CONCERNED
WOMEN for AMERICA
LEGISLATIVE ACTION COMMITTEE

February 5, 2021
Government and Veteran's Affairs Committee
Testimony in Support of SCR 4010

Chairman Shawn Vedaa and members of the committee, I am Linda Thorson, the State Director of Concerned Women for America (CWA) of North Dakota. We are the state's largest public policy women's organization and country's largest public policy women's organization with hundreds of thousands of members across the country.

On behalf of our North Dakota members, we submit testimony in support of SCR 4010, a Senate Concurrent Resolution clarifying the 1975 ratification, by the North Dakota 44th Legislative Assembly, of the proposed 1972 Equal Rights Amendment to the Constitution of the United States.

Originally the ERA was given a deadline of seven years for ratification, beginning March 22, 1972, and expiring March 21, 1979. When it became clear that three-fourths of the states (38 states) would not ratify ERA, Congress passed an ERA Time Extension resolution to extend the time limit for ratification to June 30, 1982. Even with this extension the ERA proponents failed to deliver on the 38 states necessary for ratification.

This poorly worded amendment to the U.S. Constitution states in 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." If ratified again, the Equal Rights Amendment (ERA) would restrict all laws and practices that make any distinctions based on gender.

The ERA is not about equal rights; it is about the **promotion of a genderless agenda** through the suppression of natural differences between men and women. The ERA is not about equal rights for women. If it were, it would duplicate the 14th Amendment, the equal amendment clause of our Constitution that covers gender or sexual distinction and gives all equal protection under the law. In the U.S. Supreme Court ruling in *Reed v Reed* in 1971, the court decided the 14th Amendment did prohibit unequal treatment on the bases of sex and declared sex discrimination a violation of the Amendment. REED V. REED, 404 U.S. 71 (1971).

Men and women are biologically different, and we must retain the ability to legally provide for these differences.

- **Despite claims of protecting women's interests, the ERA actually hurts women.**

  The ERA would eliminate the exemption of women from the military draft and compulsory front-line combat.

  In former Supreme Court Justice Ruth Bader Ginsburg's book, *Sex Bias in the U.S. Code*, she writes that the ERA would require that all women be drafted into the military when men are

drafted and placed on the front-line in equal ratios to men. Women must not be exempted from military combat.[1]

Women who feel they are physically able can choose to enlist in the military. Ms. Toni DeLancey, former Concerned Women for America State Director of Virginia, graduated from the U.S. Military Academy was commissioned as an officer in the U. S. Army and led other men and women in a Tactical Intelligence Unit. DeLancey states, "I didn't need the ERA to accomplish this." Like her fellow female graduates, Ret. Officer DeLancey volunteered to serve our country and was able to contribute based upon her individual strengths and abilities.[2]

- **The ERA will be used to mandate Medicaid funding for elective abortions.**

  Any attempt to restrict a woman's access to abortion, under the ERA, is a form of sex discrimination. Women could not be singled out for a characteristic that is unique to them and be treated differently based on that physical characteristic, such as a pregnancy. Abortion proponents (including the National Abortion and Reproductive Rights Action League and Planned Parenthood) have long argued in court filing that state-level ERAs guarantee a right to abort children with public funding. State courts in Connecticut and New Mexico have agreed with this interpretation.

  The New Mexico Supreme Court unanimously ruled that under their state ERA since only women undergo abortions, the denial of taxpayer funding for abortions is "sex discrimination" (N.M. Right to Choose/NARAL v. Johnson, 975 P.2d 841, 1998) [3]. As a result, New Mexico now provides Medicaid funding for elective abortions.

  By adopting the ERA, Connecticut's state superior court ruled that the state should no longer be permitted to disadvantage women because of the sex including their reproductive capabilities. "It is therefore clear, under the Connecticut ERA, that the regulation (prohibiting Medicaid funding) discriminates against women, and, indeed, poor women." (Doe v. Maher, 515 A. 2d 134)[4]

- **The ERA could end conscience clauses for nurses, doctors and hospitals who do not want to participate in performing abortions.**

  Courts do not allow conscience clauses in race discrimination, and they would not be able to allow it under the ERA.

  Be aware, the ERA empowers courts, not women. Because the language is so vague, courts would be called upon to interpret its application to innumerable situations – some of which were not even contemplated in the 1970s, such as the meaning of "sex." Thus, citizens' right

[1] Ginsburg, Ruth Bader, "*Sex Bias in the U.S. Code",* 1977, University of Maryland, p 26, 218, https://www2.law.umaryland.edu/marshall/usccr/documents/cr12se9.pdf
[2] https://www.youtube.com/watch?v=5m-5Wcosqoc
[3] http://www.nmcompcomm.us/nmcases/NMSC/1999/1999-NMSC-028.pdf
[4] http://www.ct.gov/chro/lib/chro/Warner_v_NERAC_denial_motion_to_dismiss.pdf

to govern themselves on contentious present-day issues would be usurped by unaccountable federal courts.

Women do not need the ERA to flourish in America. The 14th Amendment to the Constitution and multiple federal and state statutes guarantee women all the rights inherent to American citizens — equal employment, equal pay, education, credit eligibility, housing, public accommodations, etc. – and women are thriving and succeeding as in no other time in history. They have done this without the assistance of ERA.

The proposed 1972 ERA to the Constitution of the United States, a poorly worded Amendment, should not be counted by lawmakers in any state, any court of law, or any other person, as a live ratification to the Constitution of the United States.

We, again, urge your "Do Pass" vote on SCR 4010.