

MEMORANDUM
National Organization for Women
Government Relations

From: Jan Erickson, Director, Government Relations

To: National Board Members

Date: June 14, 2023

Consequences of a Dysfunctional Congress

In this 118th Congress the Senate is moving forward with some of the legislation NOW and organizations we work with have prioritized. But the Republican-controlled House of Representatives is not likely to take up those bills; both chambers do have to agree on appropriations measures – and just recently did on raising the Debt Ceiling (!), however. It is not likely that the Democrat-controlled Senate will consider any of the Republicans’ extremist legislation that they have passed (a few examples of those are included in this Memorandum). The House is very closely split at 222 Rs and 212 Ds.

The fact that the Republican party has become so extreme has meant that the U.S. is falling behind other developed nations in many respects, including educational attainment, childcare infrastructure, health care access and affordability, reproductive rights, maintenance of public infrastructure, housing development, and other important indicators progress such as poverty reduction. Suffice to say, even though the National Organization for Women is nonpartisan, we must emphasize the importance of Democrats regaining majority control of the U.S. House of Representatives and expanding the Senate majority – not to mention keeping control of the White House. Otherwise, little that we advocated for will be adopted.

True to form, the House is passing a series of high profile, “messaging” bills that they know the Democratic Senate will never take up –but are appeals to their extremist base. The pressure is on to motivate their voters for the 2024 elections. The following were passed along party lines.

U.S. House of Representatives

H. Con. Res. 3 – Expressing the sense of Congress condemning the recent attacks on pro-life facilities, groups and churches.

This concurrent resolution condemns recent attacks on pro-life facilities, groups, and churches and calls on the current presidential administration to use appropriate law enforcement authorities to support their safety.

Passed House on January 11, 2023. Yea – 222, Nay – 209

OUR COMMENT – We wonder how many Republican members are aware of the thousands of well-documented attacks on women’s (real) health clinics which have been taking place for

decades. Since 1977, there have been 11 murders, 42 bombings, 200 arsons, 531 assaults, 492 clinic invasions, 375 burglaries, and thousands of other incidents of a criminal nature. This violence has been aided and abetted by abortion rights opponents and, unfortunately, has been on the increase in recent years. ([NAF 2022 Violence & Disruption Statistics \(prochoice.org\)](https://prochoice.org/NAF-2022-Violence-&-Disruption-Statistics)) The Freedom of Access to Clinic Entrances (FACE) Act which NOW was instrumental in getting adopted in 1994 authorized federal law enforcement responses to violence against women's clinics, among other important provisions such as assuring a person's safe access to a health clinic despite the taunts and threats of abortion rights extremists, [Freedom of Access to Clinic Entrances Act - Wikipedia](https://en.wikipedia.org/wiki/Freedom_of_Access_to_Clinic_Entrances_Act)

H.R. 23 – Born-Alive Survivors Protection Act

This bill establishes requirements for the degree of care a health care practitioner must provide in the case of a child born alive following an abortion or attempted abortion. Additionally, it provides for criminal penalties against persons who do not comply with provisions of the act, including being charged with murder.

Passed House on January 11, 2023. Yea – 220, Nay – 210

H.R. 734 – The Protection of Women and Girls in Sports Act

This bill generally prohibits school athletic programs from allowing individuals whose biological sex at birth was male to participate in programs that are for women or girls.

Specifically, the bill provides that it is a violation of Title IX of the Education Amendments of 1972 for federally funded education programs or activities to operate, sponsor, or facilitate athletic programs or activities that allow individuals of the male sex to participate in programs or activities that are designated for women or girls. (Title IX prohibits discrimination on the basis of sex in federally funded education programs or activities, including in public elementary and secondary schools and in colleges and universities.) Under the bill, sex is based on an individual's reproductive biology and genetics at birth.

The bill does not prohibit male individuals from training or practicing with programs or activities for women or girls if such training or practice does not deprive any female of corresponding opportunities or benefits.

The Government Accountability Office must report on the benefits for women or girls in single-sex sports that would be lost as a result of male participation. The report must document the negative psychological, developmental, participatory, and sociological effects of male participation on girls.

Passed House on April 20, 2023. Yea – 219 – Nay – 203

Note: The Biden Administration has revised a Title IX Athletics regulation that now addresses these attacks on transgender (and other LCBTGIA+ communities) by affirming access. Here is a fact sheet: [FACT SHEET: U.S. Department of Education's Proposed Change to its Title IX Regulations on Students' Eligibility for Athletic Teams | U.S. Department of Education](#)

U.S. Senate

Historic Vote on the Equal Rights Amendment

For the first time in 40 years, a vote was held in the U.S. Senate to remove the 1972 deadline and affirm the validity of the Equal Rights Amendment as the 28th Amendment to the U.S. Constitution was held. Senate Joint Resolution 4, Sponsored by Sens. Ben Cardin (D-MD and Lisa Murkowski (R- AK), is entitled. **A Joint Resolution removing the deadline for the ratification of the Equal Rights Amendment.** The full text is:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any time limit contained in House Joint Resolution 208, 92nd Congress, as agreed to in the Senate on March 22, 1972, the article of amendment proposed to the States in that joint resolution is valid to all intents and purposes as part of the Constitution, having been ratified by the legislatures of three-fourths of the several States.

[S.J.Res.4 - 118th Congress \(2023-2024\): A joint resolution removing the deadline for the ratification of the Equal Rights Amendment. | Congress.gov | Library of Congress](#)

All Democrats, plus two Republicans and the Independent senators supported S. J. R. 4. As he had promised, Senate Majority Leader Chuck Schumer (D-NY) brought the resolution to a floor vote, but the measure failed (51-47 ([Record Vote No. 99](#))) on a parliamentary procedure (cloture) that would have advanced it to a vote on the merits. Sen. Schumer – the hero of the hour – then changed his vote so that the measure could be brought up again (preferably close to the 2024 elections).

All Republicans – except Sen. Murkowski and Sen. Susan Collins (R-ME) opposed the resolution, with the argument that the amendment is not needed because of the equal protections provided to women in the 14th Amendment. If the Republicans really believe this, then they have not read the Supreme Court ruling in *Dobbs v. Jackson Women's Health Organization* which overturned *Roe v. Wade*. In one fell swoop. *Dobbs* declared that the 14th Amendment does not pertain to sex discrimination. This one provision in *Dobbs* means that many of the equality gains women and other marginalized groups have made in dozens of cases over the last

half century are now at risk. The conclusion to be drawn from this is that the Equal Rights Amendment is needed *now more than ever* – a concern that will be addressed at the upcoming National NOW Conference, June 30 – July 2 in Arlington, VA.

A national campaign to gather signatures on a petition has been initiated by the ERA Coalition, in which NOW is a leading organization. Go here to add your signature, [Sign4ERA | Sign the Petition](#) and send the link to a feminist friend.