Testimony in support of SCR 4010 - February 5, 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.

I was involved in the effort to stop the ratification of the ERA, and attended every hearing held during the three year campaign to secure North Dakota's ratification. While the battle was mainly a war of words, and the clash of ideas, philosophies and even cultures, there were 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 l973, 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:

1. Allowed exemption of women from compulsory military service. It was rejected by proponents.
2. Allowed exemption of women from combat duty. Proponents rejected this amendment.
3. Allowed the federal government and state law to grant protections and exemptions to wives, mothers and widows. Proponents rejected this amendment.
4. Allowed states to impose upon fathers the responsibility for the support of their children. Proponents rejected this amendment.
5. Allowed the federal government and state laws to secure privacy to men or women, boys or girls. Proponents rejected this amendment.
6. Allowed the federal government and states to make sexual offenses punishable as crimes. Proponents rejected this amendment, too.
7. And finally, Ervin proposed this all-encompassing amendment to the ERA:

"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**." Proponents rejected this proposed amendment, too. They simply OPPOSED these guarantees of the traditional rights of women. Refusing to include this last amendment has created the problem which has taken stage front and center today.

Ironically, ... this 67th legislature, nearly one half-century later, will be considering such bills as HB 1298 which is a late-in-the-game attempt to salvage "same sex" sports from the ravages of politically correct gender-neutrality! If the ERA had been ratified by 38 states, you would not have the opportunity this bill gives you to protect women's sports from being co-opted by biological males.

But, back to the history of the ERA, picking it up in l972. The US Constitution required a 2/3 vote of both chambers on this resolution, and Congress obliged, sending the amendment off to an enthusiastic reception in a number of well-primed state legislatures. We often see this kind of pump-priming to whip up enthusiasm for an item on someone's agenda! North Dakota had been well prepared for this event!

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...."

This hearing today has nothing to do with the merits or demerits of the Equal Rights Amendment. This hearing is to foster a more thorough understanding of how and why

the ERA failed to be ratified, and specifically **why North Dakota at this late date wants to, and needs to, once again affirm that its ratification died with the passage of the original deadline, March 22, 1979.**

As you may have heard by now, there is presently a strong progressive push to revive the ERA, a plan called "The Three State Strategy." The plan is to ignore both previous expiration dates, to ignore all the rescissions, and to brazenly attempt to simply add a few new ratifications to those of the l970's and voila, declare ERA "ratified" as the 28th amendment to the U. S. Constitution. Accordingly, Leftist majorities in the legislatures of Nevada (2017); Illinois (2018) and now Virginia (2020) have gone through the motions of "ratifying" the long-dead ERA.

Encouraged by Virginia's audacious action, US Rep. Speier (D-CA) quickly ramrodded through the US Congress the adoption of **SJR 79 which seeks to completely and retroactively remove any deadline at all from the ERA's 1972 consideration**! Voila! The ERA has been resurrected from the dead, and will be tottering around the courts of the country on very wobbly legs unless and until the states whose ratifications are being dragged out of the grave along with this corpse and into this inevitable court ordeal, DEMAND that their long-ago-expired "ratifications" BE declared null and void, and NOT be aggregated with these new so-called "ratifications".

It is always wise to have a good exit strategy! In 2001, one legislator noticed that a number of defunct applications for congressional action were cluttering the books. They included several outdated actions that the North Dakota legislature had taken in respect to constitutional changes it had once favored, but which had since died in the dust of the archives. He introduced SCR 4028 to rescind all applications for an ART V constitutional convention. His resolution was well received and passed without much ado, wiping the slate clean. I urge this committee to do similar house-cleaning. Please give a DO PASS to this resolution SCR 4010 to clean the 1975 ratification of the ERA off the books, by declaring ND's ratification null and void , having expired at the end of the seven year period allowed by Congress. Now is the time to end this discussion once and for all! Please vote YES on SCR 4010.