

March 15, 2022

202-378-8863

**Re: Scorecard alert on H. Res. 891 (Rep. Speier), falsely declaring the pro-abortion Equal Rights Amendment to be part of the U.S. Constitution**

Dear Member of Congress:

The House of Representatives may soon vote on H. Res. 891, introduced by Rep. Jackie Speier, “expressing the sense of the House of Representatives” that the Equal Rights Amendment is now part of the U.S. Constitution.

The National Right to Life Committee (NRLC) strongly opposes adoption of H. Res. 891. Moreover, the House of Representatives would embarrass itself by adopting this resolution, because the claim that the Equal Rights Amendment is part of the Constitution is delusional.

In 1971-72, the ERA Resolution (H.J. Res. 208) that received the required two-thirds level of support in Congress contained a seven-year deadline for ratification, which expired 43 years ago. On March 5, 2021, federal District Judge Rudolph Contreras (an appointee of President Obama) [ruled](#) that Congress had the constitutional power to impose such a deadline, that it would have been “absurd” for the Archivist to disregard the deadline, and that the legislative actions that occurred in Nevada (2017), Illinois (2018), and Virginia (2020) “came too late to count.” An appeal by Illinois and Nevada (but not Virginia) is pending before the U.S. Court of Appeals for the D.C. Circuit; we are confident that court also will reject the manufactured and debunked claim that the long-expired ERA has been ratified.

Judge Contreras’ ruling is only the latest episode in [an unbroken 40-year losing streak in the federal courts](#) for the ERA-revival movement. “Every time the issue has been litigated in federal court, most recently in 2021, the pro-ERA side has lost, no matter whether the judge was appointed by a Democrat or Republican,” observed the *Washington Post* Fact Checker [in a detailed critique, “The ERA and the U.S. archivist: Anatomy of a false claim,”](#) published February 9, 2022.

Indeed, over four decades, [26 federal judges and justices](#) (14 appointed by Republicans, 12 by Democrats) have declined to entertain or have flatly rejected legal claims or requests for relief presented by litigants who argued that the ERA remains viable; not a single judge or justice has cast a vote in favor of the ERA-revival camp on a single component of the shoddy ERA-is-alive construct.

NRLC opposed H.J. Res. 17, purporting to retroactively nullify the ratification deadline, which passed the House on March 17, 2021, on a near-party-line roll call. That measure was constitutionally defective in at least two ways, but at least it recognized the *reality* of the ERA ratification deadline. The Senate has not and will not approve that “deadline removal” measure, so Rep. Speier now advances a proposal, H. Res. 891, that plunges even further into the realm of make-believe – simply ignoring the deadline and the federal court rulings spanning four decades. H. Res. 891 is untethered from constitutional reality, and it displays contempt for the rule of law. We urge you to reject it.

Lawmakers such as Rep. Speier concoct such manifestly unconstitutional proposals in part because they are desperate to air-drop the text of the 1972 ERA into the Constitution, in order to provide a new, textual basis for litigation challenging pro-life laws and policies at both the state and federal level. The leaders of pro-ERA advocacy groups and their champions in Congress have cast off the mask regarding their pro-abortion intent—nowadays, [they openly proclaim it](#). [Extensive documentation](#) is readily available, including pro-abortion claims [already presented to state courts](#) on the basis of [state ERAs](#), and we will not belabor the matter here.

National Right to Life intends to include the roll call on H. Res. 891 in our scorecard of key pro-life votes of the 117<sup>th</sup> Congress. A vote in favor of this measure will be accurately characterized as a vote in favor of jamming into the Constitution language that both National Right to Life and an array of prominent pro-abortion organizations (including NARAL, NOW, Planned Parenthood, the ACLU, and the Columbia Law School ERA Project) have indicated would be employed to launch potent new legal attacks on state and federal laws or policies limiting abortion, and to remove all limits on government funding of abortion.

Should you have any questions, please contact us at (202) 378-8863, or via e-mail at [jpopik@nrlc.org](mailto:jpopik@nrlc.org). Thank you for your consideration of NRLC's position on these measures.

Respectfully submitted,



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