

Testimony in support of SCR 4010 – March 11, 2021

Mr. Chairman, Members of the Committee,

My name is Rose Christensen. I am here today in support of SCR 4010, a resolution that simply declares that North Dakota's ratification of the Equal Rights Amendment expired when the seven year period given by Congress for its consideration expired. That seven year period began March 22, 1972, and expired on March 22, 1979, with the proposed amendment still short at least three states of the 38 needed to become the 28th amendment to the US Constitution.

During those years, there were here in North Dakota at least **two significant irregular procedural maneuvers** associated with the ratification effort that **weighed heavily in favor of the proponents**, to the disadvantage of those in opposition.

To make a long story short, in 1973, the ERA was introduced in the House, and the House killed it. But, not to be thwarted by the uncooperative House, proponents simply went across the hall and got it reintroduced in the Senate which then passed it and sent it back to the House. The House killed it a second time. That gave proponents three chances to get their proposal through in the 1973 session, but they failed! Two years later however, the Legislature did ratify the ERA by a single vote in the House. It stayed on the books until the seven year ratification period ended on March 22, 1979.

I have distributed to you copies of a report from Eagle Forum which summarized the national legislative history of the ERA. You will note in the lower right hand corner, the entire verbatim text of the Resolution that Congress adopted when it sent the amendment to the states for possible ratification.

The main clause reads as follows: "Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."

On this same sheet (on the lower left side) you will see the text of eight amendments that were offered by Senator Sam Ervin to try to modify this harsh and rigid mandate of "equality of rights under the law." Ervin foresaw that such a bare-boned mandate for "equality" was, in reality, a threat to the rights of women.

These proposed amendments would have:

But slowly, as ERA worked its way through legislative hearings in the fifty state legislatures, the haze cleared, and the PR hype and enthusiasm began to wane. Some people who were not blinded by the frenzied “popularity” of this media-created “issue of the day”, had begun to witness changes in the laws of states that were progressively preparing for the anticipated ratification of ERA. The public was finally realizing that ERA would forever make it illegal to extend any benefits, privileges or exemptions to women. ERA, in fact, would do nothing for women. It doesn't even MENTION women. The ERA should more properly be considered unisex legislation. And if you've visited a public unisex bathroom recently, you know the unisex standard may not be as good an idea as the giddy gender-neutral crowd imagined it would be!

When legislatures began to examine how this amendment would actually negatively impact the women of their states, the enthusiasm evaporated, the ratifications trickled to a halt, and ERA began to actually lose ground. Several states rescinded their previous ratifications. Referenda in several states showed huge majorities in opposition to ERA. Facing certain death with the rapidly approaching arrival of the March 22, 1979 deadline imposed by Congress, a **second highly irregular procedural action** was initiated to try to save it! Proponents went back to Washington to ask Congress for **a time extension**, which Congress granted by a simple majority vote...not by the 2/3 vote the Constitution required. This procedure was subsequently challenged in court where it languished until ERA officially died again, on March 22, 1982. Even the three year time extension was not sufficient to get 38 states to ratify it.

But before this long, drawn-out battle ran its course, **the North Dakota Senate had gone on record to defy this unconstitutional time extension!** In February, 1979, just weeks before the original seven year time limit was due to lapse, the Senate passed a resolution almost identical to this resolution you are considering today.

A letter to newspapers, dated February 22, 1979, noted in reference to the March 22, 1979 deadline that “Friday's action in the Senate.... **does not retract our ratification**; it simply provides that **our ratification becomes null and void at the termination of the seven year ratification period**, unless 38 states have concurred in ratification prior to that date...” That proposal passed the Senate, but did not pass the House, so here we are today, the intervening 42 years having given us some real life examples of the problems the ERA would have created.

PROPOSED U.S. CONSTITUTIONAL AMENDMENT, RATIFIED

CHAPTER 609

SENATE CONCURRENT RESOLUTION NO. 4007
(Redlin, Lips, Homuth, Pyle)

EQUAL RIGHTS AMENDMENT

A concurrent resolution for the ratification of a proposed amendment to the Constitution of the United States, prohibiting states from denying a citizen equality of rights under law on account of sex.

WHEREAS, the 92nd Congress of the United States of America at its second Session, in both Houses, by a Constitutional majority of two-thirds thereof, adopted the following proposition to amend the Constitution of the United States of America in the following words, to wit:

JOINT RESOLUTION

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the Legislature of three-fourths of the several States within seven years from the date of its submission by the Congress:

ARTICLE

"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."

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE
OF THE STATE OF NORTH DAKOTA, THE HOUSE OF
REPRESENTATIVES CONCURRING THEREIN:

That the said proposed amendment to the Constitution of the United States of America be and the same is hereby ratified

by the Forty-fourth Legislative Assembly of the state of North Dakota; and

BE IT FURTHER RESOLVED, that certified copies of this resolution be forwarded by the Governor of the state of North Dakota to the Administrator of General Services, Washington, D.C., and to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States.

Filed February 11, 1975

A

Legislative History of ERA

B

The legislative history of the Equal Rights Amendment provides conclusive proof that ERA is intended to wipe out any and all distinctions between men and women, no matter how reasonable or how much such distinctions or separations might be desired by the majority of our citizens.

When ERA went through Congress the first time, in 1971 and 1972, certain amendments were proposed to prevent ERA from taking away traditional rights and benefits from women. All these modifying clauses were defeated, thereby leaving ERA in strict, absolute, rigid language.

The House rejected the Wiggins Amendment on October 12, 1971, which stated:

"This article shall not impair the validity of any law of the United States which exempts a person from compulsory military service or any other law of the United States or of any State which reasonably promotes the health and safety of the people."

When the Senate voted on ERA on March 21 and 22, 1972, Senator Sam J. Ervin, Jr., proposed nine separate amendments to ERA to protect the traditional rights of women. Every one was defeated on a roll-call vote, thus establishing the legislative history that ERA was intended to do exactly what the Ervin Amendments would have prevented ERA from doing. The Ervin Amendments show how far-reaching ERA would be and how massive and radical its effect. Here are the nine Ervin Amendments:²

Amendment 1065: *"This article shall not impair, however, the validity of any laws of the United States or any State which exempt women from compulsory military service."*

Amendment 1066: *"This article shall not impair the validity, however, of any laws of the United States or any State which exempt women from service in combat units of the Armed Forces."*

Amendment 1067: *"This article shall not impair the validity, however, of any laws of the United States or any State which extend protections or exemptions to women."*

Amendment 1068: *"This article shall not impair the validity, however, of any laws of the United States or any State which extend protections or exemptions to wives, mothers, or widows."*

Amendment 1069: *"This article shall not impair the validity, however, of any laws of the United States or any State which impose upon fathers responsibility for the support of their children."*

Amendment 1070: *"This article shall not impair the validity, however, of any laws of the United States or any State which secure privacy to men or women, or boys or girls."*

Amendment 1071: *"This article shall not impair the validity, however, of any laws of the United States or any State which make punishable as crimes sexual offenses."*

Amendment 472: *"Neither the United States nor any State shall make any legal distinction between the rights and responsibilities of male and female persons unless such distinction is based on physiological or functional differences between them."*

Amendment 1044: *"The provisions of this article shall not impair the validity, however, of any laws of the United States or any State which exempt women from compulsory military service, or from service in combat units of the Armed Forces; or extend protections or exemptions to wives, mothers, or widows; or impose upon fathers responsibility for the support of children; or secure privacy to men or women, or boys or girls; or make punishable as crimes rape, seduction, or other sexual offenses."*

ERA Ratification Difficulties

Congress sent ERA out to the states on March 22, 1972. Within twelve months, 30 states had ratified it. Then the disillusionment set in. In the next six years, only five more states ratified ERA, but five of the 30 states rescinded their previous ratifications of ERA, leaving a net score of zero for six years of lobbying for ERA. The five states that rescinded their previous ratifications were:

Nebraska	3/15/73
Tennessee	4/23/74
Idaho	2/08/77
Kentucky	3/16/78
South Dakota	3/01/79

The following 15 states never ratified ERA:

Alabama	Missouri
Arizona	Nevada
Arkansas	North Carolina
Florida	Oklahoma
Georgia	South Carolina
Illinois	Utah
Louisiana	Virginia
Mississippi	

ERA Time Extension

The original ERA resolution which passed Congress on March 22, 1972 included the following preamble before the three sections of the text of ERA:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"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."



Introduced by

Representatives B. Koppelman, Meier, Paulson, Schauer, Skroch, Steiner, Vetter

Senators Clemens, Kannianen, Myrdal

1 A BILL for an Act to create and enact a new section to chapter 14-02.4 of the North Dakota
2 Century Code, relating to participation in athletic events exclusively for males or females.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 14-02.4 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Athletic events exclusively for males or exclusively for females.**

- 7 1. The state, a political subdivision of the state, or an entity that receives public funding
8 from the state or from a political subdivision of the state may not:
 - 9 a. Allow an individual of the opposite sex who is under eighteen years of age or who
10 is enrolled in high school to participate on an athletic team sponsored or funded
11 by the state, political subdivision, or entity and which is exclusively for females or
12 exclusively for males.
 - 13 b. Sponsor an athletic event exclusively for males or exclusively for females which
14 allows participation by an individual of the opposite sex who is under eighteen
15 years of age or who is enrolled in high school.
 - 16 c. Use or permit to be used an athletic facility, stadium, field, structure, or other
17 property owned by or under the control of the state, political subdivision, or entity
18 for an athletic event conducted exclusively for males or exclusively for females in
19 which an individual of the opposite sex who is under eighteen years of age or
20 who is enrolled in high school is allowed to participate.
- 21 2. For purposes of this section, sex means an individual's biological sex and is based
22 solely on an individual's reproductive biology and genetics at birth.
- 23 3. This section may not be construed to prohibit a female from participating in a
24 school-sponsored athletic team or event that is exclusively for males.

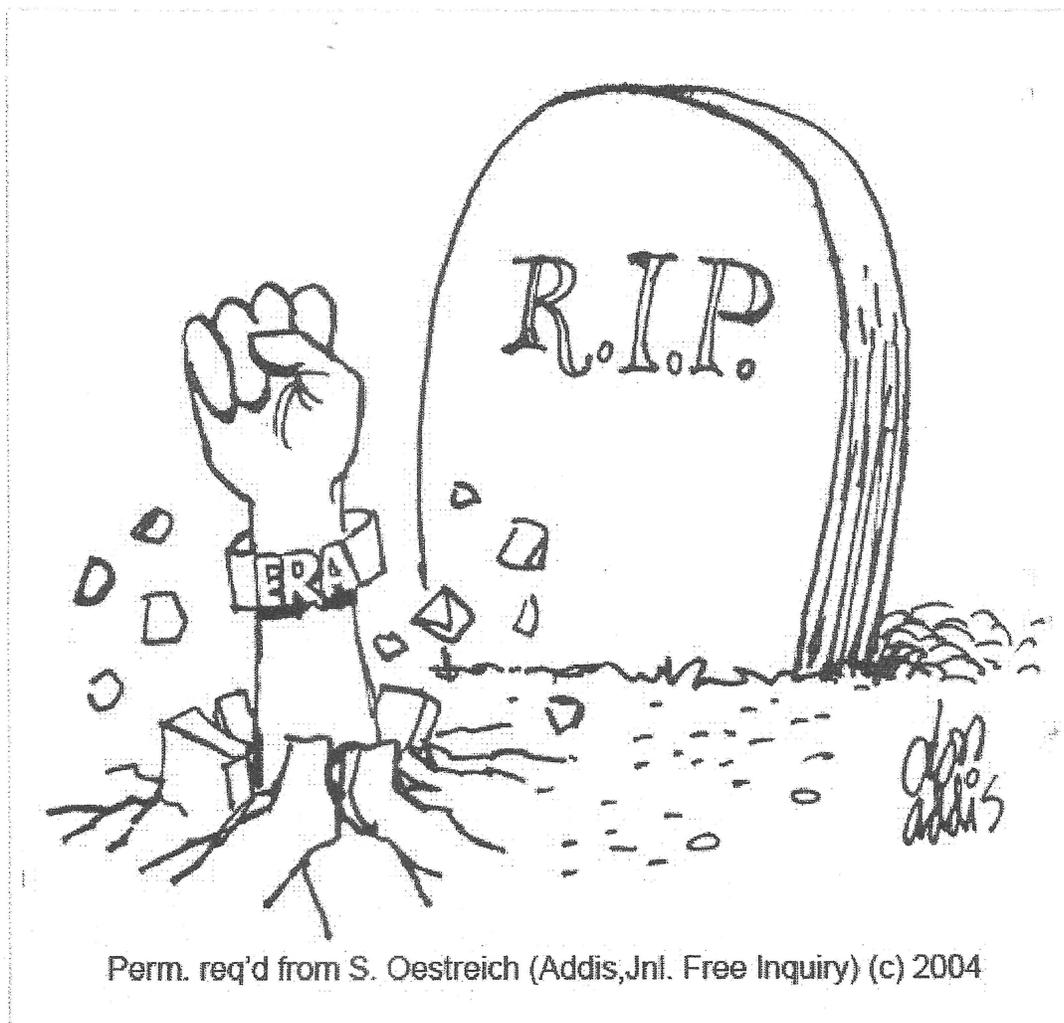
D

Virginia ERA Network

Fighting for passage of the Equal Rights Amendment

The Three State Strategy

There are actually **TWO** different ERA bills in the Congress. One is the original Equal Rights Amendment and the other is called the Women's Equality Act. The first one is the old ERA and is referred to as the Three State Strategy. The second bill is actually what we call the "do over" bill which means we start from scratch. This bill exists because some say the first is no longer viable, and we have to start over since we originally had a time limit on ratification. The time limit was seven years, and it was extended for another three years. No other amendment had ever had a time limit placed on it before.



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E

117TH CONGRESS
1ST SESSION

H. J. RES. 17

Removing the deadline for the ratification of the equal rights amendment.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 21, 2021

Ms. SPEIER (for herself, Mr. REED, Mrs. CAROLYN B. MALONEY of New York, Ms. ADAMS, Mr. AGUILAR, Mr. AUCHINCLOSS, Mrs. AXNE, Ms. BARRAGÁN, Ms. BASS, Mrs. BEATTY, Mr. BERA, Mr. BEYER, Mr. BISHOP of Georgia, Mr. BLUMENAUER, Ms. BLUNT ROCHIESTER, Ms. BONAMICI, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. BROWN, Ms. BROWNLEY, Mrs. BUSTOS, Mr. CARBAJAL, Mr. CÁRDENAS, Mr. CARSON, Mr. CASE, Mr. CASTEN, Ms. CASTOR of Florida, Ms. CHU, Mr. CICILLINE, Ms. CLARK of Massachusetts, Ms. CLARKE of New York, Mr. CONNOLLY, Mr. COOPER, Mr. COSTA, Mr. CRIST, Mr. CROW, Mr. DANNY K. DAVIS of Illinois, Ms. DEAN, Mr. DEFazio, Ms. DEGETTE, Ms. DELAURO, Ms. DELBENE, Mr. DELGADO, Mrs. DEMINGS, Mr. DESAULNIER, Mr. DEUTCH, Mrs. DINGELL, Mr. MICHAEL F. DOYLE of Pennsylvania, Ms. ESCOBAR, Ms. ESHOO, Mr. ESPAILLAT, Mr. EVANS, Mr. FOSTER, Ms. LOIS FRANKEL of Florida, Mr. GALLEGRO, Mr. GARAMENDI, Ms. GARCIA of Texas, Mr. GARCÍA of Illinois, Mr. GOMEZ, Mr. GOTTHEIMER, Mr. GREEN of Texas, Mr. GRIJALVA, Mr. HASTINGS, Mrs. HAYES, Mr. HIMES, Mr. HORSFORD, Ms. HOULAHAN, Mr. HUFFMAN, Ms. OMAR, Ms. JAYAPAL, Mr. JOHNSON of Georgia, Mr. JONES, Ms. KAPTUR, Mr. KEATING, Ms. KELLY of Illinois, Mr. KHANNA, Mr. KILDEE, Mr. KILMER, Mr. KIM of New Jersey, Mr. KIND, Mrs. KIRKPATRICK, Mr. KRISHNAMOORTHY, Ms. KUSTER, Mr. LANGEVIN, Mr. LARSEN of Washington, Mr. LARSON of Connecticut, Mrs. LAWRENCE, Mr. LAWSON of Florida, Ms. LEE of California, Mrs. LEE of Nevada, Ms. LEGER FERNANDEZ, Mr. LEVIN of Michigan, Mr. LEVIN of California, Mr. LIEU, Mr. LOWENTHAL, Mr. LYNCH, Mr. MALINOWSKI, Mr. SEAN PATRICK MALONEY of New York, Mrs. LURIA, Ms. MANNING, Ms. MATSUI, Mrs. MCBATH, Ms. MCCOLLUM, Mr. MCEACHIN, Mr. MCGOVERN, Mr. MCNERNEY, Mr. MEEKS, Ms. MENG, Ms. MOORE of Wisconsin, Mr. MORELLE, Mr. MOULTON, Mrs. NAPOLITANO, Mr. NEGUSE, Ms. NEWMAN, Mr. NORCROSS, Ms. NORTON, Mr. O'HALLERAN, Ms. OCASIO-CORTEZ, Mr. PALLONE, Mr. PANETTA, Mr. PAPPAS, Mr. PAYNE, Mr. PERLMUTTER, Mr. PETERS, Ms. PINGREE, Ms. PLASKETT, Mr. POCAN, Mr. PRICE of North Carolina, Mr. QUIGLEY, Mr. RASKIN, Miss RICE of New York, Ms. ROYBAL-ALLARD, Mr. RUIZ, Mr. RUPPERSBERGER, Mr. RUSH,



Rose Christensen <christensen1776@gmail.com>

US District Court for District of Columbia Mar 5, 2021

1 message

Rose Christensen <christensen1776@gmail.com>
To: Rose Christensen <christensen1776@gmail.com>

Wed, Mar 10, 2021 at 11:40 AM

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

COMMONWEALTH OF VIRGINIA, et al., :

:
Plaintiffs, : Civil Action No.: 20-242 (RC)

:
v. : Re Document Nos.: 29, 74, 100

:
DAVID S. FERRIERO, :

:
Defendant, :

:
v. :

:
ALABAMA, et al., :

:
Intervenor-Defendants. :

MEMORANDUM OPINION
GRANTING DEFENDANT'S MOTION TO DISMISS;

GRANTING INTERVENOR-DEFENDANTS' MOTION FOR SUMMARY JUDGMENT;
DENYING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

Hoping to secure a place in the Constitution for sex equality, Plaintiffs Nevada, Illinois, and Virginia ratified the Equal Rights Amendment ("ERA") years after many presumed it was dead. They now challenge the refusal of the Archivist of the United States to publish and certify the amendment as part of the Constitution. Laudable as their motives may be, Plaintiffs run into two roadblocks that forbid the Court from awarding the relief they seek. First, the Archivist's publication and certification of an amendment are formalities with no legal effect. His failure to perform those formalities does not cause Plaintiffs any concrete injury, so they lack standing to sue. Second, even if Plaintiffs had standing, Congress set deadlines for ratifying the ERA that

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expired long ago. Plaintiffs' ratifications came too late to count. For those two reasons, the Court dismisses Plaintiffs' suit.