

ITEM B
THE STATE BAR OF CALIFORNIA

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November 20, 1980

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TO: MEMBERS, BOARD OF GOVERNORS
FROM: COMMITTEE ON HUMAN RIGHTS
RE: REPORT AND RECOMMENDATION REGARDING METHODS FOR
STATE BAR IMPLEMENTATION OF ITS SUPPORT OF THE
EQUAL RIGHTS AMENDMENT.

I. Introduction & History:

As set forth below, the Committee on Human Rights is recommending that your Board adopt certain policies regarding travel of State Bar officials-employees to states that have not ratified¹ the E.R.A., and engage in specified communications and legislative activity to the end of implementing your Board's previously expressed position of support of the Equal Rights Amendment².

In June, 1979, the Committee, on its own initiative, proposed a policy for the State Bar of non-reimbursement of travel by State Bar employees and officials to unratified states.

The Committee's proposal was disapproved by the Board Committee on Public Affairs and Communications (with 1 dissent). This matter was then reviewed by the full Board which: 1) re-affirmed its support of the E.R.A.; 2) failed to adopt a motion to support the Committee's recommended policy (8 to 12 vote); 3) directed the Committee to report back to the Board on suggested methods for the Board of Governors to utilize in implementing its support of the E.R.A.

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- 1) The following states have not, as of 10/80, ratified the Equal Rights amendment: Alabama, Arizona, Arkansas, Florida, Georgia, Illinois, Louisiana, Mississippi, (continue on page 1a)

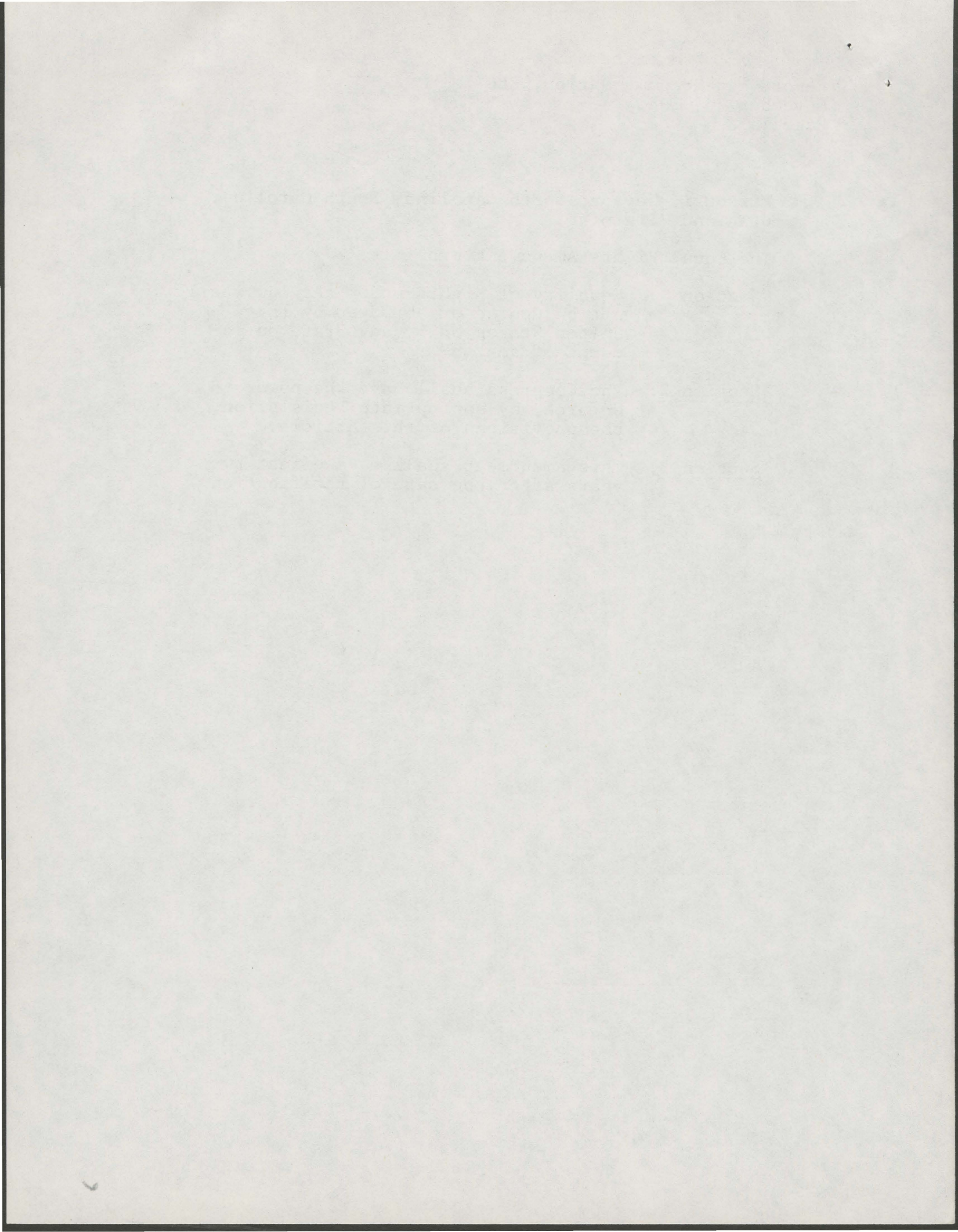
Missouri, Nevada, North Carolina, South Carolina,
Utah and Virginia.

2) The Equal Rights Amendment provides:

"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."



This report is filed in response to the June action of your Board and in response to the action of the 1979 Conference of Delegates in approving in principle 1979 Conference Resolution 3-10³.

For your information, the history of other Conference of Delegates actions related to the Equal Rights Amendment is as follows:

1. 1975 Conference Resolution 9-3:

Subject: Proposed sponsorship by State Bar of a State Equal Rights Amendment.

Action: Approve in principle.

2. 1976 Conference Resolution 10-4:

Subject: Same as 1975 proposal.

Action: Approval in principle.

3. 1978 Conference Resolutions 2-9 and 2-10:

Subject: Proposed State Bar policy of non-travel/non-travel reimbursal for legal meetings held in unratified states.

Action: Disapproval, upon adoption of report of the Resolutions Committee (no call-up).

4. 1978 Conference Resolution 2-11:

Subject: Called for State Bar support of the proposed Congressional extension of time for ratification of the E.R.A.

Action: Approval in principle upon adoption of report of the Resolution Committee (no call-up).

II. Summary of Proposals:

A. 1979 Conference Resolution 3-10:

This proposal was called up for debate and approved in principle by the Conference by a 253-207 vote. It was sponsored by the Women

- 3) That proposal is summarized below, in part II of this report and is attached to this report as Appendix A. ✓

Lawyers Association of Los Angeles and had three directives: 1) that the State Bar communicate its belief that the ABA and its Young Lawyers Division should not be holding its Annual, mid-year or other ABA gatherings involving 50 or more participants in states that have not ratified the E.R.A.; 2) that the State Bar urge the ABA to cancel any currently scheduled meetings that have been scheduled to occur in an unratified state; 3) that no State Bar funds be utilized to pay the travel expenses of State Bar staff or personnel for their attendance at ABA meetings of 50 or more persons if that meeting is to be held in an unratified state.

The 1979 Conference Resolution was silent on the subject of bar endorsement of the economic boycott of unratified states sponsored by the National Organization of Women. Furthermore, it did not address attendance at lawyer educational seminars or meetings held in unratified states, but sponsored by entities other than the ABA or ABA/YLD.

The Committee supports 1979 Conference Resolution 3-10, but for reasons set forth below, is recommending a broader course of action for the State Bar with reference to the E.R.A. and a more comprehensive out-of-state travel authorization and reimbursal policy.

B. 1980 Human Rights Committee Proposal:

The Committee has essentially done two things in its 1979-80 review of appropriate methods by which the State Bar can support the E.R.A. and its ratification:

1. Re-examination of the travel reimbursal policy it proposed in 1979.
2. Consideration and development of other suggested actions that the Board of Governors could take to further its support of the E.R.A. and its ratification.

The Committee's 1980 recommendations on these subjects are summarized below and the specific text of the travel reimbursal policy is set forth as Appendix B:

1. Travel policy:

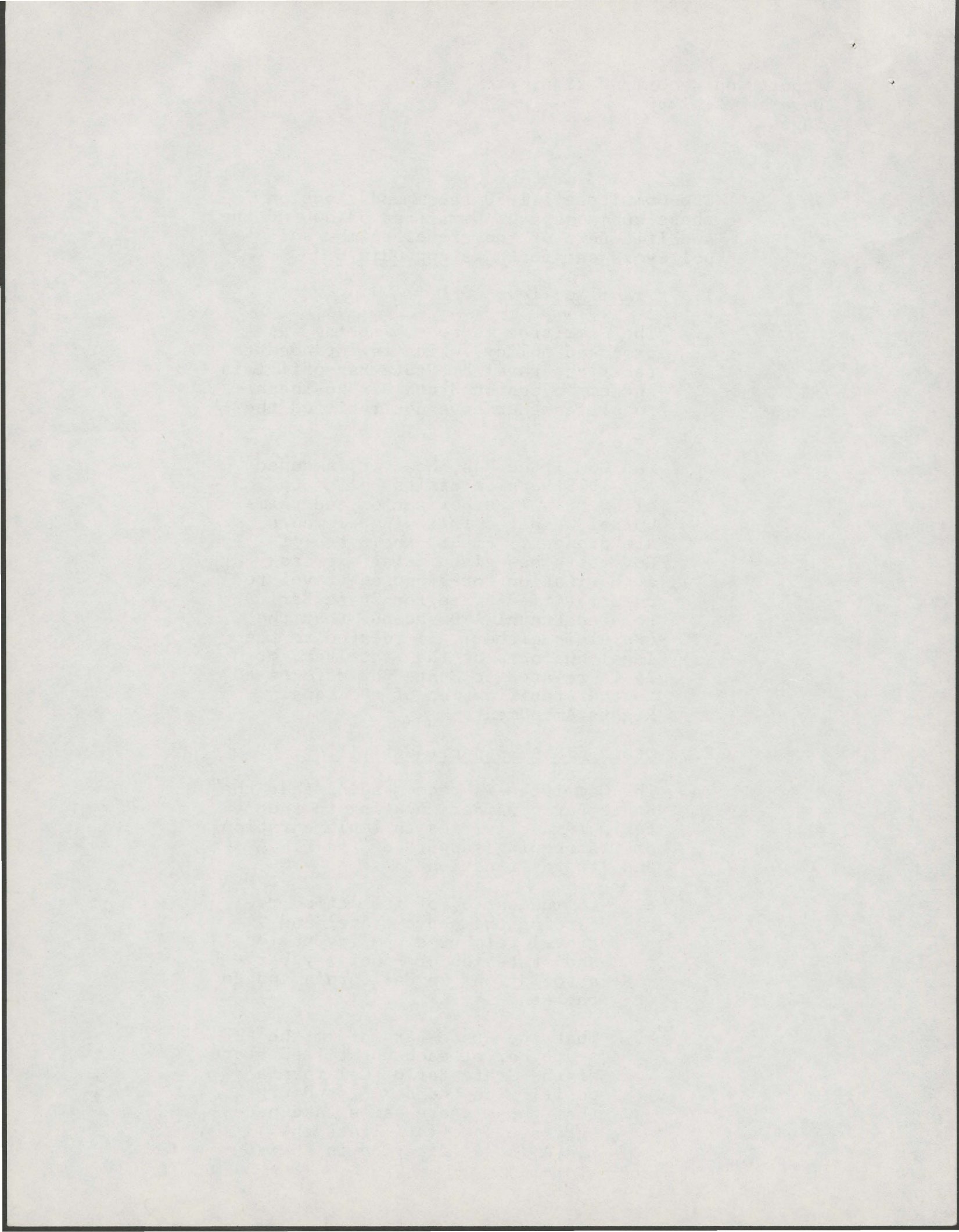
The Committee is re-submitting its proposed policy, which is intended to restrict travel by State Bar officials and employees on State Bar business to states that have not ratified the E.R.A.

The Committee has, however, amended the 1979 version of its policy to allow travel authorization and reimbursal when the following elements are present. First, the Board of Governors has given prior express authorization for proposed travel to an unratified state for State Bar-related travel AND second, that the travel is either: 1) related to the legal business of the State Bar, or 2) is related to State Bar efforts to further ratification of the Equal Rights Amendment.

2. Other E.R.A. support activities:

The Committee is recommending that the State Bar consider engaging in the following activities in implementation of its ongoing support of the E.R.A. and its ratification:

- a. Communication of its action regarding the above travel and travel reimbursal policy to local and statewide or specialty bar associations in California and to the ABA.
- b. That the State Bar inform the state bar of each unratified state of the State Bar of California's position on the E.R.A. and urge that those state bar's take necessary steps to facilitate the E.R.A.'s ratification in their state.



- c. That the State Bar of California authorize legislative communications and/or legislative appearances in states that have not ratified the E.R.A. when the E.R.A. is next being considered for ratification in such states(s).

C. Legal/fiscal impact of Committee's recommendations:

1. Legal Liability:

The travel restrictions and/or outright endorsement of the N.O.W. boycott have previously been questioned on the basis that the State Bar could be liable as an implied supporter of an illegal economic boycott of the unratified states.

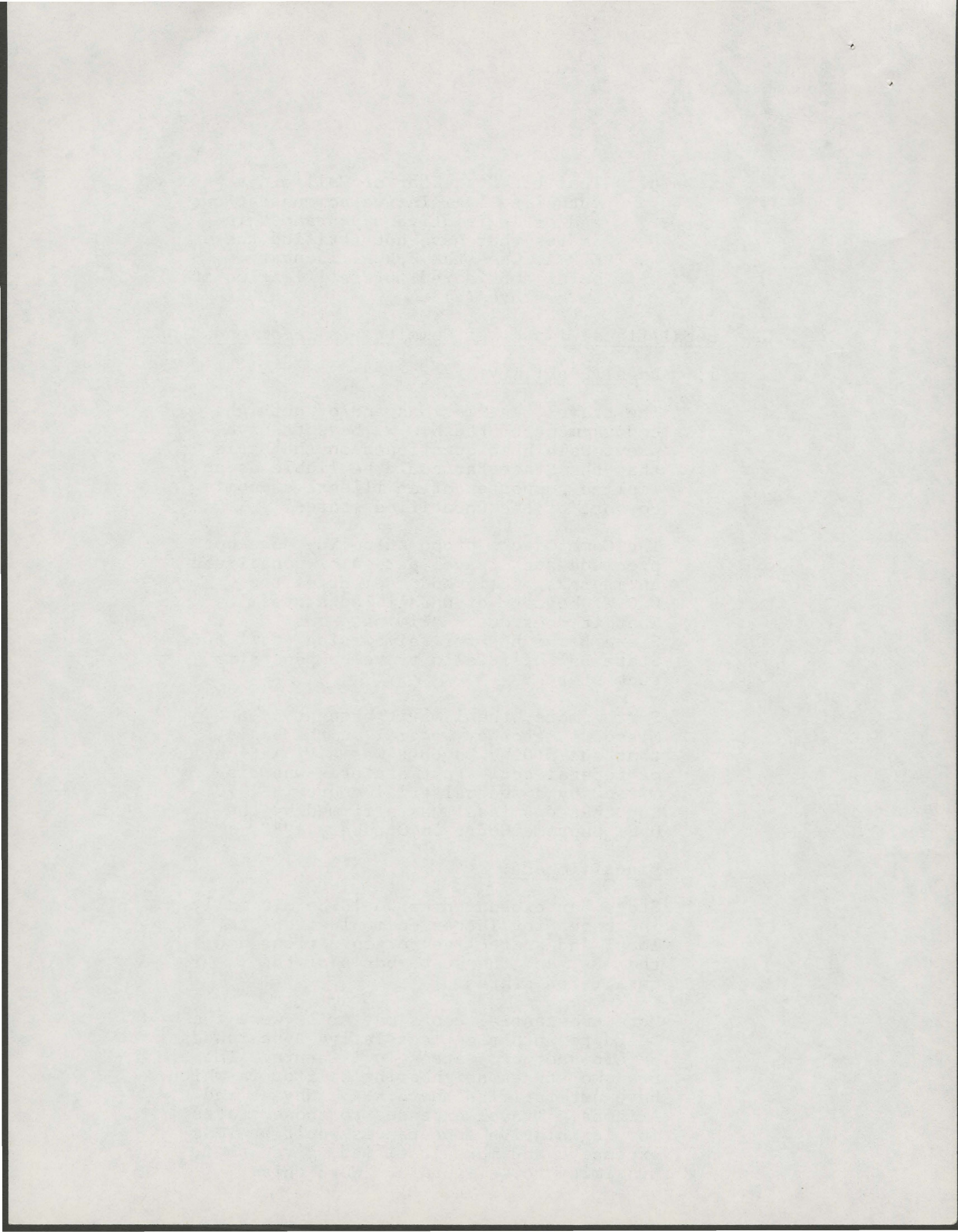
The Committee's proposed policy does not preclude such travel per se or constitute an express public endorsement of the N.O.W. boycott of unratified states. What it does do is eliminate most use of State Bar funds for reimbursing staff and State Bar official's travel expenses to such states.

Furthermore, the lawsuit brought by the Missouri Attorney General on the basis that the N.O.W. boycott was a violation of federal anti-trust statutes was dismissed by a federal trial court in 1979 and that dismissal was affirmed by the U.S. Supreme Court in October, 1980

2. Fiscal impact:

State Bar expenditures would be minimally increased for letter communications to local and state legal organizations and the ABA, and the state bar's of the unratified states.

More substantial costs may arise were the Board to authorize legislative appearances before another state's legislature. There are two states neighboring California which have not ratified the E.R.A., Nevada and Arizona. Travel expenses to those states for legislative appearances would be less expensive and more justified, given their proximity to California. Were this



policy approved, however, there would also be some travel expense reductions. The ABA's 1981 annual meeting, for example, will be held in an unratified state (i.e., Louisiana). Were the Committee's recommendation to be adopted, no State Bar funds would be expended for staff and State Bar delegate travel costs for that meeting.

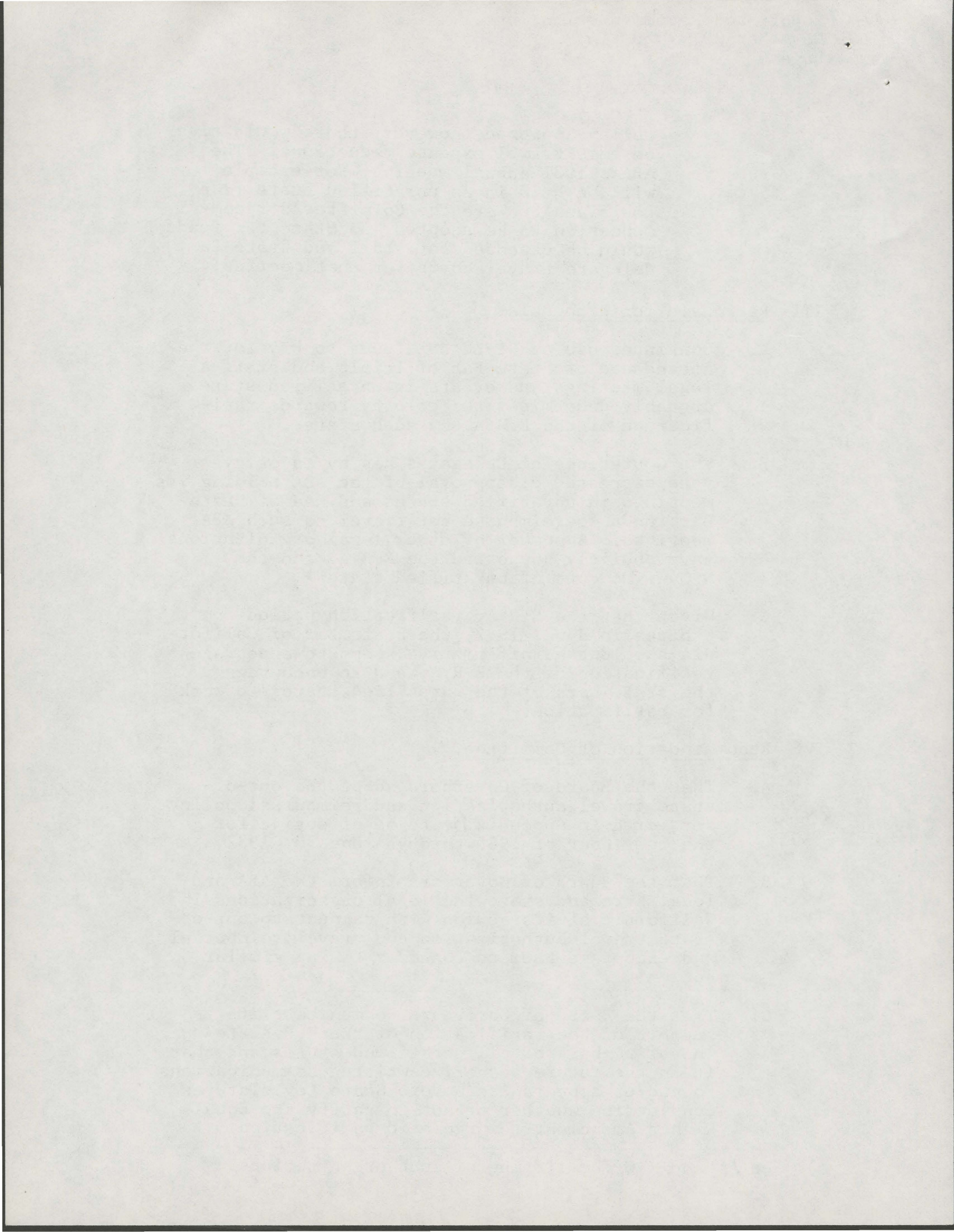
III. Rationale for proposals:

- A. Continued use of State Bar funds to pay for the attendance of State Bar officials and staff at legal meetings and events in unratified states arguably undermines the efforts towards ratification of the E.R.A. by such states.
- B. The Conference of Delegates has by majority vote expressed disapproval of the ABA holding its meetings in unratified states and use of State Bar funds to reimburse bar travel to such ABA meetings. A number of other legal organizations have publicly supported the E.R.A. and the N.O.W. boycott of unratified states⁴.
- C. Given that the E.R.A. ratification period expires in June, 1982, the State Bar of California should take affirmative steps to encourage ratification of the E.R.A. and to encourage the state bars of the unratified states to work for ratification.

IV. Recommendation of Committee:

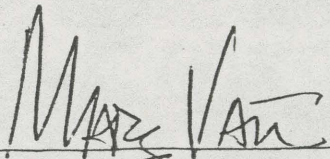
- A. That the Board of Governors adopt the out-of-state travel authorization and reimbursal policy set forth in Appendix B, to be effective for the remainder of 1980 through June 30, 1982,
- B. That the Board of Governors inform the ABA and local bars and statewide legal organizations in California of its action with respect to out-of-state travel authorization and travel reimbursal and encourage them to consider taking similar action.
- C. That the Board of Governors communicate its support of the ratification of the E.R.A. to the state bars of all unratified states and that it in the future authorize written communications to and/or appearances before State Legislatures considering whether or not to ratify the Equal Rights Amendment to urge said ratification.

4) See Appendix C for listing of such organizations.



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Report prepared by staff based
on Committee actions; policy
drafted by Committee:



MARY VAIL, Staff Attorney

MV:gl

Enclosures

