

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023**

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**HOUSE BILL 302**

Short Title: NC Adopt ERA. (Public)

Sponsors: Representatives von Haefen, Cunningham, Price, and Prather (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

March 9, 2023

A BILL TO BE ENTITLED  
AN ACT TO RATIFY THE EQUAL RIGHTS AMENDMENT TO THE CONSTITUTION OF  
THE UNITED STATES OF AMERICA.

Whereas, Article V of the Constitution of the United States of America sets forth a two-step amending process; and

Whereas, the first step of the Article V amending process is proposal of an amendment by two-thirds vote of both houses of Congress or by a convention called by application of two-thirds of the States; and

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 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, next, the second and final step of the Article V amending process is ratification of an amendment by three-fourths of the States; and

Whereas, some forty-eight years after the amendment was adopted by Congress, on January 27, 2020, Virginia became the 38th of the 50, or three-fourths, of the States to ratify this federal Equal Rights Amendment; and

Whereas, in its distinct role as one of the original thirteen States, North Carolina participated in the 1787 federal Constitutional Convention and helped draft the precise text of the federal Constitution, including Article V which preserves States' rights to amend the document; and

Whereas, a demand for amendments to the federal Constitution in order to recognize individual rights is part of the patriotic heritage of the State of North Carolina; and



1           Whereas, James Madison and other leaders made clear to the state ratifying  
2 conventions for the federal Constitution that ratification cannot be conditioned on amendments  
3 and, once made, a ratification is final and cannot be rescinded; and

4           Whereas, at the state ratifying convention for the federal Constitution held in  
5 Hillsborough in summer of 1788, North Carolina delegates sought a bill of individual rights to  
6 be added to the federal Constitution and voted 184 to 84 to neither ratify nor reject the document;  
7 and

8           Whereas, as a consequence, North Carolina was one of only two original States not  
9 part of the then United States under the new federal Constitution at the end of 1788; and

10          Whereas, the comments and concerns of North Carolina informed James Madison  
11 when he drafted amendments preserving individual and States' rights; and

12          Whereas, those proposed twelve amendments were approved by the new Congress in  
13 September of 1789; and

14          Whereas, after those amendments were sent to the States for ratification, North  
15 Carolina ratified the federal Constitution at its second state ratifying convention in Fayetteville  
16 in November of 1789; and

17          Whereas, in December of 1789, North Carolina ratified all twelve of the amendments  
18 proposed by Congress; and

19          Whereas, because of North Carolina's initial refusal to ratify a federal Constitution  
20 without a bill of rights, we have our first ten amendments protecting individual rights at the  
21 national level; and

22          Whereas, another one of the twelve amendments ratified by North Carolina in  
23 December of 1789 was added to the federal Constitution over 200 years later, in 1992, when it  
24 became fully-ratified by 38 of the 50, or three-fourths, of the States; and

25          Whereas, that amendment, known as the Congressional Pay Amendment, is our 27th  
26 Amendment, because Article V of the federal Constitution does not limit the time for States to  
27 ratify an amendment; and

28          Whereas, adding a ratification time limit is itself an amendment to the Constitution  
29 and must be included within the text of an amendment in order to have effect; and

30          Whereas, the seven-year ratification time frame included in the internal resolution  
31 Congress used to vote on the proposed Equal Rights Amendment is outside the text of the  
32 amendment and without legal effect; and

33          Whereas, having been fully-ratified by three-fourths of the States as of January 27,  
34 2020, and with those ratifications as final and irrevocable under law, the Equal Rights  
35 Amendment is now our 28th Amendment to the federal Constitution, despite a failure to date of  
36 the federal government to comply with 1 United States Code 106b requiring official recognition  
37 of this constitutional act of the States; and

38          Whereas, North Carolina's own history has shown that a constitutional ratification is  
39 an important statement of States' rights at any time; and

40          Whereas, unlike other State constitutions, the North Carolina State Constitution does  
41 not include equal protection against sex discrimination; and

42          Whereas, in a 2020 poll by the Pew Research Center, about eight in ten Americans  
43 (78%) said they favored the federal Equal Rights Amendment, including majorities of men and  
44 women and Democrats and Republicans alike; and

45          Whereas, the federal Equal Rights Amendment is a foundational constitutional  
46 guarantee in North Carolina and nationally, since it affirms that constitutional rights are held  
47 equally by all persons regardless of sex; and

48          Whereas, a recognition of individual rights, including equality of rights under the  
49 federal Constitution, is an essential addition to North Carolina's patriotic heritage; Now,  
50 therefore,

51 The General Assembly of North Carolina enacts:

1                   **SECTION 1.** The General Assembly of North Carolina hereby ratifies and affirms  
2 the Equal Rights Amendment to the Constitution of the United States of America set forth in this  
3 act.

4                   **SECTION 2.** A certified copy of this act shall be forwarded by the Governor of this  
5 State to the Archivist of the United States, the President Pro Tempore of the Senate and the  
6 Speaker of the House of Representatives of the Congress of the United States, and each member  
7 of the North Carolina congressional delegation.

8                   **SECTION 3.** This act is effective when it becomes law.