1 million people.

### WAGE INEQUALITY PERSISTS IN THE 21<sup>ST</sup> CENTURY, AND IT AFFECTS MEN AS WELL AS WOMEN

- The gender wage gap has not changed much in recent years, and in the year 2005, women who worked full-time earned only 77 percent as much as men earned.
- On average, the families of working women lose out on \$9575 per year because of women's lower wages.
- More than one-fourth of wives earn more than their husbands. These families are especially dependent on the wife's earnings, even though she is very likely to suffer from discrimination.

- Men's earnings are lower when they work in female-dominated occupations - by an average of \$6,259 per year.

**WOMEN HAVE MOVED INTO THE WORKFORCE,  
BUT THEY HAVEN'T BEEN ALLOWED INTO THE BOARDROOM**

- In 2003, women business owners received 4 percent of the venture capital invested that year.
- Only 3 percent of federal contracts go to women-owned firms.
- In 2005, women held 14.7 percent of board seats at Fortune 500 companies.
- In 2005, women held 16.4 percent of corporate officer positions, only 0.7 percentage points more than they did in 2002, and 9.4 percent of the highest executive titles.
- At the estimated growth trend for the past ten years, it will take 40 years for women to reach parity with men in corporate officer ranks.

**DISCRIMINATION THROUGHOUT THE LIFE CYCLE  
MAKES OLDER WOMEN MORE VULNERABLE**

- The poverty rate of older women is nearly twice as high as that of older men. Nearly one in every seven women aged 75 and older is poor.
- The pension gap is even larger than the earnings gap: retired women are only half as likely as men to receive any kind of pension.

Sources: Institute for Women's Policy Research, U.S. Census Bureau, U.S. Women's Chamber of Commerce, Department of Defense, National Foundation of Women Business Owners, Annenberg Public Policy Center of the University of Pennsylvania, AFL-CIO, Business and Professional Women's Foundation, Bureau of Labor Statistics, Catalyst, National Women's Business Council

# EQUAL RIGHTS AMENDMENT ENDORSEMENTS

4ERA  
African-American Women's Clergy Association  
American Civil Liberties Union  
Alice Paul Centennial Foundation  
Alexandria Commission for Women  
American Association of University Women  
Americans for Democratic Action  
American Medical Women's Association  
American Nurses Association  
American Physical Therapy Association  
American Women in Radio and Television  
Association for Women in Science  
Association of Junior Leagues International  
Black Women United for Action  
Black Women's Agenda, Inc.  
Board of Church & Society of the United Methodist Church  
Business and Professional Women/USA  
Catholics for a Free Choice  
The Center for Advancement of Public Policy  
Center for the Child Care Workforce  
Center for Policy Alternatives  
Center for Reproductive Law & Policy  
Center for Women's Policy Studies  
Child Care Action Campaign  
Choice USA  
Church Women United  
Clearinghouse on Women's Issues  
Coalition of Labor Union Women  
Council of Presidents  
Dialogue on Diversity, Inc.  
Economists' Policy Group on Women's Issues  
Equal Rights Advocates  
ERA Campaign Network  
ERA Illinois  
ERA Summit  
Feminist Majority Foundation  
Financial Women International  
General Federation of Women's Clubs  
Girls Inc.  
HADASSAH  
Idaho Women's Network  
Institute for Health and Aging, University of California  
Institute for Women and Work, Cornell University  
Institute for Women's Policy Research  
International Black Women for Wages for Housework  
International Women's Democracy Center  
Jewish Women International  
Jewish Women's Coalition  
Kentucky Pro-ERA Alliance  
League of Women Voters  
MANA, A National Latina Organization  
McAuley Institute  
Men's Rights, Inc., ERA Project  
Michigan ERAmerica  
Ms. Foundation Institute  
9 to 5: National Association of Working Women  
NA'AMAT USA  
National Abortion Federation  
National Association for Female Executives  
National Association for Girls and Women in Sports  
National Association for Women in Education  
National Association of Commissions for Women  
National Association of Orthopaedic Nurses  
National Center on Women and Aging  
National Coalition for Women with Heart Disease  
National Committee on Pay Equity  
National Council for Research on Women  
National Council of Jewish Women  
  
National Council of Negro Women  
National Council of Women of the United States  
National Council of Women's Organizations



National Federation of Democratic Women  
National Foundation for Women Legislators  
National Hispana Leadership Institute  
National Hook-Up of Black Women  
National Museum of Women's History  
National Organization for Women  
National Partnership for Women and Families  
National Political Congress of Black Women, Inc.  
National Woman's Party  
National Women's Conference Center, Inc.  
National Women's Conference Committee  
National Women's Hall of Fame  
National Women's Health Resource Center  
National Women's History Project  
National Women's Law Center  
National Women's Political Caucus  
NCA Union Retirees  
Network, A National Catholic Social Justice Lobby  
NOW Legal Defense and Education Fund  
Older Women's League  
Organization of Chinese American Women  
Planned Parenthood Federation of America  
Postpartum Support International  
Radcliffe Public Policy Institute  
Religious Coalition for Reproductive Choice  
Society for Women's Health Research  
Sorooptimist International of the Americas  
The Stories Center  
Third Wave Foundation  
US Committee for UNIFEM  
United Methodist Church,  
General Board of Church and Society  
United Food and Commercial  
Workers International Union  
US Women Connect  
Veteran Feminists of America

Virginia ERA Ratification Council  
Wages for Housework Campaign  
Washington Women's Television Network  
Wider Opportunities for Women  
Woman Activist Fund, Inc. and the Woman Activist  
Women-Church Convergence  
Women Employed  
Women Executives in State Government  
Women in Government  
Women Leaders Online  
Women, Men and Media  
Women's Action for New Directions  
The Women's Activist Fund  
Women's Bar Association of the District of Columbia  
Women's Bar Association of the State of New York  
Women's Bar Association of Massachusetts  
Women's Business Development Center  
Women's Center for Ethics in Action  
Women's Division, United Methodist Church  
Women's Edge  
Women's Environment and Development Organization  
Women's Equity Action League  
Women's Information Network  
Women's Institute for Freedom of the Press  
Women's Institute for a Secure Retirement  
Women's International League for Peace and Freedom  
Women's International Public Health Network  
Women Work!  
The National Network for Women's Employment  
Women's Law Center of Maryland, Inc.  
Women's Legal Defense Fund  
The Women's Office of the Sisters of Charity  
Women's Research and Education Institute  
Women Studies Program  
at George Washington University  
YWCA of the USA

## TALKING POINTS

- In principle, it is important to have a statement of equality in our constitution. The only right that our Constitution specifically affirms as equal for both men and women is the right to vote.
- The ERA will establish a standard of equality and non-discrimination for potential offenders. It will deter those who previously might have failed to apply or enforce existing laws.
- It is unbelievable that in the 21st century, the United States Constitution is not interpreted to grant rights to men and women equally. Having an ERA would improve our credibility with other countries and allow us to be more of a player in the international community.
- Many European countries are also subject to EU law or human rights conventions so that even if their own constitutions don't have an equality provision, they are bound by another instrument.
- It is unacceptable that our government supported an equality provision in Afghanistan and Iraq when they don't have one at home.
- A survey showed that 7 out of 10 Americans think that we ALREADY have an equality provision in our constitution and 9 out of 10 think that our Constitution SHOULD make clear that men and women are entitled to equal rights.<sup>1</sup>
- The environment for passage is much better today than it was in 1972. In the 111<sup>th</sup> Congress, women hold 77 of the 435 seats in the House of Representatives, and 17 of the 100 seats in the Senate. Since 1971, the number of women serving in state legislatures has more than quintupled.
- Women have made incredible gains in the past few decades, but we have not achieved full equality yet. Women today are still paid an average of 78 cents for every dollar men receive, and this pay gap has been consistent for nearly three decades.<sup>2</sup>

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<sup>1</sup> Survey conducted of 1,002 men and women by Opinion Research Corporation Caravan Services in July of 2001.

<sup>2</sup> "Equal Pay for Equal Work?: New Evidence on the Persistence of the Gender Pay Gap." Hearing of the Joint Economic Committee, April 28, 2009.

## **Q&A ON THE EQUAL RIGHTS AMENDMENT**

***Q: Why not just pass more legislation if you want to protect women further?***

A: Legislation can be rolled back. Congress can repeal legislation with a simple majority vote. Critical provisions such as the right for women to vote and the end of slavery were put in the Constitution so that they could not be taken away easily.

A: We feel that to suggest legislating instead is to say that equal rights between men and women are not important enough to be protected and upheld in the Constitution. Other Constitutional amendments that currently exist include compensation for members of Congress (27<sup>th</sup>), prohibition and the repeal of prohibition (18<sup>th</sup> and 21<sup>st</sup>), and state immunity. Few would argue that these provisions are more important than equal rights for all.

***Q: Doesn't the 14<sup>th</sup> amendment provide enough protection against discrimination for women?***

A: The 14<sup>th</sup> Amendment was ratified after the Civil War to address race discrimination. It has only been applied to sex discrimination since 1971, and the 14<sup>th</sup> Amendment Equal Protection Clause has never been interpreted to grant equal rights on the basis of sex in the same way that the ERA would.

A: Currently, when courts analyze sex-based classifications, they use intermediate scrutiny. The intermediate standard has been criticized by lower court judges, commentators, and Supreme Court justices as being too vague. We need a clearer and stricter federal judicial standard for deciding cases of sex discrimination.

***Q: What are the different strategies for ratifying the ERA, and why is there more than one?***

A: There are two strategies for trying to ratify the ERA. This bill initiates the “starting over” strategy of passing the ERA through Congress and then seeking ratification by  $\frac{3}{4}$  of the states. Another bill has traditionally been introduced each year which pursues the so called “three state strategy.” The three state strategy is based on the fact that the Madison amendment concerning congressional pay raises went to the states for ratification in 1789 and reached the  $\frac{3}{4}$  goal in 1992. That this 203 year ratification period was accepted has led some to propose that Congress has the power to maintain the legal viability of the 35 existing ratifications of the ERA.

A: Because it is hard to know if the three state strategy will be considered constitutional by the courts, most lawmakers support the starting over strategy as well as the three state strategy. Bills pursuing both strategies are introduced each year with the idea that this increases the chances that the ERA will finally be included in the Constitution.

***Q: Won't this just increase litigation?***

A: The 14<sup>th</sup> Amendment has generated litigation, and few would argue that we should not have enacted that amendment. If the ERA does increase litigation, it will be because individuals are claiming their rights that have been violated, a claim that each person has a right to make.

A: The ERA could actually lower the amount of litigation over time, by providing a clearer standard for the courts.

***Q: Critics of the ERA have called the second section a "federal grab." Does the ERA shift power from the states to the federal government?***

A: No. The ERA would not transfer any power from the states to the federal government.

A: The second section of the ERA states that "the Congress shall have the power to enforce, by appropriate legislation, the provisions of this article." Some variation of this phrase appears in 8 other Constitutional amendments.

## **THE ERA IN STATE CONSTITUTIONS**

**At least 22 states have some form of explicit protection against sex discrimination in their state constitutions and 18 have equality provisions in their constitution.**

- 16 have state ERAs
- 2 have sex equality guarantees which they added to their constitutions when they extended the right to vote to women.
- 4 have some form of prohibition against sex discrimination in their constitution.
- At least 2 states are considering state ERAs.

### **State ERAs**

Alaska  
Colorado  
Connecticut  
Hawaii  
Illinois  
Maryland  
Massachusetts  
Montana  
New Hampshire  
New Mexico  
Pennsylvania  
Texas  
Virginia  
Washington  
Florida  
Iowa

**States which have added sex equality guarantees to their constitutions when they extended the right to vote to women.**

Wyoming  
Utah

### **States with some form of prohibition against sex-based discrimination**

California: provision in constitution that expressly prohibited sex discrimination in employment as well as one that prohibits sex discrimination in public education.

Rhode Island: protection against sex discrimination which is limited in scope

Louisiana: protection against sex discrimination which is limited in scope

New Jersey: NJ Const. Art I, para 1 and art X, para 4: guarantees natural and inalienable rights to all persons and defines all persons as meaning both sexes. It does not contain the word equal but has been interpreted as a prohibition on sex discrimination.

### **States considering state ERAs**

New York: introduced concurrent resolutions to explicitly prohibit sex discrimination.

Kansas: A House resolution has been introduced to add an equality provision.

