

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021**

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**HOUSE BILL 8\***

Short Title: NC Adopt ERA. (Public)

Sponsors: Representatives von Haefen, Cunningham, Fisher, and Terry (Primary Sponsors).

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Rules, Calendar, and Operations of the House

January 28, 2021

A BILL TO BE ENTITLED

AN ACT TO RATIFY THE EQUAL RIGHTS AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES OF AMERICA RELATING TO EQUAL RIGHTS FOR MEN AND WOMEN AND TO APPROPRIATE FUNDS TO EDUCATE THE PUBLIC ABOUT THE PROVISIONS OF THE ACT.

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

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"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:

"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.

"Sec. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"Sec. 3. This amendment shall take effect two years after the date of ratification"; and

Whereas, the federal Equal Rights Amendment (ERA) is an essential constitutional guarantee for correcting systemic sex discrimination in North Carolina and nationally, since it would affirm that constitutional rights are held equally by all persons regardless of sex, it would provide a fundamental legal remedy against sex discrimination, and it would make "sex" a suspect classification, so that governmental actions that treat people differently based on sex would have to bear a necessary relation to a compelling state interest; and

Whereas, the ERA, which was first introduced in Congress in 1923 and passed by Congress in 1972, has, as a result of its recent approvals by Nevada (2017), Illinois (2018), and Virginia (2020), met the Article V constitutional requirement for inclusion in the Constitution after ratification by three-quarters of the states (38); and

Whereas, the ERA is awaiting certification and publication by the U.S. Archivist in a ministerial act required by law (1 U.S.C. 106b), pending resolution of issues regarding (1) a



1 Congressionally imposed time limit and (2) the purported rescission or withdrawal of ratification  
2 by five states; and

3       Whereas, the time limit for the ERA's ratification period was placed in the  
4 amendment's preamble rather than its text and thus was not language ratified by the states; and  
5 the power of Congress to impose a time limit includes the ability to alter or remove it, as Congress  
6 demonstrated in 1978 with its extension of the original ratification deadline from March 22, 1979,  
7 to June 30, 1982, and as the 116th Congress has already taken action on with bipartisan passage  
8 of H.J. Res. 79 in the House of Representatives on February 13, 2020, and which will be achieved  
9 when its bipartisan companion bill S.J. Res. 6 is passed by the Senate, whereby Congress will  
10 have expressed its will "That notwithstanding any time limit contained in House Joint Resolution  
11 208, 92nd Congress, as agreed to in the Senate on March 22, 1972, the article of amendment  
12 proposed to the States in that joint resolution shall be valid to all intents and purposes as part of  
13 the United States Constitution whenever ratified by the legislatures of three-fourths of the several  
14 States."; and

15       Whereas, although five states (Idaho, Kentucky, Nebraska, Tennessee, and South  
16 Dakota) voted to rescind or otherwise withdraw their ratification of the ERA before the time limit  
17 that was set and extended by Congress, Article V of the Constitution does not mention rescission  
18 and grants no such power to the states, and based on both precedent with the 14th and 15th  
19 Amendments and statutory language (1 U.S.C. 106b), a state withdrawal of its ratification of a  
20 constitutional amendment has never been recognized as valid; and

21       Whereas, the 27th ("Madison") Amendment was added to the U.S. Constitution in  
22 1992, 203 years after it had been sent to the states for ratification without a deadline, and was  
23 certified by the U.S. Archivist one day before Congress passed a resolution affirming acceptance  
24 of its ratification process (a Congressional action taken only once before, with the 14th  
25 Amendment in 1868); and based on the U.S. Supreme Court's decision in *Coleman v. Miller*, 307  
26 U.S. 433, at 456 (1939), Congress is in a unique position to judge the political, social, and  
27 economic factors affecting the national importance of a proposed amendment and to determine  
28 the validity of an amendment's mode of ratification; and

29       Whereas, in a 2016 poll for the national ERA Coalition, the research agency db5  
30 found that 94% of Americans support an amendment to the Constitution to guarantee equal rights  
31 for men and women, and most of the remaining 12 states that have not yet ratified the ERA have  
32 already introduced ratification bills in their current legislative sessions, and it is probable that in  
33 2020 and 2021 more states will be added to the 38 that have already ratified the ERA; Now,  
34 therefore,

35 The General Assembly of North Carolina enacts:

36       **SECTION 1.** That the Equal Rights Amendment to the Constitution of the United  
37 States of America set out in the preamble to this act be, and the same is, hereby ratified by the  
38 General Assembly of the State of North Carolina.

39       **SECTION 2.** That certified copies of this preamble and act be forwarded by the  
40 Governor of this State to the Administrator of General Services, Washington, D.C., and the  
41 President of the Senate and the Speaker of the House of Representatives of the Congress of the  
42 United States.

43       **SECTION 3.** There is appropriated from the General Fund to the Department of  
44 Labor the sum of ten thousand dollars (\$10,000) for the 2021-2022 fiscal year to educate the  
45 public about this act.

46       **SECTION 4.** This act becomes effective July 1, 2021.